Electoral Management Bodies as Institutions of Good Governance: Focus on Lesotho Independent Electoral Commission.

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Abstract

Good Governance is an intrinsic part of democracy. A country to be democratic (it) must hold regular participative elections. Similarly, for good governance to be sustainable, the system must be open, accountable and participative. Participation in election on its own is a process of good governance. The paper argues that the role of Electoral Management Bodies (EMBs) or Independent Election Commissions (IECs) as institutions of good governance is to facilitate the above processes and ensure that elections are free and fair because this is essential for good governance to prosper. While Lesotho IEC appears to have faired relatively well as far as good governance is consent, the institution like other EMBs is still faced with some challenges which the IEC must address head on.

Introduction

In political science lexicon, government denotes institutions, while governance covers processes, activities and quality of ruling. In fact, governance deals with a broader picture of public regulation. It evaluates how institutions function and execute their mandates (King and Randall 2004). While there is no universally accepted definition of governance, what is of note is that the concept directs us towards "a wide range of actors involved in regulating contemporary societies" (Hague and Harrop 2007:9). These actors may include voters, political parties, trade unions, the Judiciary, professional people, journalists and even academics. These actors are independent of government, and their role is vital to good governance.

Good governance as a concept, has steadily entrenched itself in the political and development discourse. It has permeated all sectors and become part of the common shared principles and virtues of different countries in the world. It has attained universality as an indicator of adherence to democracy and rule of law. It also means the holding of regular elections applying the principle of universal franchise. UNDP (1999) defines governance as the exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences. On the other hand, Cheema (1999) argues that, Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on a broad consensus in society and that the poorest and most vulnerable members of society are heard in decision-making over the allocation of development resources. While definitions of good governance are many and varied, the paper will adopt Cheema (1999) definition notwithstanding the existence of many definitions in the literature. The paper does not claim that Cheema definition is perfect but rather, it appears to capture the essence of good governance.

The paper is divided into five sections. The next section below discusses elections as part of good governance. The third section, deals with other good governance process associated with the elections. These include voters' participation, and the establishment of election committees by Election Management Bodies (EMBs) or Independent Electoral Commissions (IECs) with the intention of consolidating good governance practices within their systems. Fourth, the paper put a focus on IEC as an Electoral Management Body and interrogates its role in promoting good governance and challenges of good governance facing these institutions. The Conclusion sums up the main argument of the debates.

Elections and good governance

Central to representative or participative democracy is the act of voting. This does not mean that voters make decisions but "what gives voting its democratic character, however, is that, provided that the election is competitive, it empowers the public to 'kick the rascals out', and it thus makes politicians publicly accountable" (Heywood, 1997:67-68). The act of voting is very important in a democracy because is a right that the citizens have. It is this right that John Lock observes as follows: "the right to vote was based on the existence of natural rights and, in particular the right to property" (Heywood, 1997:69). It is the people who have the supreme power to elect and remove government. They have "a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them" (Locke, 1998:367).

In order for a country to qualify as democratic, elections must be free and fair. Lesotho like other less developed countries has embarked on the route towards democratization and promotion of good governance. In this process holding of free and fair elections is one of the tests the country must go through in order to be accepted as having followed good governance processes. Elections have been recognised as one of the most important institutional mechanisms for shaping the nature of both political participation and competition in a country that embraced good governance. The role of elections in a democracy is but one of its fundamentals, albeit a vital one. Elections are events intrinsic to democracy building, but do not determine whether the country is democratic or not. The delivery of regular, competitive, free and fair elections where all political parties compete unhindered in their quest to win and form a democratically elected government is one of the standards, by which a country's commitment to democracy is judged (Likoti, 2008).

Election is a fundamental aspect of good governance. For instance, the 2007, Lesotho general election, like the past three elections were seen as having met the good governance standards. They were conducted in an atmosphere of peace and tranquillity. In fact, they were declared free and fair by most observers (Matlosa, 2007). For example, both domestic and international observers "declared the electoral process as credible and its outcome as legitimate" (Matlosa, 2007: 16). This declaration was indicative of the above good governances standards of free and fair.

Elections are not isolated events, but are part of a holistic process of democratic transition and good governance (Dahl, 1998). In countries that have managed elections before, the challenge is to link process-oriented electoral assistance that focuses on technical cooperation, capacity building, popular participation and the role of civil society, to broader and longerterm good governance programmes. In most countries going through first-time elections, electoral assistance is often used as an entry point for broader good governance initiatives and democratic processes. Since the dawn of the third wave in Lesotho, from 1993 to the present, Development agencies have played a significant role not only in assisting in election programmes and institution building but also in assisting the country to consolidate her democratic achievement. The UNDP, the Irish Aid, DFID and many others have been crucial in funding these initiatives and providing technical assistance where required, through the Deepening Democracy Project, in order to safeguard democratic gains in Lesotho. Their assistance included training electoral officials, extensive voter education and coordination of international election observers.

These initiatives have increasingly involved activities aimed at promoting good governance and, thus, the creation of an enabling environment for development. Electoral assistance from these international Donors, have been geared towards helping electoral bodies in building their systems in order to ensure independent and transparent national and local elections thereby securing political legitimacy. It must also be emphasised that these development partners have placed strong emphasis on the participation of civil society organizations, community groups, womens' groups and the poor in the electoral process. By participating in elections, womens' groups and civil society organizations build their internal capacity to organize, manage and bring gender advancement and civil society to the fore of public discourse.

Good Governance Processes

Apart from election as a salient factor of good governance, other electoral processes are equally important. These include the process of ensuring wider public participation, establishing elections committees and the independence of the IECs. These are crucial ingredients in strengthening good governance.

According to Birch (1993), participation is an activity of taking part with others to the benefit of all. This participation can take place in some social, economic and political spheres. This joint endeavour is geared towards an attainment of desirable goals. Political participation is therefore aimed at achieving good governance in a government setting. This involves an enormous number of citizens in a political process by which political leaders are elected and government policies are formulated and implemented. The main focus of political participation is the promotion of good governance. This activity is facilitated by Independent Electoral commissions. Among some of the most prominent activities the following are salient;

- Voting in local and national elections
- Voting in referendums, and,
- Canvassing or otherwise campaigning in elections.

The EMBs in their quest to promote good governance have been active in encouraging voters' participation in elections. This is important because participation is central to good governance. Good governance strengthens democratic institutions such as the EMBs which aid participation. Several strides have been made in Lesotho by establishing democratic institutions in this light. Parliamentary select or portfolio committees are some of these institutions. Ordinary people and civil society groups are invited to make submissions before these committees. Furthermore, portfolio committees regularly summon top civil servants to appear before them and give account of their ministries. Efforts of this nature enhance participation in decision-making processes. Therefore, greater participation in government, public life and decision making enhances good governance.

Participation on the other hand involves activities of individuals who seek to influence policies of their government. This process is structured by the EMBs in order to give them meaning and due process of good governance. The IECs/EMBs' role is to provide platform for people to be able to participate by voting in or out of power a political party of their own choosing. By providing an opportunity for voting in elections, EMBs have been able to engage citizens in a governance process through competitive elections. A critical function of election is to provide competition for office among political participants by holding governments to account. Therefore, "an election campaign also permits a dialogue between voters and parties, and so between society and state" (Hague and Harrop, 2007:185), thus promoting good governance through this process.

Through voter education, the EMBs have been able to provide direct public participation by empowering citizens to be able to articulate and express their needs to their political democracies. representatives in most liberal These representatives in Lesotho can be found in both Local Authorities and the National Parliament. Since representative democracy has become more of a challenge in contemporary democracies, as a consequence of rapid industrialization and urbanisation, constituencies have been demarcated for elections and representative purposes (Gildenhuys and Knip, 2000). EMBs, as institutions of good governance have made it possible for political parties to organise communities within constituencies in order to deliberate on issues of mutual concern. Therefore, "consultation with and response to the local simplified community interaction process for direct participation by the elected political representatives" (Gildenhuys and Knip, 2000:113). This interaction in Lesotho is entrenched in Section 57 (1) of the Constitution which divided Lesotho into eighty constituencies.

The 1993 Lesotho Constitution entrenched the right to participate in government for every citizenry in Section 20. The Section argues that every citizen shall enjoy the right to take part in the conduct of public affairs, directly or through freely chosen representatives. Voters in Lesotho under Section 20 of the Constitution, enjoy the right to vote or to stand for election at periodic elections under the Constitution. A system of universal, equal suffrage and secret ballot form the hallmark of this Constitution. This Constitution also gives people have equal access, on general terms of equality, to the public service. All these rights which people shall enjoy shall be subject to the other provisions of this Constitution. On the other hand, Section 57(2) of the Constitution makes registration of all citizens mandatory. Furthermore, citizens are obliged to register as voter(s) under Section 14 of the National Assembly Order 1992. The Section submits that every person who qualifies as a voter shall apply for registration. Conversely, this registration requirement does not extend to voting. This means that while registration is mandatory under the Constitution voting is not.

In order for the government to be brought closer to the people, it is the role of the EMBs to demarcate geographical units and ensure political representation of each structure. Hence, the reason why governments in most countries are divided into hierarchy of regions, provinces, Municipalities, rural districts, urban districts and Metropols, local communities(IDEA, 2001). The responsibility and accountability of elected representatives form bedrock of any democracy. In this system, citizen do not participate in decision making process, rather they elect representatives to execute this task on their behalf. Therefore, "it is the notion of political accountability of representatives-through free and periodic elections and systems of recall-that ensures that Homo politicus governs in the interest of Homo Civicus, rather than for another sectional interest" (Gildenhuys and Knip, 2000:113). This means that representative government is based on division of labour between Homo politicus and Homo Civicus and on the accessibility and accountability of the former to the letter.

The establishment of the IEC is to ensure that the above Constitutional sections become a reality within Lesotho Polity. The IEC in its quest to promote good governance have been active in encouraging voters' participation in elections. This is important because participation is central to good governance. Good governance strengthens democratic institutions. Efforts of this nature enhance participation in decision-making processes. Therefore, greater participation in government, public life and decision making ensures the protection and enjoyment of human rights. The participative function in Lesotho has been demonstrated fully by the IEC's establishment of committee system.

The committee system as a tool of good governance enhances participation of all stakeholders in election management. These committees are composed of political parties. It is against this background that the IEC, in its own wisdom supported by section 4 of the National Assembly Election Act 1992, established the following committees to assist it (IEC) in the advancement of its functions;

- 1. Elections Results Coordination Committee
- 2. Civil and Voter Education Committee
- 3. Logistics and Security Committee
- 4. Data Management Committee
- 5. Conflict Transformation Committee
- 6. Media Liaison Committee
- 7. Law Committee and,
- 8. Party delegates Committee.

The Committees provide a regular forum for the political parties and the IEC itself. This forum provides the opportunity for the IEC to interact with political parties on issues of procedure as well as address concerns and issues that the political parties may wish to raise. The committee system was established in order to promote quality of the election administration, particularly in newly acquired democracies such as Lesotho.

While the rational for establishing these committees is to bolster good governance practices, they nevertheless remain advisory to the IEC Commission. Their recommendations are subject to consideration and approval. These committees captures the true character of good governance which is a valuable tool not only for building confidence of the political parties in the process but more importantly as a useful mechanism to dilute any tensions which may arise from political parties. They also serve as a vehicle which promotes transparency in policy making and administration. They form important aspects of good governance. This is signified by a pluralistic political system that allows the existence of diversity in political and ideological opinions. No wonder that good governance is said to be more easily achieved and guaranteed in a multi-party system than in a mono-party system.

Good governance, to be effective and sustainable, must be anchored in a vigorous working democracy which respects the rule of law, a free press, energetic civil society organizations and effective and independent public bodies such as the Independent Electoral Commission (Cheema, 1999). The Commission is important in ensuring both transparency and accountability in managing election. The critical importance of independent, permanent and sustainable electoral management bodies as institutions for governance cannot be over emphasised. The fact of the matter is that when EMBs are independent and permanent are more efficient, effective and conducive to stable democracies.

Although electoral authorities have existed since the introduction of multiparty democracy, "election management" is a relatively new field of study and practice (Cheema, 1999). In

the past three decades we have witnessed an historic trend towards the prominence of electoral management bodies as important institutions for democracy building. Reform initiatives have led to a worldwide shift towards the creation of electoral authorities in the form of commissions that are permanent, independent from the executive branch, inclusive of political party representatives and staffed by professional people. Currently, independent electoral commissions organise elections in many countries around the globe. For instance, most governments in Southern African region since the early 1990s have been elected under the supervision of an independent electoral authority.

The independence of these Commissions serves as a crucial link in delivering free and fair elections. They are mostly seen as neutral and not influenced by the ruling parties. While Electoral Commissions of most SADC countries were formed by an Act of parliament such as Malawi, Zambia and South Africa among others, Lesotho took a deliberate route of entrenching her IEC in the Constitution.

In order to attain this independence, the Lesotho IEC is entrenched in the second Amendment to the Constitution Act, 1997, Section 66(1) which emphasises the establishment and independence of the institution and its composition. Section 66 C argues that the IEC shall not, in the performance of its functions, be subject to the direction or control of any person. This section demonstrates the independence of the IEC.

The Lesotho IEC, on the other hand, is faced with some challenges mostly relating to staff development and retention. The major challenge in this area stem from the fact that, current staffs, belongs to the Ministry of Public Service who often train them for courses that are not elections related and subsequently transfer them to other government departments. It has become a major challenge to manage and develop people that are responsible to another institution other than your own. This has hindered smooth operation of the Commission in terms of their loyalty to IEC, while employed by the Ministry of Public Service.

The institution while constitutionally independent, this autonomy does not extent to financial independence. The fact that the IEC is not financially independent, poses a major challenge because it is forced to subscribe to Ministry of Finance regulations and other austerity measures. This development hampers IEC independence because it cannot disburse its budget and run its governance programs as it wishes.

Conversely, the IEC as an election management body still has some strengths that has sustained its image. For instance, Commissioners are appointed through the National Constitution. The powers of the Commissioners are also entrenched in the Constitution. The Commission also have power to appoint new staff members and determine their working conditions. As a National institution it has been charged with the task of delivering a government through free and fair elections. These are some of its major political strengths

Nevertheless, there have been some political factors that have contribution to the institution's weakness. Some of these related to voter apathy, refusal to accept electoral outcome and nomination of unskilled candidates to IEC Committees. Most political parties in Lesotho have been in the habit of refusing to accept elections defeat and portraying IEC as incompetent and assisting a victorious party. This perception has made people to become less interested in voting. It has been for these reasons that levels of voter apathy in Lesotho, have increased over time, to the extent that during the last 2007 election out of almost a million registered voters only forty five (45%) percent voted. The final political factor that weakens the institution has been political parties' nomination of delegates to IEC committees who lack requisite skills to handle their committee business. Therefore, nomination of unskilled party members in IEC committees defeats the principle of good governance and hence weakened the institution.

In the Southern African Development Community (SADC) region, these Commissions have established their own forum known as the Electoral Commission Forum for SADC Countries (ECF). The Forum in its preamble, vouched to strengthen co-operation amongst Electoral Commissions in the SADC region by promoting conditions conducive to free and transparent elections in their respective countries. They dedicated themselves towards promotion of democracy as a political system of response and accountable government through the electoral process and recognised that elections are human-centered and demand active participation for the part of a well-informed citizenry. The rational here is to share information and learn from each other's experiences, mostly in the running of democratic elections (ECF, 2008).

The forum is intended to Promote free, fair and transparent elections in SADC countries, encourage the independent establishment of and impartial Electoral Commissions, development of electoral laws in SADC countries which foster confidence in Electoral Commissions bv highlighting their role in securing democratic rights, observance of human rights and the rule of law and also creating conducive relationship between the Electoral Commissions and all stakeholders engaged in electoral processes (ECF, 2008). Lesotho Independent Electoral Commission has been an active member of Electoral Commission since its establishment in 1998 (ECF, 2008). It is fair to argue that ECF has recognised the importance and value of good governance judging from the above endeavours. However, these Commissions have been confronted by myriad challenged in their operations.

Challenges of Good Governance

The major challenge to Africa's well-being is nurturing democracy. While there is consensus that democracy is a difficult process requiring vigilance and reinforcement, it is absolutely essential to good governance. It is equally true that non-participatory systems of governance are no longer viable in contemporary society; it has been for this reason that the 2007 African Charter has made democracy a key part of its collective agendas (African Charter, 2007). Already, the great majority of Africans are voting for their representatives. They vote enthusiastically and at participation rates that a number of developed countries can only envy. The issue now in Africa is not whether to democratise, but how and how soon, more especially when you have countries in the SADC region like Angola, Swaziland and Zimbabwe not intending to democratise (ECF, 2008).

African countries are yet to bond successful traditional systems and mechanisms of citizen participation with modern ways in order to strengthen the institutions of democracy and enhance public education on democracy, and establish indicators of progress toward improving the building blocks of democracy: for example, political liberalisation, transparent systems, good governance processes, the rule of law and human rights, and improved democratic structures (UNDP, 1999). For many countries, narrow political considerations, personalised power and corruption have undermined the process of democracy and responsive governance. For most regions in Africa the concept of good governance and democracy present a major challenge to these infant democracies. The other challenge is to mainstream women in politics and public administration. In almost all African countries, the nearexclusion of women from centres of power, whether at the national, community or household level has ensured wide disparities between men and women in economic, social, and political spheres. Currently women make up less than 23 percent or 19 women of Lesotho parliamentarians, and hold an even smaller share of top appointments (Matlosa, 2008). The acute absence of women's voices and perspectives has contributed to an impoverished debate, and, often, distorted policies. Lesotho's male-dominated political culture must change and allow women to play a governance role.

EMBs as institutions of good governance must strive to remove the stigma of sleeping with the ruling government and aggressively remove this perception of sameness. These institutions are being compromised by the fact that they receive their funds from the national Ministry and not from the parliament as is the case in Britain where the Commission is accountable to the Speaker's Committee which is composed of multi-parties and directly charged with disbursement of the IEC's budget.

These bodies must improve their capacity as institutions of good governance and ensure that people participate in elections in order to enhance good governance. In fact, the whole gamut of institutions of governance must be improved, including the legislature, the judiciary, the political parties, EMBs and the human rights Commissions and other monitoring organs within civil society.

The Lesotho IEC in particular is challenged mainly in two areas; firstly, during its formative years, it absorbed civil servants without these employees having to resign from the Public Service Ministry. This has created a bone of contention since most of them still pay allegiance to their parent ministry. The Public service Commission for instance has the power to promote and transfer all civil servants even those at IEC. This is despite the fact that the Fourth Amendment of the Constitutional Act 2001, Section 66A sub-section 2 (a) states that the IEC may employ staff on terms and conditions of employment determined by it after consultation with the Public Service Commission.

The second challenge pertaining to Lesotho IEC is political parties. These important stakeholders have proved to be extremely tenuous when in come to articulating IEC independence in Public. While they work closely with the institution within the committee system, their public pronouncements contradict the principle of collective responsibility. It would appear that to them IEC has become a vote catcher rather than education, unemployment and health to say the least. These stakeholders continuously portray the IEC negatively to their supporters, thus tainting its image. Regardless how IEC, attend to their fundamental interest, the institution efforts amount to naught since, after every fruitful discussion the parties' public pronouncement contradicts their collective decisions with the IEC.

The last challenge involves the ownership of governance reforms. Basic norms of good governance apply universally, but specific institutions like the IECs systems cannot be imported wholesale. They must be home grown. To be effective, they must become a "lived" experience rather than a "received" experience. Only in this way will the reform process earn sustained commitment and effective political leadership. Moreover, it must also be embraced by the key actors in society. Without commitment of political parties as alluded to above, these governance reforms will come to naught.

Conclusion

The importance of EMBs/IEC in consolidating good governance cannot be over emphasized. These bodies have been effective in promoting good governance in most SADC countries. In fact they have ensured both transparency and accountability to their stakeholders. Equally salient has been the role of EMBs in injecting participation within a democratic system, hence promoting good governance.

The adoption of a committee system by Lesotho IEC appears to be the best approach in entrenching good governance. Therefore, this system must be aggressively replicated in all political systems that have IECs. Interested groups in elections must also be brought in so that the whole society is represented within the system. While good governance challenges are many and varied, the best way out is for citizens to own up reforms to entrenched good governance in the country. Home grown reforms are more suited to local environments. It is in the interests of society, political parties and IEC to set guidelines to bolster democracy and good governance. This will go far in removing any negative perception or stigma against the IEC.

The implication of the above IEC strengths and weakness can have both positive and negative consequences. While the IEC strength can build the institution and consolidate its achievements, its weaknesses have a similar potential to stifle the organisational development. For instance, while IEC consultative approach is an important strength in consolidating good governance, the poor calibre of different committee members can contribute towards its down fall.

Policy recommendations

EMBS like most institutions must be able to confront their challenges. One area which has been a major challenge has been that of legislation dealing with staff matters. This appears to have compromised the independence of the IEC's. The law governing the IEC and its staff must be review as a matter of urgency to ensure that staff does not respond to multiple administrations. This will provide more independence for the institution and promote a better public image of independence.

The IEC should engage party leaders and party delegates more extensively in order to thwart negative messages more especially when it comes to the IEC independence. The Independence of IEC must be aggressively promoted by both parties. The parties as important stakeholders must show political commitment towards the IEC unlike currently whereby this commitment is less visible.

While Lesotho IEC has established committee system to deal with media issues, this committee must as a matter of urgency perform its role efficiently and effectively. The media committee should ensure that all negative messages about the IEC are responded to as a matter of urgency. Independent correspondents and other interested parties should be invited regularly to these committee meetings.

The IEC should continue to intervene in political parties' administration by providing training and ejecting professionalism and democratic ethos within political parties. It must prevail on parties to increase gender balance and promote public participation in all party levels.

The IEC as an election management body must be ready to administer election at a short notice. This can only be achieved by enhancing its capacity. Both the institutional capacity and reform must be driven by the IEC and its primary stakeholders. References

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