

# Democratic Governance Of Sustainable Elections Under Covid-19 Condition In Africa: Strategic Considerations And Implications

Daniel Chigudu<sup>1\*</sup>

<sup>1\*</sup>Academic Researcher. College of Economic Management Sciences, University of South Africa. Email: [danchigudu@gmail.com](mailto:danchigudu@gmail.com)

\*Corresponding Author:- Daniel Chigudu

## Abstract

The crisis due to Covid-19 has taken a toll which is devastating on the lives of human beings, healthy and economies worldwide, coming at a difficult time for democracy in Africa. The viral spread in Africa began with a range of varied reactions from declarations of state of emergency to lockdowns. While such responses are necessary in terms of public health, from a political perspective particularly in African countries mired with security and political turbulence as well as upcoming several elections this creates challenges. Society's opportunity to remove or confirm representatives in elected positions within a timeframe which is defined constitutionally, is a principle of democratic standards and values. An election process is an event which is done communally by bringing people together contrary to the wisdom of preventive transmission measures of Covid-19 virus. Institutions of democracy must make informed functional decisions in this extraordinary time. Using a hermeneutic phenomenological qualitative methodology, secondary data was collected from research papers, expert reports and media subjected to a content analysis. The study investigated the governance of sustainable elections during the Covid-19 pandemic in Africa. It revealed that this pandemic seriously affects, voter turnout, election campaigning and the polling process among others. The study provides strategic considerations and implications for election management bodies (EMBs), civil society and governments on the democratic governance of elections in the midst of the Covid-19 prevalence without compromising public health.

**Keywords:** Elections; Covid-19; implications; Africa; election management bodies (EMBs)

## 1. Introduction

COVID-19 which means coronavirus disease 2019, is a disease which is infectious and caused by the SARS-COV-2 coronavirus (Buriil, Darnolf and Aseresa 2020a). The virus is a new strain which was first found late 2019 in human beings. It is thought to have been first spread to human beings through pangolins or bats (Taylor 2020) sold in a poultry or seafood market in Wuhan, the provincial capital of Hubei -a province located in China. The epidemic quickly spread across the world and got declared as a pandemic on the 11<sup>th</sup> of March 2020 by the World Health Organisation (WHO 2020). At the moment, there is no treatment or vaccine approved for Covid-19, despite the fact that there are several ongoing clinical trials. Its main mode of transmission is person to person making it more contagious when elections are being held (WHO n.d; US-CDC 2020). This Covid-19 epidemic is not merely a crisis of health but cripples' systems of governance requiring responses from governance solutions. The crisis undermines and manipulates democratic institutions and processes. Revelations by the Varieties of Democracy's report of 2020 (V-DEM 2020, online) are cast even deeper into relieve by the epidemic: "After years of undercutting countervailing forces, rulers seem

now to feel secure enough to attack the very core of democracy: free and fair elections." More than before, programming human rights, governance and democracy is now required to strengthen local partners in preserving and building electoral systems in Africa's developing democracies and fragile states (CEPPS 2020). Elections by their nature generally involve nationwide large gatherings, during election campaigning rallies, voter registration exercises, on the polling day itself and counting of votes in halls that are crowded. Such activities increase person-to-person contact risking indirect and direct transmission of the disease. There are very few election managements bodies (EMBs) that currently have plans which are comprehensive enough to effectively manage activities of this kind or requisite information to adjust and safely conduct elections (Buriil and Darnolf; Buriil, Darnolf and Aseresa 2020a). Most of the EMBs that decided to proceed with elections under the circumstances have not been able to effectively address health concerns for the public (Buriil and Darnolf, 2020b), this has led to voter turnouts which are low, dropouts of electoral officers, some poll officers infected and even raising issues of election credibility (Keilman 2020).

Among the characteristics that define a democracy is the holding of periodic and regular elections as enshrined in the Universal Declaration of Human Rights Article 21(3). The inevitability of conducting an election implies that the citizenry is provided with a chance to extend or remove the term of office for their leaders or representatives. But there are certain extenuating circumstances where some disasters may naturally occur such as an epidemic like Covid-19 or famine implying that the conduct of an election could pose serious threats to lives of people (Asplund and James 2020). In March 2020 alone, Asplund and James (2020) observe that, globally more than 20 subnational and 12 national elections initially slated for March–May had to be deferred in 30 countries while other countries indicated that elections would proceed according to plan. However, Poland's 10<sup>th</sup> of May 2020 presidential elections and South Korea's 15<sup>th</sup> of May 2020 parliamentary elections have remained as scheduled (Asplund and James 2020).

One wonders why some countries are taking the route of stopping elections while some have chosen to proceed as planned despite the prevalence of Covid-19 pandemic. Deciding to pause or continue with elections is not something which is straightforward. According to the indices of the global state of democracy (GSoD, n.d) when policymakers deliberate, conclusions are hardly tied closely to the number of cases confirmed with respect to people infected, or if countries in question are democracies which are backsliding or strong democratic countries seeking to maintain the status quo. Asplund and James (2020) observe that, some strong democracies have either proceeded with elections like Germany or have deferred like the United Kingdom, and similarly backsliding democratic states like Poland chose to continue with its planned six by-elections in March 2020 and 10<sup>th</sup> of May 2020 presidential election although the voter turn-out for the presidential poll was zero per cent. Another democratic backsliding state, Russia postponed a constitutional change election that was due on the 22<sup>nd</sup> of April 2020. Debates around the globe have echoed. Citing the spirit of Abraham Lincoln back in 1864 in light the presidential elections in the United States. Meacham (2020, online) is reported to have argued that, "We voted in the middle of a Civil War...We voted in the middle of World War I and II. And so, the idea of postponing the electoral process is just – seems to me, out of the question." However, in France, the President had to postpone the local elections' second round that had been scheduled for the 22<sup>nd</sup> of March 2020.

## 2. Background

The decision to cancel or postpone elections cannot be lightly made. Circumstances permitting, it is imperative that elections have to be held periodically and on time. In any case, in the United States of America when the Spanish flu was at its peak killing thousands of people, elections were still held. However, this is not 1918, and choices to be made may not be simple as such (Mackay 2020). In 2014, parliamentary elections were conducted in Liberia when the Ebola epidemic was not under control although some of the urban areas were exempted from participation (IDEA 2020). Equally, in 2018 Pakistan did not hold elections in some areas due to insecurity. IDEA (2020) reports that, in March 2020, France's local elections were conducted although the voter turn-out was lower than that of previous elections or than what was expected. In Italy, a constitutional referendum was postponed indefinitely. In Africa like elsewhere, Covid-19 this presents an undesirable governance challenge of protecting democratic health and also people's health. Africa's EMBs are less likely to grapple with the increased logistical and administrative issues of holding elections under Covid-19 without putting voters' health at risk or reducing their voting rights (Mackay 2020). According to Mackay (2020) where elections have been conducted during the pandemic the fundamental citizens' right to vote has undoubtedly been diminished. For example, the pandemic added to a myriad of some challenges in Mali which include a long period when elections were not held and terrorism. The effect of these fears collectively impacted negatively on the right to vote by increasing voter apathy. Mackay (2020) observes that in South Korea when early polling started, public protective equipment (PPE), sanitizers and social distancing were noticeable all over the polling stations. In Africa, one wonders how many countries could afford to hold such an election. Given that there is a litany of challenges in the conduct of African elections, it can easily be suggested that elections be deferred until the Corona effect becomes less significant. Yet such an approach provides the following leadership and public risks:

- This will set a precedent which is dangerous for democracies, particularly where some African governments already have a desire for clinging on to power.
- States of emergency invoked by many African governments could be an excuse for those likely to lose power to continuously postpone or cancel elections hence democracy will be injured. In Hungary, a law was recently enacted giving

Viktor Orban the power to rule by decree for a period of time that is not limited (Mackay, 2020).

- Lawmakers exceed their terms of election leaving the state open to allegations of illegality.

With the medical research pace at the moment seemingly too fast and diminished hopes of quickly having a vaccine, the pandemic's toll in Africa is rising (Oulepo 2020). Ethiopia has since made a decision to postpone the general election which was slated for August 2020, while Zimbabwe, Nigeria, Kenya, Gambia, Tunisia and South Africa have as well postponed several by-elections. This decision is not simple where stakes are very high, mostly where economies and political systems are in a state of fragility such as Côte-d'Ivoire whose political environment is charged (Oulepo, 2020). In the case of Somalia, the leaders of opposition parties have insisted on not using Covid-19 as a pretext for postponing the election in 2021. The High Court in Uganda has been asked to make a ruling on a petition filed by a citizen to defer the election due in 2021 for period of five years (Oulepo 2020).

It is noted by Odinkalu (2020) that, in the year 2020 only at least 22 African countries could be or are readying to hold elections, of which 13 could be for the office of prime minister or president. The likely of these elections taking place may be informed by the ability of these countries to contain effectively the Covid-19 pandemic a situation which remains uncertain for now. More than 40 African governments have responded to Covid-19 by implementing movement and gathering restrictions with almost 26 countries that have invoked either the state of disaster or emergency, whereas more than 20 countries have imposed measures whose duration is indefinite (Odinkalu 2020). Emergencies and pandemics are not practicable for both politics that is competitive and campaigning. This creates a gap which is favourable for causing a constitutional instability such as the one presented to Ethiopia in response to Covid-19 crisis though it is not the only one as argued by Odinkalu (2020). African countries expected to replace or renew governing mandates through elections are presented with a hard choice of a tenuous extension of tenure or a balloting which is flawed. In either case, the result may be a constitutional instability crisis which is not good for the African continent. Meanwhile, the African Union (AU) proscribed changing governments unconstitutionally, but imprecisely provided for popular uprisings as an exception in terms of Article 4(p) of the Constitutive Act (AU 2010; 2011). Therefore, African states which are expected to hold elections in the near future have to manage the crisis of Covid-19 seriously or else they risk being held

hostage to the AU's popular uprising uncertainties and illegitimacy crisis.

### 3.0 Literature review

This section review Africa and the state of democracy, elections and public health emergencies, postponing or holding elections, the legal implications and considerations.

#### 3.1 Africa and the state of democracy

According to the International Democracy and Electoral Assistance (IDEA 2019), from 1975 to 2018 the African continent made remarkable advances towards democracy which were unevenly spread across the region. Momentous advances were made early in the 1990s when the Cold War ended triggering the burgeoning of regional multiparty elections. As it is, in the Pacific and Asia, the democratic improvements in Africa continue to date, yet other regions in the world are beginning to witness a decline or even stagnation. The landscape of democracy in Africa, however, presents a freckled picture with 11 non-democracies, the largest share of hybrid regimes in the world (18), and 20 democracies, of which several are experiencing states of democratic fragility. Africa's most democratic subregion is West Africa, followed by Southern Africa, North Africa and East Africa. Central Africa is the only African subregion with no democracies (IDEA 2019).

Despite the asymmetrical spread of government types across the continent's subregions, the landscape of current democratic situation provides a set of diverse challenges and opportunities. According to the Global State of Democracy Indices (GSoD, n.d) containing data up to 2018, opportunities and improvements for additional possible gains could be seen in the elections conduct. For example, on credible elections seven countries were recorded, concerning civil service and administration with respect to absence of corruption nine gains were recorded, eight on enforcement predictability, concerning accountability and judicial access 11 gains were recorded on justice accessibility, and with respect to parliamentary oversight six gains were recorded on parliamentary effectiveness (GSoD, n.d).

The expansion of democracy in Africa from 1975 is only second to that of the Caribbean and Latin American region in terms of its scope and range. In the 1975 -2018 period, Africa's overall landscape reflects an incredible democratic increase, with an upward gradual trend. This has seen Africa moving away from an autocratic system headed for

democracy. Accordingly, this increase has seen a sharp departure from the beginning of the 1990s going forward, after the broadly introduced multiparty election systems across the continent (IDEA, 2019). Putting the expansion of Africa's democracy into perspective, it is noted that 41 countries were non-democracies in 1975 with only three states deemed to have been democracies (IDEA 2019). As of 1990, the number of non-democracies remained high, at 85 per cent constituting 39 countries, and the democratic share had increased only by one country being Namibia which attained its independence in the same year from South Africa.

With respect to Africa's new third wave of democracies, Tunisia is seen to have had the most advances in democracy ranking among the top world's 2 per cent based on seven of its sub attributes of democracy. In 2017, since its transition, Gambia has had great strides towards the advancement of democracy. However, data available is complex at the sub regional level (IDEA, 2019). Besides Madagascar in Southern Africa, it is only Namibia and Botswana which have had some improvements though not significant statistically. In comparison to Africa as whole, since 2005 participation in electoral activities at the highest degree has been noticeable in Southern Africa (Schulz-Herzenberg 2014). After the 2011 revolution in North Africa which provided opportunities for some gains in democracy, Tunisia is leading in the sub-region as far as reforms in democracy are concerned. Guinea-Bissau, the Gambia and Nigeria in West Africa have made advances which are significant on clean elections, free political parties and representative government. In this sub-region most of the constitutions were drafted by authoritarian or military regimes which influenced a prolonged stay in office. As civil rule returned, some countries like Cote d'Ivoire and Burkina Faso have embarked on reviewing constitutions enabling them to entrench democratic provisions that help to check excesses by the executive (International-IDEA and Hanns Seidel Stiftung 2016). Only two countries located in Central Africa namely Gabon and Central African Republic (CAR) have had a mid-range score on representative government, with the rest scoring low. Attempts by Gabon to engage the main opposition party in a political dialogue have not been heeded (Akum 2019). Also, in February the CAR administration made a peace agreement with armed groups though it remains unclear or too early to conclude if the deal will bear fruit (ICG, 2019).

Tanzania and Kenya in East Africa stand as the two regimes scoring on representative government in

the mid-range, when the rest of other countries have lowly scored. These two countries serve as an example where their presidents adhered strictly to the constitutional provisions on the term of office. Mbaku (2018) argues that, Kenya has presently continued to have solid institutions that participate and adhere to the rule of law. Tanzania however relapsed in 2018 into a hybrid government owing to some significant declines in democracy and a deterioration in the political environment. The democracies in Africa widely vary with respect to their patterns of performance and the quality of democracy. For instance, Mauritius is the only democracy that has highly scored on representative government with nine other regional disparities on democracy. Tunisia and Ghana on one hand are high performers on two characteristics. Madagascar and Guinea-Bissau on the other hand, are weak democracies whose scores and performance are not high on two characteristics. IDEA (2019) observes that throughout Africa elections have tended not to be the exception but the norm except South Sudan, Libya, Eritrea and Somalia which do not hold elections currently. Therefore, these countries score a zero on both inclusive suffrage and clean elections, accordingly on representative government. Even though South Sudan and Libya conducted elections in 2010 and 2014 respectively, due to prolonged civil wars it is not possible to hold periodic elections in these two countries (IDEA 2019). Botswana, Mauritius, Benin, Tunisia, Ghana, Burkina Faso, Senegal and South Africa score highly. In West Africa, several countries have held democratic elections resulting in strong governments that have been able to replace long-lasting civil wars (Annan 2014). While the legacy of armed conflicts and authoritarian rule has constantly derailed the democratisation process, several states have attempted to overcome these legacies. From 2013 to 2018 almost all the countries located in the subregion of West Africa, together with those which were under military or authoritarian rule for a long time held polls (IDEA 2019). An additional positive attribute of West Africa as a subregion is the increased rate whereby candidates from opposition parties have emerged victorious after polls and peacefully taking over from those who were previously in power. However, elections have been used as a vehicle to legalise regimes that are not democratic in several countries such as Angola, Sudan, Chad, Zimbabwe, Cameroon, Eritrea, Equatorial Guinea, the Gambia and Uganda (even though after the 2017 elections the Gambia had reforms of democratisation). Every one of these states has experienced periodic elections that have not been competitive and largely flawed (IDEA

2019). In some cases, where opposition parties have been in existence, they have not had adequate opportunities to dislodge the power of incumbency identified with ruling parties (Moore 2017; Temin 2017; Galvin 2018; Wodrig and Grauvogel 2016).

### 3.2 Elections and public health emergencies

The World Health Organisation defines public health emergency as;

an occurrence or imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or (a) novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents or permanent or long-term disability (WHO 2014, online).

Public health experts in crisis management have broadly defined crisis such that it reflects the significance of informed decision-making under a situation which is complex. (Rosenthal, Charles and 't Hart 1989). They define crisis as a detrimental threat to the fundamental values or basic structures and to patterns of a system necessitating the need to make critical decisions which are critical under pressure and conditions highly shrouded with uncertainty (Rosenthal, Charles and 't Hart 1989). These critical decisions include a country's health system and those activities contributing, indirectly and directly to aggravating the problem, burdening people and mechanisms reacting to the crisis. Since election activities often relate to huge gatherings, they could increase the spreading of infections through person-to-person. In the absence of necessary strategies for risk mitigation, electoral activities could result in an upwelling of cases. In Africa this could bring an overburdened system of health nearer to collapse. Regardless of similar challenges elsewhere, other countries like the United States of America have ably moved through the crisis of public health to the extent of holding elections that were relatively a success in 1918 at the time of the Spanish flu epidemic (Marisam 2010). Also, in 2014 during Ebola's outbreak in Liberia (Banbury 2020) and South Korea more recently under Covid-19 epidemic (Delury, 2020). Such countries showed that conducting elections in the middle of a public health crisis is feasible, although extensive planning is required to avoid worsening a prevailing dreadful situation.

A safety measure for alleviating the risk of transmitting Covid-19 is prescribed as the physical distancing practice and a behaviour which does not involve interpersonal contacts among others. The required distance depends on how easy it is for a virus to spread. Currently, WHO (n.d) has

recommended a distance of one metre apart, while the US-CDC (2020b) has recommended that people maintain social distancing of about one point eight metres. Perhaps, EMBs may have to consider a social distancing requirement which is larger as far as possible. Although one metre is believed to be a distance which is relatively safe, a recent research conducted by Bourouiba (2020) has revealed that sneeze or cough droplets laden with viruses can go up to eight metres in certain conditions which are extreme. This is an indicator that, apart from the bare minimum requirement of physical distancing, it is also essential that people have to conform with respiratory hygiene basics and coughing etiquette (VDH, n.d) like properly covering sneezes and coughs through the use of disposable tissues and protecting faces. This recommendation of physical distance might not be easily enforceable especially for assisted voters. An effective mitigation of transmission is possible only if people are conscious and vigilant. Covid-19 mitigation instructions have to be included into the training manuals of electoral officers (Buri, Darnolf and Aseresa 2020a).

### 3.3 Postponing or holding elections

Ellena (2020) argues that deciding to defer an election due to an international or a national crisis is important in view of the crisis' severity like that of Covid-19, and also the ability and readiness of a country to effectively respond. However, making such a calculation is not easy due to high consequences. Elections reinforce the legality of representatives and governments at subnational and national level. Terms of office and regular elections ensure that power is not perpetuated and concentrated in particular factions or individuals but is transferred or preserved on the basis of the willingness of those who are governed (Ellen 2020). International law sets out principles that govern electoral and political rights, clearly establishing the right to contest in elections as well as the voting right on a periodic basis. These represent fundamental rights as provided by the International Covenant on Civil and Political Rights (ICCPR 1966). Similarly, other civil rights are equally important for the holding of democratic elections and include freedoms of assembly, expression and movement.

Regardless of the upshots for the elections' periodicity and upholding of these fundamental political and civil rights, postponed or delayed votes may not essentially be in contravention of international guidelines and principles. The international law provides for the derogation of certain rights such as the right to contest in an

election and vote during situations of emergency, although under guardrails that are very strict in order to avert abuse (Ellena and Shein 2020). Whereas electoral and political rights do not belong to those rights that are not derogable, governments are obliged to meet two initial conditions that are necessary to invoke Article 4 of the International Covenant on Civil and Political Rights in a manner affecting such rights thus, “the situation must amount to a public emergency which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency ... for the maintenance of the principles of legality and rule of law at times when they are most needed” (UN-HRC 2001, online).

General Comment 29 clearly stipulates that; “not every disturbance or catastrophe qualifies as a public emergency which threatens the life of the nation” and also that in the event that states consider the invocation of Article 4 when declaring a state of emergency, “they should carefully consider the justification and why such a measure is necessary and legitimate in the circumstances” (UN-HRC 2001, online). The observation by Ellena (2020) is that, General Comment 29 furthermore stipulates that measures of emergency have to be exceptional. Therefore, while international standards and principles provide for the postponement of elections by allowing the derogation of specific fundamental rights in a state of emergency, it is evident that a postponement of an election is justifiable only under the above limited conditions. A time horizon has to be made under guardrails that are strict. These international principles serve as a critical framework which countries have to put into consideration when they make decisions concerning the circumstances, timing, material and geographic scope of a postponement that eventually allow for recommencement of the electoral process (Ellena 2020). It is imperative that the initiation of certain legislative or executive mechanisms will not be employed as an instrument for bypassing the guardrails of the ICCPR highlighted above. For instance, in Africa and Zimbabwe in particular, measures of emergency have been introduced through an amendment of health laws which are not part and parcel of an official state of emergency declaration. This approach has received criticism in view of the fact that, statutory instruments created from the Public Health Act does not supersede an obligatory Constitutional provision requiring that by-elections be conducted in a period of 90 days (EW 2020).

Egypt, the first country in Africa to confirm a Covid-19 case, its 31<sup>st</sup> December 2020 elections are yet to be confirmed. In Malawi, a month before the

country recorded a single case of infection, Peter Mutharika (President) banned public large gatherings and closed schools. This in essence stopped campaigns for public office. Elections scheduled in some parts of Western countries ranging from France and the United Kingdom to the United States of America’s democratic primaries before the presidential vote in November had to be delayed in view of the pandemic. Ethiopia did the same as well. Ethiopia’s first case of Covid-19 was reported on the 13<sup>th</sup> of March 2020. This was followed by the banishing of public gatherings and shutting of borders in a bid to stop the spreading of Covid-19 (Mohamed 2020). Ethiopia’s EMB postponed indefinitely the highly expected August 2020 general election due to issues concerned with the Covid-19. While opposition parties welcomed the decision to postpone elections, they expressed discontentment over how this decision was reached since they believed there was lack of adequate consultation. On the contrary, Guinea proceeded to hold parliamentary elections and a Constitutional referendum in March 2020 despite the Covid-19 threat and street protests. Apart from Guinea, other countries in Africa whose elections are due in the course of the year 2020 include Niger, Tanzania, Burkina Faso, Burundi, Seychelles, Ghana, Central African Republic, Ivory Coast and Togo.

In the meantime, Covid-19 continues to take a high toll in Africa, this is likely to affect next year’s elections as well. The opposition parties in Somalia have given warning to the government of Somalia not to postpone the 2021 elections by taking advantage of the Covid-19 outbreak (Mohamed 2020).

### **3.4 The legal strategic implications and considerations**

The Council of Europe (CE 2020) recognises that countries are confronted with challenges that are difficult as they seek to protect the citizenry from Covid-19’s threat. In Africa like any other continent, it is noted that the business-as-usual approach is not sustainable, especially given the most important protective measures that are required to fight the virus, specifically confinement. In addition, it is acceptable that the procedures assumed will unavoidably be an encroachment on freedoms and rights which are necessary and an integral democratic part of a society whose governance is through the rule of law. The main legal, political and social challenge confronting African states is the potential to effectively respond to this Covid-19 crisis, while being able to ensure that measures taken remain

consistent with democratic values, human rights and rule of law. The African Union has a mandate to provide mechanisms for ensuring collectively that measures for democratic values remain in correspondence to the Covid-19 threat and within time limits. While the virus is devastating lives, it must not be allowed to destroy societies and their core values (CE 2020).

The rule of law should be upheld even during a situation of emergency (VC 2006). In this case, the law does not imply just to parliamentary acts but includes, for instance, the executive emergency declarations having a basis that is Constitutional. Several Constitutions have provisions for specific legal regime(s) increasing executive powers during a serious natural disaster, calamity or war (CE 2020). The legislature can possibly take on emergency laws exclusively fashioned to deal with the prevailing crisis going beyond legal rules in existence. Any such new legislation should be in compliance with international principles, the Constitution as applicable and subjected to a Constitutional Court review process. Where parliament needs to allow deviation by government, then this has to be through the required majority for adopting the legislation, or after a special method is employed. Governments in a state of emergency could get powers of issuing declarations backed by law. This could be acceptable if the powers have a duration which is limited. Basically, the purpose of a state of emergency or something similar is mainly for containing a developing crisis in order to get back to normalcy as soon as possible (VC 2016b). Prolonging a state of emergency has to be dependent on parliamentary control for its inevitability. An indeterminate prolongation of the executive exceptional powers is not permissible (VC 2019). In a state of emergency, government's power to make laws should not only be limited by the period covered by the state of emergency, instead any enacted legislation under the state of emergency has to clearly provide limits of time with respect to the period of exceptional conditions (VC 2019). In effect, at the expiry of the measures of emergency it could be permissible to continue the application of targeted, specific provisions, however, extension of this type lies in the parliamentary competences (PACE 2009). The standard of necessity provides that measures under emergency have to be able to achieve the intended purpose with negligible amendments to procedures and rules of decision-making in a democracy (VC 2016a). As a result, the government's power to deliver decrees of emergency do not have to be done anyhow and given to the arm of the executive by the legislature. In light of the unpredictable and

rapid crisis development, lobbying for legislation is required, but the crafting of the law should be narrow enough to diminish any possibility for abuse (CM 2008). In general, legal reforms that are fundamental have to be held in abeyance in a state of emergency period (VC 2016b).

Buril and Darnolf (2020, 3) suggest that informed decisions with respect to how to conduct or hold different election activities could be a success if they:

- are based on a common understanding of all of the risks involved in holding elections amid the crisis
- are informed by comprehensive risk assessments developed in coordination with competent public health authorities; and
- accommodate the perspectives of political parties and civil society representing the full spectrum of constituencies in the country.

Asplund and Akinduro (2020) argue that good practices require that new regulations of elections have to be in place at least six months prior to the conduct of an election, although technical changes can be more swiftly adopted. What is most important is the need to have a consensus which is broad to the extent that the newly introduced system has to enhance the voting integrity. It implies that governments intending to conduct elections during the pandemic have to begin deliberating on these measures with political parties and key stakeholders as soon as practicable.

#### 4. Research methodology

A hermeneutic phenomenological study was carried out based on the constructivist philosophy. The philosophy assumes that, in the realm of life, society is entangled with events, cultures, experiences and histories foregoing any attempt of understanding or even explaining it (Adams, Yin, Vargas- Madriz and Mullen 2014). Thus, the hermeneutic phenomenological study seeks to provide a meaning to that which is being lived or experienced. In the process, the study endeavours to describe a phenomenon ahead of any abstraction, theorisation, explanation or interpretation (Adams et al 2014). Although this is done, such a description should not be viewed as being absolute. This methodology is germane to an experience through which human beings encounter, like the Covid-19 pandemic (Adams et al 2014). Friesen, Henrickson and Saevi (2012) observe that hermeneutic phenomenology is not similar to some qualitative methods and approaches of phenomenology. It is because it rebuts the contention of some methods that the essence of experiences lived could be isolated from the

investigator's cultural and historical setting (Friesen et al 2012). It is premised on interpretations of a meaning, refutes any claims which are mystical to the meaning and foregone conclusions. Levinas (1987, 110) believes, it is not about seeking to "understand the object, but its meaning." Hence, this study is not poised to understand Covid-19 as a disease in Africa or as a virus(object), but to understand its "meaning" to the conduct of democratic elections in Africa. Heidegger (1962, 275) concludes that our presence or ontology, gives us a "hermeneutical situation" which is fundamental. Therefore, we are obliged to interrogate this situation around us – the hermeneutic as it is.

## 5. Main findings and discussion

The main method of Covid-19 virus transmission is through a person-to-person by means of viral droplets, but it can as well be spread via contacts with fomites, meaning surfaces or objects to which the virus will have contaminated. In the process of elections, it is revealed that, there are points which are not less than 40 whereby people assembly or transfer objects posing a high risk of transmitting the virus if measures of prevention are not taken. Such interactions usually occur in all the electoral cycle stages and not necessarily confined to the day of election. It is revealed that, there is a possibility of a person being infected by merely touching an object or a surface contaminated by a virus then touch their nose, mouth, or eyes. To reduce the risk of infection, EMBs need to lessen the need to handle or touch objects and that people only do so with hands that are sanitized. Face masks that are made properly and worn, could effectively capture some amounts of small particles of respiratory droplets reducing contagion. Hand sanitizing could be done using soap and water or at least 60 per cent of alcohol solution to sanitize surfaces and hands. On the election Day, casting ballots is a process in most cases where many people interact and congregate, posing the highest virus transmission threat. It is here where people mix and mingle a lot closer as they make their own perceptions of the electoral process, its appropriateness in terms of procedure, credibility and integrity in general. However, EMBs can take charge of polling stations and keep every station at almost no risk. Although electoral officers and voters may not show any Covid-19 infection symptoms when they are actually infected, they could still spread the virus despite being asymptomatic. Hence, precautionary measures have to be taken just as if everybody at the polling station is infected. Finding also reveal

that, holding elections under Covid-19 could be undermined due to the following reasons:

- decline in turnout- particularly to groups that are prone to infection and this weakens principles of equality in the electoral process and inclusivity
- electioneering may be impossible when interaction in-person is either prohibited or discouraged in large groups
- debate could be focussed mainly on the crisis of public health precluding a broader debate concerning important election topics
- a government which is not scrupulous may utilise the restrictions due to a state of emergency to repress human rights
- conditions of emergency make individuals, candidates from opposition parties and media which is critical not very free as they should be.

Although postponing elections may be a good decision for protecting poll workers and voters they might as well create an opportunity for power abuses and manipulation. Some political leaders could use the Covid-19 crisis as a pretext of suspending electoral programmes and expanding their own authority, denting principles of democracy in a moment of fragility. If deferments stand as the sole practicable means of protecting citizens, then EMBs have to comply with the legal provisions that govern postponements of electoral processes. They have to develop plans and risk assessments in collaboration with public health authorities to hold elections in future. The reasons must be well communicated to all stakeholders and actions to be taken. While public health authorities could be politicised instead of being stringently technical, the leadership of an EMB has to be attentive to its legitimate mandate of preparing and organising elections which are democratic.

If elections are proceeding under Covid-19 conditions, EMBs have to procure additional supplies necessary for mitigating the risks of spreading the disease in all stages of the electoral process. EMBs have to consider how best to reduce gatherings and to maintain the required social distancing. Those diagnosed to be positive with Covid-19 but able to vote have to be afforded the use of polling stations dedicated for them. Excessive force should not be used by security forces to enforce Covid-19 prevention and mitigation regulations

## 6. Conclusion

The epidemic presents a challenge that is serious to the credibility of electoral processes. Currently, several countries have already re-scheduled their 2020 election dates for a period which is indeterminate as a result of the outbreak of Covid-



19. At the same time, it is important that institutions responsible for managing elections should resist being manipulated by political players seeking to postpone elections for expediency. Instead they should make decisions that are well-informed, transparent, inclusive about scheduling electoral activities and closely work with public health authorities. EMBs should employ practices that reduce the risk of contagion as they ensure competition which is pluralistic. Identify and secure equipment and materials required for the administration of elections safely. Measures to be taken for reducing transmission risk during elections should not increase the marginalisation of groups that have always been excluded ordinarily from processes of elections.

Candidates, political parties, civil society and public authorities should complement efforts in protecting the health of democracies and citizens in Africa. Manipulating or the mishandling of elections during this crisis could give rise in the long-term to the decadence of the fundamental freedoms, corruption and power consolidation. Leaders of electoral institutions have to transparently and decisively address the pandemic crisis. Those public officials faced with the dilemma to hold elections or postpone them have to speedily respond to the challenges which the Covid-19 outbreak presents to the process of elections. The response should include coordination with institutions across the political divide so that the changes have a buy-in, acceptable and feasible. It is possible that highly motivated and resourced powers in Africa that are authoritarian can easily exploit the prevailing climate of insecurity and fear to influence a world of their interest. The following recommendations are provided for democratic governance of sustainable elections under Covid-19 condition in Africa:

- If elections are to be postponed there is need to comply with legal requirements
- Regularly communicate to the public some updates
- Reduce risks of transmission by adjusting procedures and processes
- Procure and identify extraordinary supplies, material and equipment
- Integrate issues of Covid -19 into codes of conduct that are in existence
- Isolate and ban people employing Covid-19 pandemic disinformation to gain political expediency
- Disinformation concerning Covid-19 disease with respect to marginalized groups should be addressed
- Encourage the use of hand sanitisers and face masks as recommended throughout the electoral cycle.
- Display publicly and prominently information related to Covid-19.

## References

- [1]. Adams, C, Y Yin, F. L Vargas-Madriz, and C. S. Mullen. 2014. "A Phenomenology of Learning Large: The Tutorial Sphere of xMOOC Video Lectures." *Distance Education* 35 (2). doi:doi:10.1080/01587919.2014.917701.
- [2]. Akum, F. 11 February, 2019. Does Regime Security Come Ahead of Real Reform in Gabon? Institute for Security Studies. Accessed May 19, 2020. <<https://issafrica.org/iss-today/does-regime-security-come-ahead-of-real-reform-in-gabon>>.
- [3]. Annan, N. 2014. "Violent Conflicts and Civil Strife in West Africa: Causes, Challenges and prospects." *Stability: International Journal of Security and Development* 1-16. doi:org/10.5334/sta.da>.
- [4]. Asplund, Erik, and Olufundo Akinduro. 2020. "How African Countries are Dealing with Elections During Covid-19." 20 May. <https://africanarguments.org/2020/05/20/how-africa-countries-dealing-elections-covid-19>.
- [5]. Asplund, Erik, and Toby James. 2020. "Elections and Covid-19: Making Democracy Work in Uncertain Times." *Democratic Audit UK*. 30 March. Accessed May 13, 2020. <https://www.democraticaudit.com/2020/03/30/elections-and-covid-19-making-democracy-work-inuncertain-times>.
- [6]. AU. 2010. Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union to Manage such Situations. Assembly/AU/Dec.269(XIV) Rev.1. . Addis Ababa: African Union.
- [7]. AU. 2011. Declaration of the Ministerial Meeting of the Peace and Security Council on the State of Peace and Security in Africa. PSC/MIN/BR.1(CCLXXV). Addis Ababa: African Union.
- [8]. Banbury, A. 2020. "Opinion: Elections and COVID-19 - What we Learned from Ebola." *Devex*. 8 April. Accessed May 13, 2020. <https://www.devex.com/news/opinion-elections-and-covid-19-what-we-learned-from-ebola-96903>.
- [9]. Bourouiba, L. 2020. Turbulent Gas Clouds and Respiratory Pathogen Emissions:

- Potential Implications for Reducing Transmission of COVID-19. *Jama*.
- [10].Buril, F, and S. Darnolf. 2020b. "Low Voter Turnouts, Fear, Disinformation and Disrupted Supply Chains: How Election Commissions Are Unprepared for COVID-19." International Foundation of Electoral Systems. 27 March. Accessed May 15, 2020. <https://www.ifes.org/news/low-voter-turnouts-fear-disinformation-and-disrupted-supply-chains>.
- [11].Buril, Fernanda, Staffan Darnolf, and Muluken Aseresa. 2020a. IFES COVID-19 Briefing Series: Safeguarding Health and Elections. Arlington, VA: International Foundation for Electoral Systems.
- [12].CE. 2020. "Respecting Democracy, Rule of Law and Human Rights." Council of Europe Information Documents SG/Inf(2020)11. 7 April. Accessed May 20, 2020. <https://www.coe.int/en/web/congress/covid-19-toolkits>.
- [13].CEPPS. 2020. "Mitigating the Impact of COVID-19 through Democracy, Human Rights, and Governance (DRG) Assistance." International Foundation of Electoral Systems. 14 April. Accessed May 15, 2020. <https://www.ifes.org/publications/mitigating-impact-covid-19-through-democracy-human-rights-and-governance-assistance>.
- [14].CM. 2008. 170, Committee of Ministers Document on the Council of Europe and the Rule of Law. Commission of Ministers.
- [15].Delury, J. 2020. "How Democracy Won the World's First Coronavirus Election." *New York Times*. 16 April. Accessed May 13, 2020. <https://www.nytimes.com/2020/04/16/opinion/south-korea-election-coronavirus.html>.
- [16].Ellena, Katherine. 2020. IFES COVID-19 Briefing Series: Legal Considerations When Delaying or Adapting Elections. Arlington: International Foundation for Electoral Systems.
- [17].Ellena, Katherine, and Erica Shein. 2020. "Emergency Powers and the COVID-19 Pandemic: Protecting Democratic Guardrails." International Foundation for Electoral Systems. 30 March. Accessed May 20, 2020. <https://www.ifes.org/news/emergency-powers-and-covid-19-pandemic-protecting-democratic-guardrails>.
- [18].EW. 2020. "Suspension of Election Activities, Veritas Zimbabwe." *Election Watch*. 17 May. Accessed May 19, 2020. <http://www.veritaszim.net/node/4168>.
- [19].Friesen, N, C Henriskson, and T. Saevi. 2012. "Hermeneutic Phenomenology in Education." In *Practice of Research Method*, by W.M. Roth, 1-5. Rotterdam, The Netherlands: Sense Publishers.
- [20].Galvin, M. 25 July 2018. Cameroon's Failure of Politics. Council on Foreign Relations. Accessed May 19, 2020. <<https://www.cfr.org/blog/camerouns-failure-politics>>..
- [21].GSoD. n.d. "The Global State of Democracy Indices." International Democracy and Electoral Assistance. Accessed May 14, 2020. <https://www.idea.int/data-tools/tools/global-state-democracy-indices>.
- [22].Heidegger, M. 1962. *Being and Time*. New York: Harper & Row.
- [23].ICCPR. 16 December 1966. International Covenant on Civil and Political Rights, 999 U.N.T.S. 171. United Nations.
- [24].ICG. 18 June 2019. Making the Central African Republic's Latest Peace Agreement Stick. International Crisis Group. Accessed May 18, 2020. <<https://www.crisisgroup.org/africa/central-africa/central-african-republic/277-making-centralafrican-republics-latest-peace-agreement-stick>>.
- [25].IDEA. 2020. Elections and COVID-19: International IDEA Technical Paper 1/2020. Stockholm, SWEDEN: International Institute for Democracy and Electoral Assistance.
- [26].IDEA. 2019. *The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise*. Stockholm, Sweden: International Institute for Democracy and Electoral Assistance.
- [27].IFES. 2020. "Global Impact of COVID-19 on Elections." International Foundation of Electoral Systems. 20 March. Accessed May 15, 2020. <https://www.ifes.org/publications/global-impact-covid-19-elections>.
- [28].International-IDEA, and Hanns-Seidel-Stiftung. 2016. *Judicial Review Systems in West Africa: A Comparative Analysis*. Stockholm: International-IDEA and Hanns-Seidel-Stiftung. Accessed May 17, 2020. <https://www.idea.int/publications/catalogue/judicial-review-systems-west-africa-comparative-analysis>>..
- [29].Keilman, J. 2020. "After Chicago Poll Worker Dies From COVID-19 And Others Test Positive, City Warns Voters They Might Have Been Exposed to Virus at Polling Places." *Chicago Tribune*. 13 April. Accessed May 13, 2020.

- <https://www.chicagotribune.com/coronavirus/ct-chicago-poll-worker-dies-covid-cornavirus-20200413-rz55vqpo6jfbxn7e4i6vkj6n2y-story.html>.
- [30].Levinas, E. 1987. *Language and proximity*. Collected Philosophical Papers. Dordrecht: Martinus Nijhoff.
- [31].Mackay, Shaun. 2020. "Elections in the time of COVID-19." Netherlands Institute for Multiparty Democracy. 23 April. Accessed May 15, 2020. <https://nimd.org/elections-in-the-time-of-covid-19/>.
- [32].Marisam, J. 2010. "Judging the 1918 Election." *Election Law Journal*, 9 (2): 141-152.
- [33].Mbaku, J. M.,. 1 February 2018. *Elections in Africa in 2018: Lessons from Kenya's 2017 Electoral Experiences*?. Brookings Institution. Accessed May 20, 2020. <<https://www.brookings.edu/blog/africa-in-focus/2018/02/01/foresight-africa-viewpoint-elections-in-africa-in-2018-lessons-from-kenyas-2017-electoral-experiences/>>.,.
- [34].Meacham, Jon. 2020. "We Can't Let Coronavirus Postpone Elections." *The New York Times*. 20 March. Accessed May 15, 2020. <https://www.nytimes.com/2020/03/20/opinion/sunday/coronavirus-election-primary-postpone.html>.
- [35].Mohamed, Hamza. 2020. "How is the Coronavirus Pandemic Affecting Elections in Africa?" *Al Jazeera-News Africa*. 13 April. Accessed May 15, 2020. <https://www.aljazeera.com/news/2020/04/coronavirus-pandemic-affecting-elections-africa-200409085324155.html>.
- [36].Moore, J. 20 December 2017. *Uganda Lifts an Age Limit, Paving the Way for a President for Life*. *New York Times*. Accessed May 16, 2020. <<https://www.nytimes.com/2017/12/20/world/africa/uganda-president-museveni-age-limit.html>>.
- [37].Odinkalu, Chidi Anselm. 2020. "African Elections and COVID-19: A Crisis of Legitimacy." *Politics and Economics*. 27 April. Accessed May 15, 2020. <https://www.thenewhumanitarian.org/opinion/2020/04/27/Africa-coronavirus-elections>.
- [38].Oulepo, Arnaud. 2020. "COVID-19 Impact on Africa." 5 May. Accessed May 15, 2020. <https://www.thecairoreview.com/home-page/covid-19-impact-on-africa-elections/>.
- [39].PACE. 2009. *Protection of Human Rights in Emergency Situations*. Parliamentary Assembly-Council of Europe.
- [40].Rosenthal, U, MT Charles, and P 't Hart. 1989. *Coping with Crises: The Management of Disasters Riots and Terrorism*. Springfield: Charles C. Thomas.
- [41].Schulz-Herzenberg, C. 2014. "Voter Participation in the South African Elections of 2014." Institute for Security Studies Policy Brief No. 61. August. Accessed May 12, 2020. <https://issafrica.org/research/policy-brief/voter-participation-in-the-south-african-elections-of-2014>.
- [42].Taylor, D. B. 2020. "How the Coronavirus Pandemic Unfolded: a Timeline." *The New York Times*. 28 April. Accessed May 16, 2020. <https://www.nytimes.com/article/coronavirus-timeline.html>.
- [43].Temin, J. 27 November 2017. *The Alarming Decline of Democracy in East Africa*. *Foreign Affairs*. Accessed May 19, 2020. <<https://www.foreignaffairs.com/articles/east-africa/2017-11-27/alarming-decline-democracy-east-africa>>.,.
- [44].U.S-CDC. 2020b. "Social Distancing, Quarantine, and Isolation." 4 April. Accessed May 15, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>.
- [45].UN-HRC. 2001. "CCPR General Comment No. 29: Article 4: Derogations During a State of Emergency, CCPR/C/21/Rev.1/Add.11." UN Human Rights Committee (HRC). 31 August. Accessed May 20, 2020. <https://www.refworld.org/docid/453883fd1f.html>.
- [46].US-CDC. 2020. "How Coronavirus Spreads." 13 April. Accessed May 20, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.
- [47].VC. 2019. *Commission, Parameters On The Relationship Between The Parliamentary Majority And The Opposition In A Democracy: A Checklist (CDL-AD(2019)019)*. Venice Commission.
- [48].VC. 2016b. *Opinion on Emergency Decree Laws N°s667-676 adopted following the failed coup of 15 July 2016, CDL-AD(2016)037*. Turkey: Venice Commission.
- [49].VC. 2006. *Opinion on the Protection of Human Rights in Emergency Situation, CDL-AD(2006)015*. Venice Commission.
- [50].VC. 2016a. *Venice Commission Rule of Law Checklist (CDL-AD(2016)007)*. Venice Commission.

- [51]. V-Dem. 2020. "Autocratization Surges – Resistance Grows DEMOCRACY REPORT 2020 ." Accessed May 15, 2020. [https://www.v-dem.net/media/filer\\_public/f0/5d/f05d46d8-626f-4b20-8e4e-53d4b134bfc/democracy\\_report\\_2020\\_low.pdf](https://www.v-dem.net/media/filer_public/f0/5d/f05d46d8-626f-4b20-8e4e-53d4b134bfc/democracy_report_2020_low.pdf).
- [52]. VDH. n.d. "Frequently Asked Questions About Respiratory Hygiene/Cough Etiquette." Virginia Department of Health. Accessed May 15, 2020. [https://www.vdh.virginia.gov/content/uploads/sites/3/2016/01/RespiratoryHygieneCoughEtiquette\\_FAQ.pdf](https://www.vdh.virginia.gov/content/uploads/sites/3/2016/01/RespiratoryHygieneCoughEtiquette_FAQ.pdf).
- [53]. WHO. n.d. "Advice for Public." World Health Organisation. Accessed May 13, 2020. <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>.
- [54].—. 2014. "Definitions: emergencies." World Health Organization. 17 November. Accessed May 19, 2020. <https://www.who.int/hac/about/definitions/en/>.
- [55].—. n.d. "Modes of Transmission of Virus Causing COVID-19: Implications for IPC Precaution Recommendations." World Health Organisation. Accessed May 19, 2020. <https://www.who.int/news-room/commentaries/detail/modes-of-transmissionof-virus-causing-covid-19-implications-for-ipc-precaution-recommendations>.
- [56].—. 2020. "WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 March 2020." World Health Organisation. Accessed May 20, 2020. <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.
- [57]. Wodrig, S, and J., Grauvogel. 2016. "Talking Past Each Other: Regional and Domestic Resistance in the Burundian Intervention Scene." *Cooperation and Conflict* 51 (3): 272–90.