

AIDS and elections in Southern Africa: Is the epidemic undermining its democratic remedy?¹



Per Strand

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In theory, democratic elections are an important political process that help to determine the success or failure of a country's overall political response to the HIV/AIDS epidemic. For political parties, election campaigns offer opportunities to raise awareness and spread information about HIV/AIDS, while competing for votes on the basis of how they would fight the epidemic if elected. For voters, elections are an opportunity to reward the governing party for a job well done – or to hold that party accountable for mistakes and inefficiencies that will cost lives and destroy communities. In reality, however, there is evidence to suggest that the very nature and scale of the HIV/AIDS epidemic is undermining its democratic remedy.

Some 20 years into the global pandemic, the issue of HIV/AIDS has undoubtedly featured in electoral processes the world over. In most cases though, HIV/AIDS has been a relatively peripheral policy issue that did not determine electoral outcomes. In Southern Africa – the region currently worst affected by the epidemic – the situation is very different. In several countries HIV prevalence is thought to be between 20% and 40% in the adult (15-49) population. HIV/AIDS is not only a central policy issue in the region, but a societal problem that impacts directly on the legitimacy of elections.² Once elected assemblies are in place, HIV/AIDS continues to hamper the representative and legislative democratic process. For example, the resignation or death of a member of parliament (MP) due to HIV/AIDS results in the loss of a unique set of experiences, capabilities, trust, and political networks, as well as the representation of a constituency's political aspirations. In addition, considerable financial costs are incurred to hold the necessary by-elections for that MP's replacement.

Social science research on these effects has produced few definitive conclusions; but it would

be unethical and unrealistic not to analyse the data available (however sketchy it sometimes is), so long as the necessary caveats are stated clearly.

If the effect of HIV/AIDS on elections is not explored, the virus may count among its victims this institutionalised opportunity for democratic deliberation and decision making. In order to avoid any long-term detrimental effects of the impact of HIV/AIDS on the electoral process, we need to act swiftly based on the (albeit limited) knowledge that we have.

This paper explores the links between HIV/AIDS and electoral processes in Southern Africa. It begins by examining the implications of HIV/AIDS for democracy and governance generally. It then considers how the different institutional elements of elections vary in their vulnerability to the epidemic, and to what extent different institutional arrangements can be part of a strong political response.

Impact of HIV/AIDS on democracy and governance

HIV/AIDS is fast becoming one of the most devastating human diseases the world has ever seen, and may over the next ten to 15 years claim more lives than any other human epidemic ever recorded.³

Some additional characteristics set HIV/AIDS apart from other diseases:

- In contrast to most other illnesses, HIV/AIDS disproportionately affects adults in the prime of their lives – the workers, civil servants, and leaders of society.
- The relatively long period between HIV infection and the appearance of symptoms allows the

HIV/AIDS is not only a central policy issue in Southern Africa, it is a societal problem that impacts on the legitimacy of elections.

disease to spread quickly and undetected through a population.

- The absence of wide-scale diagnostic and treatment infrastructure means that the virus is at present nearly always fatal.
- Its sexual mode of transmission brings with it social stigma that not only assists in spreading the virus, but compounds its impact on infected individuals and their families.

The relationship between HIV/AIDS and governance and democracy is complex. On the one hand, democracy and related political elements – such as good governance, social cohesion, a vibrant civil society, and the absence of political conflict and instability – can help to slow the spread of the virus and reduce its impact.⁴ On the other hand, HIV/AIDS may undermine democracy. The sections below review some of the more central conjectures in the literature regarding the logic and nature of these effects.

Most relevant to this discussion, it is argued that democratic governance can generate the political will, legitimacy, and necessary resources to formulate and implement policies for preventing and treating HIV/AIDS.⁵ Mattes suggests, for example, that there is often greater demand for government action within democratic states, as well as greater citizen empowerment and collective action, to prevent and manage the virus. Democratic governments may be more effective sources of information and may enjoy greater legitimacy in bringing about policy and budgetary changes in response to the epidemic. They may also benefit from greater compliance when it comes to the payment of rates and taxes, thereby increasing the money available for HIV/AIDS-related programmes.⁶

Interestingly though, those developing countries said to exemplify a successful political response that managed to halt or reverse the epidemic – Uganda, Thailand, Senegal, and Cuba – are not known for their democratic credentials. In fact, some of the measures they applied in the fight against the epidemic would not be acceptable in a democratic regime under the rule of law. It is not yet clear what lessons can be drawn from these countries in trying to formulate a response that accords with democratic ideals and principles.

It is further believed that HIV/AIDS may add considerable stress to already strained African

democracies. In a setting where the culture of democracy is generally weak and political institutions are inefficient due to corruption and a lack of human and financial resources, HIV/AIDS may decrease both the responsiveness of the state and participation in democratic processes. This could happen in several ways.

HIV/AIDS could detrimentally affect the effectiveness and integrity of the various institutions of the state and its democratic structures. As civil servants and elected officials are infected and affected by HIV/AIDS, institutions may see higher levels of staff turnover. This is likely to result in reduced productivity and lower levels of morale, as well as the loss of skills, networks, and experience that enable institutions to function effectively.⁷ It may also make it increasingly difficult for experienced personnel in legislatures, ministries, and government agencies to pass on their skills to future generations.⁸

Governments may additionally experience a shortage of financial resources as tax payers die or are unable to pay their dues, and as national and departmental budgets are increasingly absorbed by higher levels of HIV/AIDS-related spending.⁹ Analysts such as De Waal also speculate that whatever the degree of corruption in a bureaucracy prior to AIDS, the problem is likely to increase as employees need extra money to cover additional costs for treatment or to secure their families' welfare after their death.¹⁰

These effects have the potential to “diminish the reach, quality, responsiveness, and resilience of government institutions”,¹¹ including local, regional, or national assemblies. The loss of skills and experience, in particular, could prove more damaging than in most other organisations. This is because a political career represents much more than skills and experience; it represents (one hopes) the accumulation of trust and legitimacy between politicians and their electorate, as well as between politicians and their colleagues in the legislature and/or government. The loss of political skills and experience could also severely undermine the legitimacy of governments and elected officials and, where elected governments are perceived as “part of the problem rather than the solution”, democracy itself.¹²

The epidemic also stands to undermine the culture of democracy in the broader population. As noted by Mattes, in order to become consolidated and sustainable over time “democracies require

The relationship between HIV/AIDS, and governance and democracy is complex.

democrats" who believe that democracy is preferable to its alternatives, and who give life to democratic processes by obeying the law and participating in democratic procedures.¹³ At the most extreme, Mattes argues, rising levels of illness and death could encourage people to support any set of political entrepreneurs who offer a solution to their problems, whether they are democratic or not. Illness and death could also reduce the absolute number of people available to vote, the incentive to vote, as well as the capacity of both the ill and their caregivers to participate in elections.

High levels of morbidity and mortality might also weaken the capacity of the civil society institutions that channel and mobilise public participation in elections (although some evidence suggests that HIV/AIDS may actually motivate people to get involved in public life).¹⁴ Moreover, the epidemic could negatively affect the 'civility' of society, decreasing popular compliance with the law, and increasing violent protest and social intolerance. In one scenario, the fear surrounding HIV/AIDS could encourage the political and social exclusion of both the HIV positive and those in perceived 'high risk' groups, such as sex workers or children orphaned by AIDS.¹⁵

Linking AIDS, electoral processes, and democracy

The electoral process forms an important link between two competing dynamics, namely: the role of democratic institutions and governments in responding effectively to the HIV/AIDS epidemic and the impact that the epidemic has on these same institutions and processes. This is because elections shape a government's response to the epidemic, but also suffer the effects of the epidemic in ways that shall be explored further below. The efficiency of the electoral process, and how it is impacted on by the epidemic, therefore has important implications for both the response to the epidemic and democracy itself.

For example, while democracy can create incentives for governments to put in place effective responses to HIV/AIDS, attitudes towards the epidemic can also reduce the constructive potential that elections hold for communication about, and mobilisation against, the epidemic – at least in its early stages.

South Africa presents a powerful example of this negative effect. After providing strong leadership by initiating policies and mobilising resources against the epidemic in the early 1990s, Nelson Mandela, then leader of the African National Congress (ANC),

was told not to feature HIV/AIDS in his campaigning for the historic 1994 elections. Having noticed how culturally conservative constituencies were alienated by talk about sexual matters, the ANC feared that emphasising HIV/AIDS in the campaign would cost it dearly at the polls. "I wanted to win," said Mandela, "and I did not talk about AIDS."¹⁶

This suggests that the strong political leadership required to stop sexual behaviours that fuel the epidemic is not likely to be rewarded at the polls by an electorate who have not yet experienced the direct effects of the epidemic. Even once the epidemic is more mature and the number of those infected or directly affected has grown rapidly, we cannot assume that their calls for stronger government action will be heard through the ballot box. Stigma, reduced interest in voting, a lack of resources, and physical illness may keep those infected with and affected by HIV/AIDS away from voting stations altogether. The loss of human and financial resources may also hamper the effective management of elections, with potential repercussions for the legitimacy of governments, their responses to the epidemic, and democracy as a whole.

If the quality of elections is undermined by HIV/AIDS, this could have wider repercussions for the legitimacy of democracy as a whole.

On the basis of survey research conducted in 12 African countries on what shapes Africans' attitudes towards political and market reform, Bratton and his colleagues show that "[Africans] use the quality of national electoral contests as a cue to judging whether democracy is being attained in their countries".¹⁷ Furthermore, it was found that people who believe that the last election was free and fair are more likely to vote in the next election. This suggests that if the

quality of elections is undermined by HIV/AIDS or any other factor, it will have wider repercussions for the legitimacy of democracy as a whole.

This paper focuses on these last two dynamics. As mentioned, most contributions to this field of research in political science have so far been based on logic and conjecture, and have at best generated a set of hypotheses for further research. More recent contributions have started to test such hypotheses through empirical research. This research agenda is still often short of the necessary data to test theories more systematically, but the emerging results provide valuable preliminary conclusions in an under-researched area.

The paper draws heavily on a recent report by the Institute for Democracy in South Africa (IDASA) on the impact of HIV/AIDS on the 2004 electoral process in South Africa. The research involved a

comprehensive review of the available literature, analysis of relevant statistics, as well as in-depth interviews and focus groups with key stakeholders. The report generates results that provide a stronger basis for policy formulation as well as directions for new research.¹⁸

Impact of HIV/AIDS on electoral processes

A democratic election is the process through which citizens choose their political representatives who are to sit in legislative assemblies, form government, and run the country for a fixed term of office. While merely holding elections is not a sufficient criterion to qualify as a democracy, no country can be a democracy without elections.¹⁹

In order to make some important distinctions, our analysis of the electoral process will be done through two related terms. The notion of *electoral governance* refers to the making and implementation of the rules that define the whole of the electoral process, while *electoral systems* refer to the rules and processes by which parties' support among voters is transferred into seats in the elected assembly.

Electoral governance

The term 'electoral governance' is intended to enable systematic empirical research on democratic elections, and has particular relevance for elections in new democracies. The concept is defined as "the wider set of activities that creates and maintains the broad institutional framework in which voting and electoral competition take place".²⁰ Its linked research agenda is motivated by the fact that the rules for, and management of, elections only get attention when they fail in one way or another. Mozafar and Schedler suggest a comprehensive analytical framework that unpacks the electoral process into its constituent parts.²¹ These include:

- voter registration;
- voting;
- voters' roll;²²
- voter education;
- polling stations;
- election observation; and
- election management bodies (EMBs).

This section discusses how electoral governance with respect to these specific elements may be affected by the HIV/AIDS epidemic. It also examines how electoral governance should be adjusted in order to minimise the risk of people

being excluded from the electoral process on the basis of their being HIV positive, sick with AIDS, or burdened by home-based care due to AIDS.²³

The rules governing voter registration can be more or less demanding in terms of the direct and indirect costs they involve for the prospective voter.²⁴ In this context, costs should be counted not only in financial terms but also in terms of time, energy, and other less tangible resources. Costs for travelling and acquiring the required documentation may prove too high for those already heavily burdened by the HIV/AIDS epidemic. Whatever these costs, they can be more easily negotiated if registration is an on-going process and if voters are required to re-register only when changing residential address.

South Africa is the only country in the region where the complete registration of voters is done through an advanced, computerised system that is checked against the Population Register. In Lesotho, voter registration is mandatory, and officials from the EMB can make home-visits to enable registration for all.

South Africa is the only country in the region that has instituted a 'special vote', which enables people to request to both register and vote in their homes.

It is difficult for people who are severely ill to stand in long queues to vote, and failure to make provision for ill voters may act as a disincentive to participate in elections. Regulations that allow for home-visits by electoral officers should therefore ideally also apply to voting. If this is not possible, those who cannot stand in queues owing to illness or disability should be allowed to vote at a polling station a day or two before election day. It should be clearly stated in the regulations that AIDS-related illness meets the criteria for accessing such opportunities.

South Africa is the only country in the region that has instituted a 'special vote', which enables people to request to both register and vote in their homes, in the presence of a visiting electoral officer. The experience in the 2004 elections, however, suggests that the take-up of these votes by HIV positive voters was very low. As shown in Table 1, the delivery of special votes on a provincial level did not reflect the number of people estimated to be infected by HIV or who are projected to be ill from the virus.

The clearest example of this was found in the country's relatively impoverished KwaZulu-Natal province. As shown in Table 1, it is estimated that KwaZulu-Natal has the second highest number of people living with HIV/AIDS, after the Free State. The province should therefore have absorbed a higher than average proportion of special votes as a



Table 1: Special votes cast in South Africa's 2004 elections

	Total number of special votes cast	Special votes as % of votes cast	Estimated HIV prevalence 2003 as % of population	Projected no. of people sick from AIDS 2004 as % of population
Free State	49,526	4.8	30.1	2.74
KwaZulu-Natal	59,471	2.1	37.5	2.31
Mpumalanga	76,293	6.6	32.6	2.05
Gauteng	130,835	3.7	29.6	1.78
North West	103,302	7.6	29.9	1.62
Limpopo	80,278	4.6	17.5	1.1
Eastern Cape	103,046	4.5	27.1	1.1
Northern Cape	15,544	4.7	16.7	0.73
National	651,438	4.1	27.9	1.57

Source: Independent Electoral Commission, Department of Health, ASSA2000 Model cited in P Strand et al (2005)

share of total votes cast. However, while special votes amounted to 4% of all votes cast nationally, the proportion of special votes cast in KwaZulu-Natal was well below the national average, at 2%. It is not possible based on the available evidence to say whether this low figure was due to lack of knowledge about this facility on the part of the public, or a lack of demand from voters despite knowing of the opportunity. Suffice it to say that the discrepancy should alert the South African Independent Electoral Commission (IEC) to the possibility that people who wanted to vote failed to do so as a result of AIDS-related illness.

Given complicated voter registration procedures in most of Southern Africa's multiparty democracies, the combination of sharp increases in AIDS-related mortality and incomplete reporting of deaths could result in voters' rolls containing the names and identity numbers of deceased people. Voters' rolls that are bloated with such 'ghost voters' are susceptible to fraud or the suspicion thereof, both of which could reduce the legitimacy of elections. The recent 2004 elections in Malawi provide a good example of these effects. According to a Malawian EMB commissioner:

[the] voters' roll [in Malawi] is highly bloated with dead voters ... It is estimated that the [Electoral Commission] has already lost about 100,000 voters on its voters' roll, which is about 2% of the total registered voters.²⁵

Concerns raised by the main opposition Mgwirizano coalition over the accuracy of the voters' roll in Malawi led to a temporary postponement of the elections to allow for a verification of the roll.²⁶ To minimise the scope for fraud, regulations should allow stakeholders and observers regular opportunities to scrutinise the voters' roll.

Voter education campaigns are aimed at reaching large sections of the population, especially young

first-time voters. The opportunity should therefore not be missed to design campaign information and material in such a way that it motivates and informs those individuals infected with and affected by HIV/AIDS who might feel disinclined to cast their vote. This should include information about any measures or facilities that can make it easier for them to vote. In South Africa, voter education should inform potential voters about their right to access special votes on the grounds of AIDS-related illness.

Polling stations should be equipped with toilets and rest-places for the ill or disabled. Polling stations should also be numerous enough and strategically situated so as to minimise the distance people have to travel to vote. Furthermore, it should be part of the mandate of election observation teams to comment on the sufficiency of information offered by EMBs about the enabling arrangements available for sick people to register and to vote, and teams should note whether polling stations are properly equipped with toilets and rest facilities. Where voters can exercise a 'special vote', observers should be required to scrutinise the ratio between requested and delivered home-visits by electoral officers for registration or voting.

In this respect, Southern African Development Community (SADC) observers are now being made aware of how HIV/AIDS can be an issue that they may need to comment on in their election reports, although this is not yet reflected in the handbook that outlines the principles for election monitoring in the SADC region.²⁷

EMBs are vulnerable to the effects of the HIV/AIDS epidemic on both their internal functioning and their external mandate to deliver free and fair elections. Like other institutions, EMBs stand to lose staff to the epidemic. The South African IEC, for instance, relies heavily on teachers to assist in the administration of elections – a professional grouping that, along with health-care workers, has been



shown to be at particularly high risk of HIV infection.²⁸ High levels of attrition among these volunteers could result not only in the loss of expertise learned by those who have worked for the IEC previously, but in extra training costs as replacements need to be selected and trained.²⁹

Moreover, the skills required to organise an election are generally held by a small number of permanent EMB staff, and the loss of even one or two of these staff members could severely undermine the ability of EMBs to ensure the fairness and legitimacy of elections. As discussed, EMBs may also have to cope with rising levels of illness and death among their electorates, which may decrease public participation in elections and also make it harder for EMBs to run free and fair elections.

Responses of EMBs to HIV/AIDS

South Africa's IEC is aware of the threat that the HIV/AIDS epidemic poses to its core functions and democratic mandate. Senior IEC Manager Michael Hendrickse elaborates:

An increase in the number of deceased and sick persons will have an impact on the core functions of the IEC. The delimitation of voting districts and the registration of voters will be affected as deceased persons must be taken off the voters' roll, which also affects the delimitation of voting districts as well as the arrangements for sick persons that we currently have in place. ... There will also be an impact on electoral staff, especially if we cannot make use of persons who have built up electoral experience.³⁰

The same level of awareness was expressed at the highest political levels at the fifth annual conference of the Electoral Commissions Forum (ECF) in July 2003 – which was held on the theme of responding to HIV/AIDS. The ECF comprises representatives of the various EMBs in SADC member countries. In his opening address to the conference, then Mozambican President Joaquim Chissano placed the issue of HIV/AIDS firmly on the meeting's agenda:

Politically we can identify a reduction in potential leaders and citizens able to play an active role in the political life of the community. This in turn affects policy-makers, legislators, councillors, members of parliament, and civil servants, which in turn affects the ability of [EMBs] to deliver effectively on their tasks and responsibilities. [EMBs] are directly affected by

a potential loss of skilled staff. The registration process is affected whereby adjustments continuously need to be made to voters' rolls ... HIV/AIDS ... may also impact on the needs of special voters, absentee voters, proxy voters or early voting ... which in turn has a cost to [EMBs] ... The possible loss of life may result in an increase in the number of by-elections that may need to be held, particularly in countries that use the first-past-the-post electoral system and to some extent [the] mixed-member proportional system. ... HIV/AIDS may be an issue that we do not feel is our responsibility, given the challenge we face as [EMBs] which is to deliver free, fair and transparent elections. It is [however] important that we are perceived by the electorate as a body worthy of authority and a body that understands its social responsibility ... We need to consider to what extent our role and function is to go beyond the delivering of an efficient election.³¹

Despite this promise of prioritising HIV/AIDS, neither the ECF nor individual EMBs appear to have taken these issues forward. Speaking in March 2005, Lesotho IEC Chairman and current ECF President Leshele Thoahlane was not aware of any SADC EMBs that had acted on the initiatives and commitments agreed to at the 2003 conference.³² Rather than an indication of wavering commitment to help fight the epidemic, this lack of progress is probably attributable to both limited resources to implement activities and, in the context of often scarce human and financial capital, the need to prioritise these organisations' core functions.

It is, however, imperative that measures are put in place to alleviate the possible effects of the epidemic. Internally, the expertise of permanent EMB staff must be protected, irrespective of cost. EMBs should be required to develop HIV/AIDS workplace policies that set out strategies to educate both permanent and non-permanent staff about HIV/AIDS and ways to prevent infection, as well as to provide at least some level of psycho-social support, and to mitigate the effects of HIV/AIDS on the integrity of the institutions themselves. Awareness-raising activities should include efforts to reduce stigmatisation and discrimination against people infected with or affected by HIV/AIDS. At a minimum, permanent staff should be provided with the necessary medical cover to finance treatment for AIDS-related illnesses.

Externally, EMBs should be required to develop a strategic plan that sets out a proactive response to

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the various challenges posed by the epidemic as it matures over the next ten to 15 years. This will require additional human and financial resources. A funding proposal by the ECF to develop such a strategic plan was turned down by donors in 2003.

Electoral systems

An electoral system is a set of rules that defines how parties' support in the voting population gets transferred into a distribution of seats in the legislative assembly through a general election.³³ The basic principles of the electoral system are often defined in the national constitution, but the details are set out in ordinary legislation – usually the electoral act. These institutional arrangements not only create a government with a mandate to rule, but also a parliamentary opposition with an obligation to represent dissenting views and present alternative policies.

There are two main types of electoral systems: the proportional representation (PR) system; and the majoritarian, or first-past-the-post (FPTP) system. As discussed below, the two systems differ widely in their construction as well as in their impact on the electoral process and the constellation of the legislative assembly. Despite these differences there is no consensus among experts whether one system is more democratic than the other. Instead, they emphasise different democratic values (such as fair representation versus accountability) and different qualities of the political system (such as stability versus efficiency).

Judgement of which system is better than the other should arguably be contextualised in terms of what political conflicts or dynamics the electoral system needs to mediate or address in a particular country. In line with this logic it is argued here that the PR system is superior in the context of the HIV/AIDS epidemic in Southern Africa.

The main defining characteristic of the PR system is that the number of seats it allocates to different political parties in the legislature is generally in proportion to the number of votes won in an election: if party A wins all the votes it can claim all the seats; if parties A, B, and C win 55%, 30%, and 15% of the votes respectively, they share the seats according to a formula that approximates this distribution.

The degree of proportionality is determined by specific institutional details. For instance, if the whole country is regarded as one single

'constituency' and if there is no formal threshold of support that a party must surpass in order to win seats in the assembly, the degree of proportionality in the system will be very high. Conversely, where the country is divided up into a number of voting districts, votes will not necessarily translate directly into seats as any formula used to translate votes into seats will need a limit below which seats are not awarded. If, as in some European democracies that use PR, a 4% threshold for representation was, for example, adopted in South Africa, a number of distinct constituencies would stand no chance of winning representation in the National Assembly.³⁴ Some PR systems allocate a specific number of seats to prevent any particular party or voting district from suffering systematic under-representation due to such technical details.

Parties contesting elections in PR systems are required to present party lists with as many candidates as there are seats up for election. Candidates are usually elected on to the lists by party members prior to the general elections. Once draft lists of candidates have been generated through such elections, they are often altered and adjusted by the party at national level in order to reflect principles of representation (such as quotas for gender representation), as well as other requirements that have been adopted by the party (such as blocking those with a criminal record).

When the election result is determined and the parties know the number of seats they have won, they assign members to seats in accordance with the order on the party list. If an MP has to be replaced between general elections, the party simply nominates the candidate who at that time is the next person down on the list. Thus, voters elect parties not individual representatives; representatives do not have a personal mandate or link to a particular district, but become part of the legislative assembly on the basis of having been nominated internally by their party.

In sharp contrast to the PR system, the majoritarian FPTP system generates a parliament on the basis of many more constituencies, each with one legislative seat to be contested by party candidates. The candidate who is the first to make it 'past-the-post' – that is, who gets the most votes – wins the seat for that particular constituency. Candidates contesting each constituency are elected by local branches of the respective parties; a process over which national party structures have limited influence. Since a simple majority (a plurality) is enough to win a seat, candidates can become MPs on the basis of a level

The PR system is superior in the context of the HIV/AIDS epidemic in Southern Africa.

of support among voters that is well below 50%. Despite this, a definite strength of the majoritarian system is that the MP can claim a personal mandate from the voters. In order to win a seat in the next election, MPs must represent the interests of their constituency. If a constituency is dissatisfied with 'their' MP, it is easy to hold him/her accountable come the next election. Owing to this more personal link, the replacement of an MP between general elections can only occur by holding a by-election in that constituency.

The many details in terms of how these two basic types of electoral systems are realised differ greatly from country to country due to particular historical, political, and/or demographic factors. Efforts by practitioners and analysts to devise the best possible electoral system – one that combines the particularly attractive features of both – has generated a hybrid electoral system that can be seen as a third type: the mixed-member proportional (MMP) system. In this system, some MPs are elected on the basis of proportionality according to party lists, and some have a personal mandate on the basis of having won the most votes in a particular constituency, in line with FPTP.

Some African countries have formulated and adopted their electoral systems on the basis of a 'rational' analysis of which system would be best suited for their particular contexts, but this is not

Table 2: Electoral systems at national level in sub-Saharan African countries

Electoral system	Countries
Majoritarian FPTP (25)	Botswana, Cameroon, Central African Republic, Comoros, Cote d'Ivoire, Democratic Republic of Congo, Djibouti, Ethiopia, Gabon, Gambia, Ghana, Kenya, Madagascar, Mali, Malawi, Mauritania, Nigeria, Republic of Congo, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, Zimbabwe
Mixed-member proportional (MMP) (5)	Burkina Faso, Chad, Guinea, Lesotho, Seychelles
Proportional representation (PR) (14)	Angola, Benin, Burundi, Cape Verde, Equatorial Guinea, Guinea-Bissau, Liberia, Mozambique, Namibia, Niger, Sao Tome, Senegal, Sierra Leone, South Africa

Source: S Lindberg, Consequences of electoral systems in Africa: a preliminary enquiry, *Electoral Studies* 24, 2005

very common. Many countries have adopted a system that is at best a functioning (albeit imperfect) compromise resulting from contentious negotiations between parties to a previous armed conflict. Others have applied the same system as was used by their previous colonial powers without much reflection on what this implies for the countries' newly constituted multiparty democracies.³⁵ Table 2 shows the various systems presently used in sub-Saharan Africa. (Note that the table lists the electoral systems and countries but says nothing about the democratic, or otherwise, quality of elections in the different countries.)

The vulnerability of different electoral systems to HIV/AIDS

Having provided a brief overview of prevailing electoral systems, it is now possible to examine their relative vulnerabilities and strengths in the face of the HIV/AIDS epidemic. It can be argued that electoral systems differ to the extent that they are vulnerable to the impact of the epidemic and to the extent that they allow for proactive political action in response to the challenges posed by the epidemic. According to this reasoning, a system that is less vulnerable to the effects of HIV/AIDS and allows more easily for proactive agency than alternative systems is the superior electoral system in the context of the epidemic. These are certainly not the only considerations to make when evaluating electoral systems, but it is increasingly important that they are factored into analyses of the viability of electoral systems in Africa.

The features of an electoral system most relevant in this discussion are:

- the process whereby MPs are replaced; and
- the extent to which the system allows for countering local prejudices.

The FPTP system's requirement that by-elections be held when MPs need to be replaced between general elections makes this system particularly vulnerable to the effects of HIV/AIDS; increased levels of illnesses and death among MPs are likely to result in considerable political, financial, and administrative costs.

The financial cost of holding a by-election will differ depending on the size of the constituency, the level of government, and the systems used.³⁶ For example, whereas by-elections for local government representatives in South Africa cost an average of only R30,000 (approximately US\$5,000), by-elections to replace national MPs in Lesotho cost about US\$160,000 and the amount is as much as US\$210,000 in Zambia.³⁷



However, while these costs are themselves problematic for poor countries, the direct link to the HIV/AIDS epidemic is unclear unless we can establish that the need for by-elections among elected representatives in the ages most at risk of HIV infection has indeed increased over the past few years.

Data in this regard is incomplete and sketchy. Owing to the stigma and secrecy that surround the epidemic and the complex symptomology associated with the virus, determining whether someone died of AIDS is difficult. Proxy indicators – such as age at death or lengthy and repeated bouts of illness prior to death – can provide an indication of whether deaths are AIDS-related; but even data on these indicators is hard to obtain. Comparing data over time is also hampered by a lack of systematic record keeping, which makes it difficult to compare data from the ‘pre-HIV/AIDS’ and ‘post-HIV/AIDS’ eras.

The case of Zambia is, however, informative.³⁸ Between 1964 and 1984 (prior to the epidemic in that country) a total of only 14 by-elections were held due to the death of an MP. But between 1985 and 2003, as many as 59 by-elections were held to replace dead MPs. This increase was not caused by the natural deaths of MPs due to age: 71% of all deaths between 1990 and 2003 occurred in the 40-59 year age group, while 39% of deaths occurred among MPs between the ages of 40 and 49 – an age group that does not, in the absence of HIV/AIDS, usually experience particularly high death rates. These figures do not conclusively prove the impact of AIDS on the legislature and political system at large; however,

the high level of deaths among MPs in their 40s and early 50s is highly suggestive of AIDS-related mortality.

The data on by-elections in other SADC countries is even more incomplete. As shown in Table 3, at least 407 by-elections were held in six countries between 2001 and April 2005, but we lack one or more pieces of the necessary information to draw definite conclusions about the impact of AIDS on by-elections in these countries. Botswana reports that 13 by-elections were held over 14 months during 2002–2003, but it is unclear how many of these were caused by the death of the incumbent representative. This information is available for the four years between 1999 and 2003, during which 26 by-elections were held, but in this instance we do not have data on the total number of by-elections during this period, the age of the deceased members, or whether they suffered lengthy periods of illness prior to their deaths – data which could help determine the probable impact of the epidemic.

The absence of demographic or illness-related information makes it similarly difficult to ascertain how many of the seven by-elections held in Lesotho between the beginning of 2002 and April 2005, and the 98 by-elections held in South Africa between the beginning of 2001 and July 2003 were as a result of AIDS. It is likely that many of these deaths were AIDS-related, but further research is needed to conclusively establish any linkages.

As argued earlier, the cost incurred by the epidemic should not only be measured monetarily in terms of organising by-elections, but also in terms of a

High levels of death among MPs in their 40s and early 50s is highly suggestive of AIDS-related mortality.

Table 3: By-elections in selected SADC countries

Country	Number of by-elections	Level of government	Time period	Due to death
Botswana	13	national & local	July 2002–August 2003	*
Botswana	*	national & local	October 1999–July 2003	26
Lesotho	7	national	2002–April 2005	7
South Africa	218	local	2001–July 2003	98
Tanzania	19	national	*	*
Tanzania	20	local	*	*
Zambia	7	national	2001–July 2003	*
Zambia	117	local	2001–July 2003	*
Zimbabwe	6	national	July 2002–July 2003	*

* No information available.

Source: ECF *op cit*.



reduced quality of representation. This should arguably be understood as a combined effect of three factors, namely:

- a loss of the representative's personal charisma and legitimacy with his/her constituency members;
- a weaker mandate for new representatives owing to a reduced level of voter turnout that is typical of by-elections; and
- a shift in the power balance in the legislature in favour of larger parties in general and the incumbent party in particular, as these are better resourced to sustain an on-going election campaign in by-elections.

Since the FPTP system builds on a personal mandate given by a constituency to its representative, the basis for that mandate in terms of trust, charisma, and popularity is not easily transferred to a new set of candidates in a by-election. Constituencies do not vote for strangers. To win constituency-based elections, candidates require skills and experience, as well as the trust of various formal organisations and informal networks in the local community.³⁹ Since these personal qualities can only be acquired over time, the premature and untimely death of such representatives may force constituencies to vote for representatives that are more unfamiliar to them, both personally and politically.

Adding to this problem is the fact that, as stated above, by-elections in general attract a reduced voter turnout compared with regular elections, since it is generally more difficult to motivate voters to go to the polls outside of the national electoral campaigns. For example, a recent metropolitan council by-election in Durban, South Africa only managed a 6% voter turnout.⁴⁰

While such a low figure is exceptional, the fact that victorious candidates can claim an expressed mandate from fewer constituency members underscores the general point that an increase in by-elections will result in poorer quality representation in local councils and in regional and national parliaments. This problem is compounded by evidence that by-elections can shift parliamentary majorities in a way that favours larger parties, and governing parties in particular. This is the case, arguably, since smaller parties are less able to sustain the necessary financial and human resources to contest repeated elections successfully, due to the high cost of campaigning even at a local level.

In Zimbabwe, for instance, the 2000 election resulted in the Zimbabwean African National Union Patriotic Front (ZANU-PF) winning 62 parliamentary seats, with the main opposition Movement for Democratic Change (MDC) taking 57. By May 2004, after a number of subsequent by-elections, the governing ZANU-PF party had won five extra seats at the expense of the MDC. Similarly, since the 2001 general elections Zambia's governing Movement for Multiparty Democracy (MMD) party has won seats at the expense of opposition parties on nine occasions and lost a seat only once.⁴¹

In the PR system MPs are replaced without any of the costs discussed above. There are no financial costs in terms of choosing replacements, and changes do not reduce the quality of representation for constituencies, or alter the power constellations in parliament as a result of by-elections that favour the governing party. It can of course be argued that the lack of a constituency base in the PR system is so problematic that it outweighs the disadvantages of the FPTP system, but this is a different debate to the one pursued here.

An increase in by-elections will result in poorer quality representation in local councils and in regional and national parliaments.

A further advantage of the PR system in the context of the HIV/AIDS epidemic is that it allows for proactive political action to counterbalance local prejudices. Such action can also progressively intervene in favour of boosting the number representatives from priority groupings as a means of strengthening the political response to issues such as the HIV/AIDS epidemic.

Where the FPTP system generates a set of representatives in parliament over which the party has little control, in a PR system the national party leadership has the mandate to alter regionally generated lists and to merge these into a national list that corresponds with the party's political priorities.

The increase in female representation in many national parliaments across the world is to some degree explained by such manipulation of party lists, but there are fewer examples of it being used to further increase the profile of people living with HIV/AIDS in political office.

The South African Independent Democrats (ID) party is an exception. An effort was made by the party after the 2004 elections to ensure that one of their candidates for parliament, a woman living openly with HIV, would take up an ID seat in the legislature. Unfortunately, the woman had to withdraw her name from the party list owing to poor health,⁴² but an example has nevertheless been established for others to follow.



A focus on the implications of HIV/AIDS for electoral governance and the electoral system generates some tentative conclusions. Certain aspects of electoral governance are particularly relevant in trying to make sure that the direct and indirect effects of HIV/AIDS do not exclude citizens from taking active part in the electoral process.

To the extent that registration and voting can be made flexible in time and perhaps even take place through home visits by electoral officers, and to the extent that polling stations can accommodate the special needs of those suffering the effects of AIDS-related illnesses, the right to vote can translate into an actual opportunity to vote for those who are ill from AIDS.

The available information should motivate a debate on the need for electoral system reform. Such reform need not imply a sudden shift of principle – from majoritarian to proportional elections – but can perhaps be accommodated within the majoritarian system. Given the severity of the situation and the different costs connected with many by-elections, it would be relevant to consider electing a deputy MP for each constituency; a person that would fill the seat in the assembly in case of death of the MP or retirement due to illness. While these can be seen as ‘technical’ adjustments, they do arguably impact on the overall legitimacy of democracy and its electoral processes, as will be elaborated in the concluding section.

Conclusions

HIV/AIDS is not the only – and perhaps at present not even the most severe – threat to democratic elections in Africa. A lack of interest in representative democracy from the youth, impatience with a lack of delivery of socio-economic welfare among the poor, and fraud and manipulation by those who want to win at all cost, are equally relevant if we want to understand the future prospects for free and fair elections in Africa. Research on the link between democratic elections and HIV/AIDS is, nevertheless, very important.

Effective democratic elections in Africa are needed to help generate a strong political response to the epidemic. Elections are crucial in this regard in that they are the most important mechanism by which to ensure that politicians are responsive to the public’s demands and priorities, and also that politicians are held accountable for what they do with the powers that voters entrusted them with in the previous election.

However, in order for this ‘electoral mechanism’ to generate a strong and effective response against the epidemic, two factors are necessary: one is that the electorate must actually demand such responses. If the epidemic is simply not an election issue, if stigma and denial of the virus predominate, or if voters are ill-informed about the epidemic and effective prevention and treatment activities, then elections may only reinforce an insufficient or misguided political response from the government. It is hoped that ongoing research on public opinion in the context of the epidemic will soon clarify what shapes opinion on the epidemic and, in turn, how personal experience of the epidemic shapes political opinion and political activity.

This paper has dealt with the institutional factors which would enable elections to generate a strong response against the epidemic. Unless electoral governance is designed so as to maximise the actual opportunity for people who are directly or indirectly affected by HIV/AIDS to participate in elections, the risk is that the political voices of this critical and growing constituency will never be heard. And unless we better understand and accurately start to measure how the epidemic impacts on our representative democracies through the electoral system, Southern African democracies will remain unnecessarily vulnerable to the effects of the epidemic.

Some elements of electoral governance need to have an amount of flexibility in order to be constructive in this regard. Voter registration should be continuous and decentralised so as to maximise opportunity and minimise travel. Voting should be allowed over a few days, some of which are set aside for those who for reasons of illness, handicap, and/or pregnancy would otherwise not be able to vote. This facility should also be open to those who, if they lined up to vote on election day, would suffer harsh consequences from their peers due to any visible symptoms of AIDS. Registration and voting should ideally be available through home-visits by an EMB officer; but the resources necessary for realising this facility may lie beyond the scope of most countries in the region. Other aspects of electoral governance simply need to show greater awareness about the possible effects of the epidemic on the electoral process. Voter education and election observation should be used as opportunities to entrench the importance of awareness about and action against the epidemic.

The information that this paper and previous research presents on the links between HIV/AIDS and electoral systems should arguably motivate

The available information should motivate a debate on the need for electoral system reform.

debate about what electoral system reforms might be necessary in order to minimise the negative effects of the epidemic. The argument here is that the majoritarian system is particularly vulnerable to these effects in that costly by-elections are necessary to replace MPs who have had to resign or who have died mid-term due to AIDS-related illnesses. Considerable financial costs are incurred by a public purse that is already severely strained in many countries. But many by-elections also imply a political cost in that a smaller party may not have sufficient resources to stage a campaign to secure the seat it just lost; in other words, HIV/AIDS may

reinforce dominant party systems in Southern Africa. Until more research is done based on better and more information than currently available, these arguments are tentative statements that hopefully will inspire and help generate future research. The combination of conjecture and analysis of empirical information that this paper builds on, however, can only affirm the question posed at the outset: as the effects of the HIV/AIDS epidemic become increasingly severe in Southern Africa, the prospect for the electoral process to be a constructive democratic remedy against the epidemic is being undermined.

Notes

- 1 This paper elaborates on issues relating to HIV/AIDS and electoral processes that were first analysed in a publication by the Institute for Democracy in South Africa (IDASA): P Strand, K Matlosa, A Strode & K Chirambo, *HIV/AIDS and democratic governance in South Africa: Illustrating the impact on electoral processes*, IDASA, Cape Town, 2005. I profited greatly from discussing these issues with my fellow authors in that report. I wish to thank Robyn Pharoah for constructive comments on drafts of the text. Many thanks also to the EISA librarian Dr Jackie Kalley and her colleagues for kindly allowing me access to the EISA library.
- 2 According to estimates published by UNAIDS in 2004, average adult prevalence in the 13 countries making up the continental members of SADC was approximately 19% at the end of 2003. Six of these countries had adult prevalence rates of over 20%, with Swaziland and Botswana showing prevalence levels of just under 40%. A further three countries had adult prevalence rates of over 10%.
- 3 S Hunter, *Black death: AIDS in Africa*, Palgrave Macmillan, New York, 2003, p 7.
- 4 R Manning, *AIDS and democracy: What do we know?*, paper prepared for workshop *AIDS and democracy, Setting the research agenda*, Cape Town, 22–23 April 2002, p 1.
- 5 See L-N Hsu, *Building dynamic democratic governance and HIV/AIDS resilient societies*, UNAIDS and UNDP, Geneva, 2004, pp 20-28.
- 6 R Mattes, cited in Manning, op cit, pp 1-2.
- 7 A de Waal, How will AIDS transform African governance?, *African Affairs* 102:1-23, 2003, pp 17-18.
- 8 R Mattes, *Healthy democracies? The potential impact of AIDS on democracy in Southern Africa*, ISS occasional paper 71, ISS, Pretoria, April 2003, p 6.
- 9 P Fourie & M Schönteich, Africa's new security threat: HIV/AIDS and human security in Southern Africa, *African Security Review* 10(4), 2001, p 34.
- 10 De Waal, op cit.
- 11 Fourie & Schönteich, op cit, p 34.
- 12 J Brower & P Chalk, cited in Manning, op cit, p 14.
- 13 Mattes, 2003, op cit, p 8.
- 14 A good example is the Treatment Action Campaign (TAC) in South Africa, which has not only mobilised thousands of people in support of the call for anti-retroviral treatment through the public health system, but has held the government accountable to delivering public policy that accords with the constitutionally entrenched Bill of Rights.
- 15 Mattes, 2003, op cit, pp 8-10.
- 16 As reported by the BBC's David Dimbleby who interviewed Nelson Mandela for the BBC feature *Nelson Mandela: the living legend*, broadcast in March 2003, <<http://news.bbc.co.uk/1/hi/world/africa/2808313.stm>> (14 April 2005). See also V van der Vliet, South Africa divided against AIDS: A crisis of leadership, in K Kauffman & D Lindauer (eds), *AIDS and South Africa: The social expression of a pandemic*, Palgrave Macmillan, New York, 2004, p 89.
- 17 M Bratton, R Mattes & E Gyimah-Boadi, *Public opinion, democracy and market reform in Africa*, Cambridge University Press, Cambridge, 2005, p 247.
- 18 See Strand et al, 2005, op cit.
- 19 D Nohlen, *Elections and electoral systems*, Friederich-Ebert-Stiftung, Bonn, 1984, p 11.
- 20 S Mozafaar & A Schedler, The comparative study of electoral governance: Introduction, *International Political Science Review* 23(1), p 7.
- 21 Ibid, pp 5-27.
- 22 The voters' roll as an element of electoral governance was added by this author.
- 23 An effort was made in the research for this paper to contact all EMBs in Southern Africa and gather new information on the various elements of electoral governance in the different countries. The author had hoped to be able to present data that allowed for easy comparison between the countries. However, only the Lesotho EMB replied to the author's enquiries, making comparisons impossible. Unless specified, the data presented in this section was collected from the conference report of the 5th annual general conference of the Electoral Commissions Forum (ECF) of the SADC countries, which was held in Maputo from 25–30 July 2003. The information from Lesotho was provided by Limakatso Mokhothu, a senior manager in Lesotho's Independent Electoral Commission.
- 24 J Youde, HIV/AIDS and democratic legitimacy and stability in Africa, in R Ostergaard Jr (ed), *HIV/AIDS and the threat to national and international security*, Palgrave Macmillan, Hampshire, forthcoming, pp 11-20.
- 25 ECF conference report, op cit, p 30.
- 26 B Dulani, Update on the Malawi elections, *Africa Institute of South Africa (AISA) electronic monograph*, AISA, 25 June 2004, <www.ai.org.za/electronic_monograph.asp?ID=25> (27 May 2005).
- 27 Principles for election management, monitoring and observation in the SADC region, *EISA Electoral Handbook* 13, EISA, ECF, Johannesburg, 2004. The SADC observers that came to South Africa to monitor the 2004 elections were given such a briefing by IDASA.
- 28 P Badcock-Walters, C Desmond, D Wilson & W Heard, *Educator mortality in service in KwaZulu-Natal*, Health Economics and HIV/AIDS Research Division (HEARD), University of KwaZulu-Natal, Durban, 2003, pp 5-13.
- 29 K Chirambo & M Ceasar (eds), *AIDS and governance in Southern Africa: Emerging theories and perspectives*, IDASA, Pretoria, 2003, p 111.
- 30 Strand et al, 2005, op cit, pp 95-96.
- 31 ECF, op cit, pp 17-18.
- 32 Interview, L Thoahlane, Chairman of the Lesotho IEC and current President of the ECF, Johannesburg, 15 March 2005.
- 33 In a presidential system it also sets the rules for electing the executive power, but the remainder of this paper only refers to parliamentary elections.
- 34 The third important institutional detail is the mathematical formula used to translate the number of votes into seats in the assembly. See R Taagepera & M Shugart, *Seats and votes: The effects & determinants of electoral systems*, Yale University Press, New Haven, 1989, pp 126-141. The 'height' of thresholds varies across PR systems. In deciding on whether to have a threshold – and, if so, its height –

a trade-off must be struck between proportionality and fragmentation of the assembly. High proportionality may be a requirement from minority parties to take constructive part in a transition to democracy (as in the case of South Africa), but the fragmentation it generates may reduce the efficiency of government and make efforts to consolidate the democracy more difficult. See P Strand, *Decisions on democracy: The politics of constitution-making in South Africa 1990-1996*, PhD thesis, Department of Government, Uppsala University, May 2000.

- 35 A Reynolds, *Electoral systems and democratization in Southern Africa*, Oxford University Press, Oxford, 1999, pp 89-104.
- 36 It is impossible to report on the financial costs of by-elections in all of the SADC countries. The information provided here is taken from two sources. One is the IDASA report (Strand et al, 2005, op cit) where the data is referenced with more precision, and the other is the various country reports

contained in the conference report from the 2003 Electoral Commissions Forum annual conference (ECF, op cit).

- 37 Strand et al, 2005, op cit, pp 68-74.
- 38 This data comes from the Electoral Commission and from parliament in Zambia. It was presented in an unpublished IDASA report by W O Tapfumaneyi, *Impact of HIV/AIDS on elections and electoral systems in Zambia*, IDASA, 2003. The data is cited in Strand et al, 2005, op cit, pp 68-69.
- 39 Obviously, reality often does not meet the ideal. Voters are very critical of party candidates being imposed on local constituencies by party elites without any process of consultation or participation. Such authoritative practices add to a 'representation gap' between voters and parties in many African countries. See Bratton et al, op cit, pp 241-246.
- 40 ECF, op cit, p 47.
- 41 Strand et al, 2005, op cit, pp 70-71.
- 42 Ibid, p 109.

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About this paper

It is widely argued that democratic governance, and the democratic elections that are a pre-requisite of democracy, may play an important role in generating the political will, legitimacy, and resources to formulate and implement policies for preventing and treating HIV/AIDS. By making HIV/AIDS an election issue and providing voters with an opportunity to either reward or hold the governing party accountable for a failure to respond adequately to the epidemic, elections can help to determine the success or failure of a country's overall political response to the HIV/AIDS epidemic. At the same time, there is evidence to suggest that the very nature and scale of the epidemic is undermining its democratic remedy.

This paper explores the links between HIV/AIDS and electoral processes in Southern Africa and how different institutional arrangements may form part of a strong political response to the problem.

About the author

PER STRAND is a visiting research fellow at the Centre for Social Science Research (CSSR) at the University of Cape Town in South Africa. He has conducted key research into how political responses to HIV/AIDS in Southern Africa impact on the quality of democracy and governance in the region.

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