



THE STATE OF ELECTORAL REFORM IN THE GAMBIA¹

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ABSTRACT

In 2016, the Gambia underwent a successful transfer of power, with a new coalition government promising a series of reforms to improve the country's governance. Among these reforms were security sector reform and electoral reform, which were widely accepted by civil society, opposition parties, and international election agencies. The current laws governing elections in the Gambia are seen as outdated and unfair, and there is a pressing need to amend them in order to create a more balanced and inclusive election governance framework. While electoral reforms have been ongoing, progress has been hampered by political infighting and bureaucratic delays. This study contributes to the discussions on how to create a more democratic and transparent electoral system in The Gambia by identifying the legal and institutional guidelines that can be followed during the reform process.

Keywords: Gambia, Elections, Voting, National Elections, Electoral Reform

GAMBIYA'DA SEÇİM POLİTİKALARI VE SEÇİM REFORMUNUN DURUMU

ÖZET

2016 yılında Gambiya, ülkenin yönetimini iyileştirmek için bir dizi reform vaat eden yeni bir koalisyon hükümetiyle başarılı bir şekilde iktidar devri gerçekleştirdi. Bu reformlar arasında, sivil toplum, muhalefet partileri ve uluslararası seçim kuruluşları tarafından geniş çapta kabul gören güvenlik sektörü reformu ve seçim reformu yer alıyordu. Gambiya'da modası geçmiş ve haksız addedilen yürürlükteki seçim yasaların daha dengeli ve kapsayıcı bir seçim yönetimi çerçevesi oluşturmak için değiştirilmedi acil bir gereksinim olarak kabul edilmektedir. Seçim reformlarının devam etmesine rağmen, siyasi çekişmeler ve bürokratik gecikmeler ilerlemeyi engellemektedir. Bu çalışma, reform sürecinde izlenebilecek yasal ve kurumsal yönergeleri ortaya koyarak Gambiya'da daha demokratik ve şeffaf bir seçim sisteminin nasıl oluşturabileceği tartışmalarına katkı sağlamaktadır.

Anahtar Kelimeler: Gambiya, Seçimler, Oy Kullanma, Ulusal Seçimler, Seçim Reform

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1. INTRODUCTION

The purpose of this research is to evaluate the conduct of elections in The Gambia and how proposed electoral reform can lead to free and fair elections using appropriate and popular approaches in election governance. During Yahya Jammeh's 22-year rule, cases of political violence and human rights abuses were reported, and freedom of expression was seriously restricted.⁴ These abuses included the killing of 14 protestors in 2000, the murder of prominent journalist Deyda Hydara, the killing of 50 West African migrants on the Gambia coast, the arbitrary execution of 9 prisoners, and other violations that earned The Gambia one of the worst human rights records under Jammeh (MFWA, 2016). In 2015, before the presidential elections, members of the opposition demanded electoral reform. This led to the death of a leading political figure, Solo Sandeng, who was murdered by the then-regime of Jammeh for making these demands (Human Rights Watch, 2016). The United Democratic Party (UDP) defied the regime and staged an unprecedented protest for these demands. The protest was brutally responded by the government, resulting in a loss of life and the subsequent capture of UDP leadership members, including party leader Ousainou Darboe. The protest catalyzed Gambians in exile from Sweden, Senegal, the United Kingdom, and the United States to unite and mount a concrete resistance together with an internal political mechanism to depose Jammeh from power in 2016 (D'Aiello, 2018).

The opposition groups' demands for electoral reform were ignored by the Independent Electoral Commission (IEC), which instead introduced new rules that further deteriorated the situation. For example, the fees of presidential candidates were increased from \$252 to \$12,630 (Darboe, 2016). The main opposition leader of the UDP at the time voiced his frustration, blaming the IEC for failing to adhere to their demands for electoral reform. The IEC completely rejected all reform proposals from the opposition, including presidential term limits, diaspora voting, the introduction of the Proportional Representation system, paper balloting, fresh demarcation of electoral constituencies, and the inclusion of civil society groups in the selection of Commissioners (Darboe, 2016). According to the 2018 Afrobarometer survey conducted in The Gambia, 88% of Gambians have trust in elections and believe it is the best way of choosing leaders. However, the same data reveals a decline in trust towards the Electoral Commission compared to 2018 (Afrobarometer, 2017). Although these findings were conducted after the 2016 elections, they suggest that the change influences popular perception towards election management in The Gambia.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1. Rational Choice Theory and the Institutional Approach

Electoral reform is a crucial aspect of the democratization process in Africa. However, achieving consensus on the procedural framework of reforms or securing unanimity on the need for reforms is often challenging. Gideon Rahat (2004) argues that the politics of electoral reform itself contradicts the fundamental nature of politics, where the people who are supposed to benefit from the reforms usually inspire changing the rules in their favour or, at the very least, block them through their resources in parliament. Nevertheless, the politics of electoral reform has different dynamics and approaches, which can be theoretically explained using the Rational Choice Theory and the Institutional approach. According to the Rational Choice Theory, political parties would typically resist changing electoral rules, especially when doing so would disadvantage their privileges. Majoritarian political parties, for instance, are likely to favor retaining the existing status quo of the political system and rely on their chances of forming a majoritarian government, rather than on coalition merits. Moreover, political parties are more likely to propose reforms when they are in opposition and may even fashion new reforms when in power, except where the reform focuses on extending the franchise rather than changing the electoral system itself. The Rational Choice Theory offers insight into the attempts by political parties to preserve the proportional system, more evident when the larger party seeks to strengthen its majority dominion over the other. In order for smaller parties in alliances that want to preserve their

⁴ BBC News. (1994, July 23). Gambia Profile: Timeline. Retrieved May 23, 2023, from <https://www.bbc.com/news/world-africa>



existence, they come together to block attempts by the larger party whenever their independence is threatened. Gideon's model shows that the analysis of parties' interests becomes the key motivation for having deferring positions, underpinned by an interest in a majoritarian system, and a sense of insecurity could lead to unanimity and alignment among smaller parties barricading any attempts by the dominant party to obtain what he calls a "manufactured majority." The Rational Choice Theory revolves around the stability and certainty of the political system, where elites and political parties concentrate on the amount of support they receive in elections. The action of political actors, therefore, is to support reforms that are positive and will guarantee their existence and safeguard their political interests, especially in a proportionate system (Gideon, 2004 pp. 461-465).

Furthermore, scholars have also used the Institutional or Sociological approaches to understand the concept of electoral reform using this model, focusing more on institutions and their interrelation to the wider society. The dominant view around the institutionalist approach believes that reforms are likely to occur when institutional dysfunction occurs (Shugart, 2008). However, the primary trigger for electoral reform itself is often the failure of electoral institutions to deliver justifiable results that are free from misconduct or electoral fraud. This usually results in demands around the need for electoral reform by the various actors affected by such inconsistencies (IDEA, 2014). For instance, post-electoral disputes continue to manifest in several African countries, such as Kenya in 2008 and 2013, Zimbabwe in 2008, the Democratic Republic of Congo in 2011, Seychelles in 2011, Ghana in 2011, Guinea Bissau in 2014, and Ivory Coast in 2010 (IDEA, 2014). Moreover, the announcement of conflicting electoral results often acts detrimentally and can quickly escalate into post-electoral conflicts and other challenges. In the aftermath of the 2010 election in the Ivory Coast, the wrongful announcement of the election result by The Independent Electoral Commission and the Constitutional Council led to deadly post-election violence, resulting in the death of 460 people and 750,000 people being displaced (IDEA, 2014, cited in Carter Center, 2011). This always raises questions about the credibility and capabilities of electoral institutions in acting with adequate professionalism. In the case of the Gambia, the ruling Alliance for Patriotic Reorientation and Construction (APRC) refused to support any electoral reform process demanded by the opposition before the 2016 presidential election. The opposition's ability to compete fairly in elections was further hindered by the increased monetary deposit in the 2015 Electoral Commission Amendment Bill (Library of Congress, 2015). This stance taken by the majority party aligns with the Rational Choice explanation that majoritarian parties resist electoral rules when it benefits them. The independent electoral commissioners' introduction of reforms was perceived as the APRC government using regulations to serve their own political interests (Library of Congress, 2015). Institutional dysfunctionality is evident in the conduct of the IEC, as it disregards reform demands by the opposition and colludes with the ruling power to introduce stringent rules in the electoral system.

2.2. Party System in The Gambia

It is not a coincidence that the Gambia together with Botswana and Mauritius was described as a multiparty democracy for a long time. The country's political parties operated peacefully under the first regime barring the 1981 coup, political stability was guaranteed and parties competitively coexisted. It was branded an 'exception' at a time when authoritarianism and military rule controlled most parts of African politics. This trajectory changed after the 1994 successful takeover against the Peoples Progressive Party in an event deemed deviant and anti-democratic (Edie, 2000). Despite having an open political landscape during the leadership of Sir Dawda Kairaba Jawara, the country has consistently functioned as a dominant one-party state, wherein the ruling party holds a monopoly on votes during elections. Gambians support democratic rule as opposed to dictatorship or any form of rule that will hinder civil liberty or multiparty democracy. 91% of Gambians overwhelmingly reject one-man rule, 68% against one-party rule and 78% reject military rule (Afrobarometer, 2020). Although this data was produced in the aftermath of Jammeh's administration, the numbers pretty much described the current realities of most Gambians and the direction of travel they want moving forward. For instance, similar Afrobarometer data conducted in the Gambia reveal support for multiparty democracy in the Gambia. Respondent when asked if too many political parties cause division and whether too many political parties are needed for wider political freedom. respondents' perspectives are as follows the majority of



Gambians, 75% in 2018, 57% in 2021 and 57% in 2022 agreed with the proposition that, many political parties are needed for citizens to have a wider range of choices available to them (Afrobarometer, 2020).

Although citizens may have access to a wide range of political parties, incumbent parties in power with direct access to state resources have benefited in winning elections. Peoples Progressive Party (PPP) and APRC while in power often defeated their political opponents during presidential and local government elections. Opposition political party candidates during the 2017 parliamentary elections moaned insufficient funding to adequately fulfil their campaign finances (Gai, Jaw and Sillah, 2020). For instance, after winning the 2016 election through the coalition, the UDP was perceived to be the party in power and the financial support given to its candidates is far superior to other parties that competed. UDP candidates from a party point of view were allotted D150,000, PPP, D50,000, NRP, 80,000 and D50,000 as campaign funds (Gai, Jaw and Sillah, 2020). However, the financial support provided to other candidates during the election has not been provided by the aforementioned. Notwithstanding, despite the competitive advantage of incumbent political parties, Gambians support the idea of power change during elections. Afrobarometer 2022 survey reveals that 66% of Gambians acknowledged democracy needs political party turnover. The concept of leadership change through multiple political parties, as opposed to one party winning with 31% agreement among majority of the respondents, was highlighted by Afrobarometer (2022).

2.3. The Need for a New Electoral Act in The Gambia

The political events of 2016 in The Gambia have resulted in a democratic transfer of power through the ballot box. The change in leadership was quite consequential in that Gambians wanted to craft a new alternative concerning its political realities under the then-military regime of Jammeh. The electoral system over the years has often received some criticism from some Gambians who believe that the electoral body was a mere stooge to the APRC regime. The commission was seen as one-sided in its conduct of elections in the country where questions on transparency and accountability were not substantively answered when it comes to its relationship with the public.

2.4. List of Electoral Demands by the Opposition in 2015

One of the most vocal demands for electoral reform in The Gambia under Jammeh came in 2015 by members of the opposition. The background of these reform demands originates from a consensus among the opposition and a group of international election monitors' recommendation on the need to reform Gambia's electoral process. Six political parties convened a series of meetings to draft reform proposals, which were subsequently sent to various election stakeholders in the country. The recipients of these proposals included the President of the Republic, the Chairperson of the Independent Electoral Commission (IEC), the Speaker of the National Assembly, the Chief Justice, the Attorney General, the Minister of Justice, the Secretary-General of the United Nations, the Chairman of the African Union, the High Representative for Foreign Affairs of the European Union, the Chairman of the Economic Community of West African States (ECOWAS), the Secretary of State of the United States, and Reverend Jesse Jackson. (The Point Newspaper, 2015). Furthermore, the report on the point summarizes the demand proposals for changes that could restore the possibility of a free and free election in the country. For instance, the opposition called for the protection of the franchise as guaranteed in Section 30 of the Gambian constitution, allowing for all Gambians above 18 years residing at home or abroad to be eligible to vote during elections. Gambians in the diaspora are not permitted to vote during elections while living abroad and this is statutorily guaranteed in Section 11 and Section 141 of the election act.

Protection from gerrymandering and equal representation forms part of the proposed recommendation and ensures equal constituency representation. Section 50 of the constitution makes provision for the establishment of a Constituency Boundary Commission. The Point reiterates the absence of this commission negates the creation of constituencies with equal populations and therefore boundaries are established with political motives to sabotage electoral outcomes. The opposition demanded the establishment of the Constituency Boundary Commission Act and demarcate constituencies like Kombo



North which is more than when combine the constituencies in Banjul, Mansanko, Kerewan Janjanburreh, and Basse administrative areas. The independence of the electoral commission is significant in facilitating free and fair election and therefore the demand for the reform of the IEC take precedence over executive interference and deliberate dismissal of members and three chairpersons before elections in the past. The opposition called for an appointment to be gazette as constitutionally required and ensure all legal procedures are observed on the appointment of a chairperson and prevent overstay beyond the two terms mandate which have been violated previously. The demands on this subject also include increasing the commission membership to seven excluding the chairperson for each to be responsible for the seven administrative areas in the country. The proposals called for the appointment of commissioners from CSO, and other associations that are independent and not partisan.

Other significant demands encapsulate the noninterference of public servants and the security forces in political matters. These demands are backed by the constitution and expect strict adherence to its execution by public servants and members of the disciplined force. Protection from the abuse of office by the incumbency in which Section 208 of the constitution required all state own newspapers, journals, radio and television to entertain the dissemination of divergent views and act neutrally. Consequently, a fundamental demand includes a presidential term limit to ensure accountability and political stability as seen in many democratic countries. Vacancy in the office of the president and the procedure of succession lacks democratic merits in the eyes of the opposition. The demand for a running mate or elections to be held within 90 days in the case of a vacancy in which Section 65 of the constitution provides for the vice president to step in and next in line is the speaker of the National Assembly to assume office.

And finally, the oppositions call for the revitalization of the Inter-Party Committee to be used as a forum to foster political dialogue and unity among political parties. However, these demands fell on deaf ears of key actors like the IEC, the President and the National Assembly that ignored these reforms ahead of the 2016 presidential election. In contrast to what was seen as progressive demands, the Gambia legislature passed an amendment bill to amend the country's election act. The independent Electoral Commission 2015 amendment bill increases the monetary deposit for candidates during elections. Presidential candidates are required to pay a deposit fee equivalent to US\$10,000 and candidates and local offices must pay a \$50 to \$1000 deposit fee to contest in elections. Furthermore, the restriction required political party executives to reside in the country, have regional offices, hold bi-annual congresses and report to the Independent Electoral Commission their annual finances. The requirement for registration of political parties of having 500 signatories increased to 10,000 registered votes and parties are also required to have a bond of GMD500,000. In addition, the commission is responsible for spot-counting all votes cast in various pooling stations during elections (Library of Congress, 2015).

Most of these mentioned demands are considered key to reforming the Gambia's electoral system and therefore most of them were included in the Draft Election Bill 2020 as a way to address the demands of various actors included in the electoral process. Moreover, there have been further discussions held by the Interparty Committee on consensus building on some contentious issues to be considered in the draft (The Point Newspaper, 2020). Part of the recommendations made was to allow for the marble voting system to be used in the 2021 presidential elections as well as the local government elections before the approval of the election bill. Other suggestions encapsulate the creation of an independent Boundary Review Commission, gender inclusion, reduction of the fees paid by presidential candidates from 1 million to GMD 50,000, setting up a legal unit for IEC, and voting rights of prisoners among other demands. These demands were meant to be tabled in December 2020, to be considered by the National Assembly during the ratification of the bill (United Nations, The Gambia 2020). While all these demands are valuable for the Gambia's electoral democracy, not all of them will end up being ratified or captured whenever the Draft Election Bill 2020 is finalized. Political reasons and lack of consensus will see some of the demands being left out but as progress is being made, electoral laws can always be improved and amended to meet contemporary realities.



3. KEY REFORM PRIORITIES FOR CONSIDERATION

3.1. Independence of IEC

Electoral integrity, independence, impartiality and internal balance of power are the hallmarks of determining trust and confidence in election management bodies. Democratic success and acceptability of the electoral process is dependent on its appreciation by the stakeholders involved in elections. The electoral body must be independent and impartial in its conduct of elections and ensure issues of integrity and trustworthiness of the election management body are judiciously adhered to (Ayee, 1998:58, cited in Gyekye-Jandoh, 2013)

In the Gambia, criticism is towards the appointment of electoral commissioners including the chairperson. Chapter (5) part (2) subsection (3) of the Constitution gives the president the power to appoint commissioners. The provision state (3) *The members of the Commission shall be appointed by the President in consultation with the Judicial Service Commission and the Public Service Commission* (Government of The Gambia, 1997 Constitution). The president should be exempted from appointing commissioners to avoid political appointees or to avoid any form of suspicion or mistrust towards the execution of their roles. The role of Election Management Bodie is central towards any electoral governance across Africa and records have shown that missteps taken by EMBs could lead to misinterpretation of electoral situations leading to violence (Kerr, 2009). The aftermath of the 2008 general election in Kenya provides significant insight into the need for trust and cautionary operation of EMBs about the peace and integrity of elections. The controversies surrounding the 2007 presidential elections are what many domestic and international observers blamed for the poor performance of the Electoral Commission of Kenya (ECK). Extreme irregularities manifest themselves leading to the violence that followed which claimed approximately the life 1,150 people in Kenya. Some of the inconsistencies documented were the replacement of 15 out of 22 ECK members in the same election year by former President Mwai Kibaki. Secondly, the announcement of the election results fails to rationale with the existing legal framework and the collation of final results excluded any form of participation by members of the opposition. These and a series of unpopular decisions made by the ECK before and after the election lacks approval from the opposition who did not consent to some of the formalities that occurred during the electoral cycle (Kerr, 2009, p8).

A 2018 Afro Barometer survey reveals that 71% of Gambians are against the idea of the president removing electoral commissioners from office. Part of the demand recommendation in the Gambia is to allow civil society to be part of the appointment of commissioners. However, it is important to note that this survey was conducted in the aftermath of the 2016 presidential election resulting in a change of power. This may have a serious influence on the outcome of this survey in which Gambians were asked to quantify their level of trust in the Independent Electoral Commission. Similar data produced by Afrobarometer in 2021 and 2022 reflects a significant shift in the level of trust towards the commission. When asked the same question in the three round surveys done in 2018, 2021 and 2022, the responses were much more positive in 2018 as explained above. For instance, the level of trust amongst Gambians towards IEC in 2018 was 64%, in 2021 (49%) and in 2021 (40%) which has rapidly gone down in a space of two presidential elections. An explanation of this dwindling lack of trust in the commission could stem from the rejection of the 2021 presidential election results by some members of the opposition. This election was crucial as it marked the first post-Jammeh election in which the former dictator did not have a say in the electoral process. The Independent Electoral Commission announced that the incumbent Adama Barrow has won the election with 53% of the votes and his closest rival Ousainou Darboe with 28% (The Guardian, 2021). Following the announcement, the UDP, Gambia Democratic Congress (GDC) and independent candidate Essa Faal rejected the election results. The reasons cited were electoral irregularities and delay in the announcement of election results by the IEC which raises concerns for the aforementioned. The trio also stated that their agents and representatives in the pooling stations 'raised several issues and acknowledged not endorsing some of the results (The Guardian, 2021). Despite international and domestic observers' reports of a transparent election adherent to international standards, the UDP did file a challenge to Barrow's victory in the Supreme Court calling for the annulment of the election results (Saine, P. 2021). The Supreme Court later dismissed the case on the ground that UDP failed to meet the mandatory requirement of Rule 11 of the Elections Petition



Rules. Although not satisfied with the ruling, additional appeals made by the opposition party were equally dismissed by the courts and allowing President Barrow to go ahead with his sworn-in ceremony on January 19, 2022 (Baba, A. 2021).

In Ghana, the president has the power to appoint commissioners but had to consult the Council of State for advice similar powers to the Gambian president. However, such appointment and approval must be closely scrutinized and where possible let the National Assembly preside over the final approval of the commissioner's appointment. The president can be allowed to nominate and let objection time be given for CSOs or the general public to submit objections to nominees where possible in court. This position of recommendation is in line with the findings of the Afrobarometer 2018 survey which encourage accountability and demand the mandate of appointing commissioners be taken away from the presidency moving forward.

3.2. Preferential Voting System in The Gambia (Marble or Paper Ballot)

The Independent Electoral Commission set to introduce a new voter system in the country replacing the marble voting system with the paper ballot.⁵ The marble has been used in the Gambia since 1960 and a 2018 survey by Afrobarometer reveals that the majority of Gambians favoured the marble. However, the Draft Election Bill 2020, when approved in parliament will see the electoral system transition into paper balloting. Despite the high-level illiteracy rate in the country, the marble has so far been the most convincing voting system for electorates over the years in the Gambia. However, trends in literacy levels have spiralled in recent years with the adult literacy rate reaching 36.8 per cent to 50.8 per cent and rising to an annual increased rate of 21.04 per cent in 2015 (The Standard, 2021). The independent Electoral Commission is of the view that logistical challenges of the marble have proved to be a nightmare for the commission and transition to paper ballot is inevitable. With the number of registered political parties at 18 and rising, it is harder to allocate ballot boxes for all these parties and independent candidates in Gambia's 1442 polling stations (The Standard, 2021). Despite all these aforementioned challenges, a more recent survey done in 2022 by Afrobarometer reiterates majority of Gambians 60% prefers continuity with the marble voting system. Others, comprising 35% of the population, support changing the voting system to a paper ballot, aligning their views on the Independent Electoral Commission (IEC) and the proposal presented in the Draft Election Bill 2020.

With the introduction of paper balloting, IECs resolve will be tested and it is unclear how Gambians will flare once this system is in place. From the commission's point of view, logistical challenges and the need to keep up to date with the new electoral format of most African countries, it is crucial to transition into paper balloting. The liberalization of the political spectrum perhaps alerts the electoral body to considerably pay attention to the challenges that the marble might incur moving forward (The Standard, 2021). The system requires a ballot box for every electoral candidate and the chances of having too many ballot boxes appear senseless to some degree. Despite its uniqueness, this is one of the limitations of using the marble to oversee an election whereas the paper ballot is more precise in size. Moreover, Debrah (2014,p.6). explained a change in the trajectory of the voting system in many African countries, with most advanced democracies adopting the use of Biometric technology. Countries like Nigeria and South Africa have incorporated this system since 2000 and have since been used as a voting system during elections. It is argued that the Biometric Voter Verification System (BVVS) can be used to deter issues such as vote rigging and double voting allowing for a transparent system in the electoral process (Debrah, 2014,p.6). In addition Debrah, added that he Electoral Commission of Ghana adopted a similar system with the same wisdom to ending electoral fraud and address concerns raised by election stakeholders in the country. Furthermore, according to Debrah, this method becomes popular in Ghana's electoral process and the idea of verifying voters before voting is widely popularised by political parties and the media to help stop electoral fraud in Ghana. Moving forward, one would expect the Gambia to head in the same direction, but realistically understanding the stage of its reform and the significant resource constraints it may face compared to Ghana and South Africa.

⁵ CNN, "Gambian voters use marbles to cast ballots in presidential election", December 4, 2021. Available at: <https://edition.cnn.com/2021/12/04/africa/gambia-election-voters-use-marbles-intl/index.html>



3.3. Demand for Quota System for Women and Youth Political Participation

One of the widely expressed agitations from activists and political actors in the Gambia is to support reform frameworks that will include women and youth political participation. Part of the recommendations that were quite popular in the new Draft Constitution is to have a quota system for youth and women representation in parliament.⁶ Again, Afrobarometer data in 2018 reveals that 85% of Gambians strongly agree with women's representation in parliament. The acceptance of these reform criteria especially in the Draft Constitution originates from the past when women were deemed more as political assets during campaigns for voter mobilization by political parties. Therefore, the idea of drafting a new constitution was viewed as a panacea for addressing some of these major representation gaps in the electoral process. And perhaps a good start can also be in the composition of the IEC by including women to have a balanced gender perspective in the EMB.

During the validation training of the draft election bill in 2020, the issue of women's representation was raised by civil society groups to be enshrined in the new electoral bill. The suggestion made by political parties were rather insignificant playing down incompetence and the social barriers that stand in the way of most women in politics. The proposition made by parties was to progressively incorporate it in the long run, but if the reform process is intended to represent all groups in society, then that decision to include women in politics, especially in party structures has to be sanctioned legally. The idea of political inclusivity of marginalized groups is well captured in the Draft Constitution as part of a wider consultation from the Gambian populace. Women continue to face barriers that affect their levels of participation in the electoral process whether as voters, candidates, journalists, electoral officials or in the civil society space. Their performance is overlooked by cultural deterrents and social norms as well as exclusion from decision-making and a general lack of commitment from the political environment to capture their rights. Commitments are made during electoral cycles by political parties, EMBs, civil society groups, election observers and the media, but hardly such objectives realize. Records have shown that women are underrepresented at all levels in the process of political decision-making although women's parliamentary representation has increased globally from 13.8% in 2000 to 24.3% in 2019 (Electoral Knowledge Network, 2012).

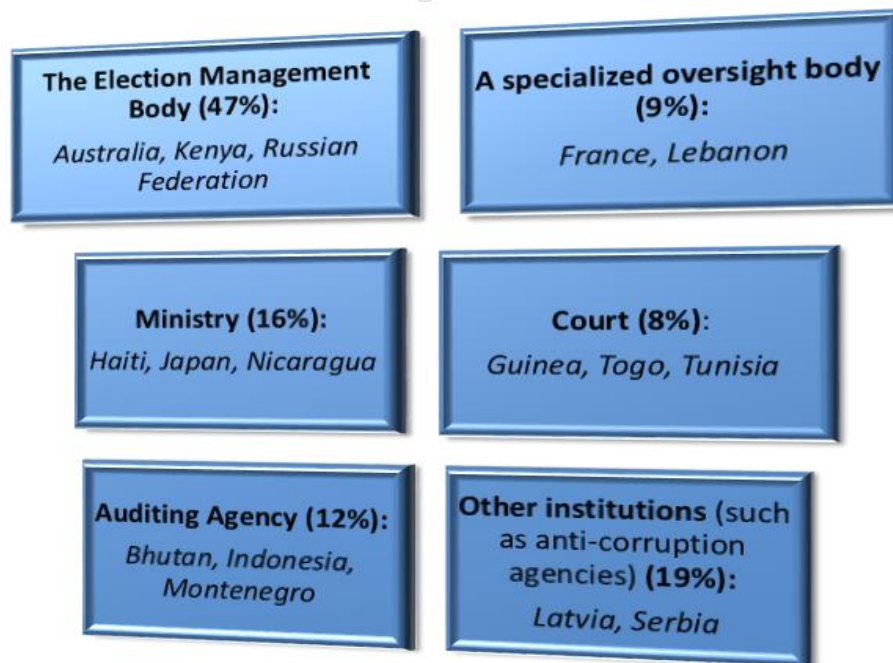
3.4. Regulating Campaign Financing

The method of regulations set by countries on campaign financing defers from country to country depending on the legislation put in place as a regulatory mechanism. These regulations can be found in constitutions, in specific electoral laws on campaign finances and additionally, on criminal legislation, auditing, media and gender equality can all contain regulations that address campaign financing. The system calls for transparency among political parties and candidates imploring them to abide by the regulations or risk funds been withhold for violations of the criteria. It allows the public to be informed and gives the ability to scrutinize political parties and candidates who are directly answerable to the public. However, the system is susceptible to shortcomings if there is high level of public financing which could course a detachment between parties and candidates away from concentrating on grassroots engagements and the wider electorates (Electoral Knowledge Network, 2012). The procedural framework of monitoring campaign financing differs across countries and the different institutions can be responsible for its oversight governance. For instance, responsibilities can be assigned to an EMB, a Ministry, a Court, a specialized body or an auditing institution. In many countries, 47% of regulating campaign financing is done by the EMBs as revealed by Electoral Knowledge Network. Furthermore, the study revealed that most countries consider EMBs as effective and relevant institutions for controlling regulations on campaign financing. In some cases, the EMB can have limited access to resources and personnel to defectively carry out this mandate and in instances where members of the EMB are representatives from political parties it becomes difficult to be trusted on matters regarding regulations because of partisanship (Electoral Knowledge Network, 2012).

⁶ Government of The Gambia. (2020). Draft Constitution of The Gambia, 2020. Retrieved from https://www.constituteproject.org/constitution/Gambia_2020D?lang=en



Figure 1: Institutions Responsible for Campaign Financing



Source: The Electoral Knowledge Network Project, 3rd Edition, 2012⁷

3.4.1. Campaign Financing

The Electoral Knowledge Network explicitly explains sources of campaign financing which are categorised into two, Public Campaign Financing and Private Campaign Financing. Public campaign financing is a very common methodology of campaign financing where it advocates for equal opportunities for political parties and candidates to compete during electoral periods. The procedure of public campaign financing can be in two forms, direct and indirect financing. Direct Financing is when monetary contributions are provided to political parties and candidates through annual subsidies for routine party functioning and subsidies allocated to political parties and candidates to contribute to their campaign and election cost. Indirect financing includes non-monetary contributions through indirect means like parties and candidates having access to free services or at a minimal financial cost. These may include having access to public media, billboards for displaying electoral materials or using state property for printing campaign materials or tax relief of campaign expenditure. There are criteria for receiving public financing based on, parliamentary representation, percentage of votes or candidates put forward by political parties and can be given before or after elections. Emphasis for receiving public campaign financing has been put on gender requirements for women's participation and countries have adopted reforms to achieve that objective.

3.4.2. Campaign Financing

Private Campaign Financing is centric for political parties and candidates during elections as it provides them with the means of participating in the political process. It is a form of campaign financing done by individuals, legal persons or self-financing by individuals themselves which could be in the form of

⁷ Electoral Knowledge Network (EKN) project, accessed on [12th March, 2023], available at <https://www.aceproject.org/>. The ACE Project (Administration and Cost of Elections) website hosts the EKN project, providing a comprehensive platform for electoral professionals, researchers, and policymakers to access valuable resources and information related to electoral administration and electoral processes



loans given to political parties or candidates during elections. It provides political freedom for people to support freely their political choices through financial contributions. The funding method can impose limitations either in terms of quantity, where the limit is determined by the amount, or in terms of quality, where the limit is determined by the source. This is vital in preventing political parties or candidates from distorting the political process and leaving it in the hands of wealthy individuals. The reason for the limitation is to set a funding cap determining the amount of money that can be provided to political parties or candidates from people. However, critics argue that the cap can serve as a limitation towards freedom of expression as it can dictate the level of political support individuals give to political parties or candidates.

3.4.3. Regulating Political Party Financing

Incumbent political parties are often accused of dominating political races because of their proximity to power and unequivocal access to state resources compared to opposition parties. Both PPP and APRC enjoyed unlimited access to state resources during their tenures in office and this has aided their success. More recently in the Niamina West by-election, GDC was regarded as the clear favourite to reclaim back the constituency seat after the demise of Hon. Demba Jallow. However, the newly christened National People's Party (NPP) meant that they have to go head-to-head with the incumbent party for the seat. This was a test for NPP to cement its hegemony and send a signal to opposition parties that the famous incumbency politics under Jammeh has returned. NPP swept the polls in the Niamina West and Kerr Jarga by-elections in 2020 (Cham, M. P. 2020). Under the current electoral law, political parties are allowed to raise funding on their own through party membership and donors from Gambians. The Draft Bill prohibits parties and individual candidates from receiving funding from non-Gambians during elections. Political parties are required to submit an annual financial statement to the Commission but are against the view that it should be made public for transparency purposes.

4. RESULTS PUBLICATION AND MANAGEMENT

Several African countries recently adopted Biometric Technology in Election such as Ghana, Nigeria and DRC to address concerns about electoral irregularities. For instance, DRC is among the first African countries that adopted the electronic voting system even though the system comes with a lot of challenges in tallying results electronically. The paper ballot is touted as the next voting methodology to be used by IEC, result management needs to be better administered. The Gambia in comparison to other countries has an iconic way of result management through spot counting in that party representatives and election observers are privileged to monitor the results and transparently make them visible to all in every polling station. Results are jointly counted by party and IEC agents and are published in the polling station once the results are certified by the Presiding Officer. This is followed by an announcement by the chairman upon the final collating of results at the commission's headquarters. This process is increasingly becoming part of an electoral culture that is highly appreciated by voters and stakeholders involved in the process. The uniqueness of this open and transparent practice could be maintained as it provides clarity for actors involved in election results collation.

5. DISCUSSION, CONCLUSION AND RECOMMENDATION

The neutrality and impartiality of electoral bodies are essential for conducting free, fair, and credible elections. In The Gambia, trust and electoral integrity are major concerns that must be addressed by the Independent Electoral Commission (IEC). The IEC has committed to engaging the general public in voter education during electoral periods since 2016, when democracy was established. However, electoral violence can still occur, and some of the responsibility can be attributed to the IEC's inconsistencies in the process of results announcement or lack of consistency in ensuring the rules apply to everyone. The Niamina West by-Election was the first election conducted by the IEC post-Jammeh and served as a litmus test for future electioneering in the Gambia. The polarizing political landscape in the Gambia and the liberalization of its political space make it likely that the conduct of any election in the country will trigger political inconsistencies due to the vested interests of actors. The ruling National Peoples Party (NPP) has been accused of a series of electoral irregularities, including vote buying and using state resources to its advantage. Civil society groups must perform oversight roles in the conduct



of elections to ensure an intermediary between the electoral body and citizens. Ongoing reforms in the country will revolve around electoral politics and democracy, where people will have a wider view of elections, expanding their choices through an independent environment free from fear of violent intimidations. Similar suspicions about the impartiality of electoral bodies have arisen in other countries, such as INEC and the EC in Ghana. Negative reflections of trust and impartiality must be addressed by these electoral institutions through the impartial distribution of functions and strong legal guidelines that guarantee their independence. The IEC in The Gambia has not been popular in the past under Jammeh, but since the change in 2016, there has been a degree of trust towards the electoral commission. However, surveys conducted by Afrobarometer revealed a drop in the level of trust, which could be attributed to elections conducted in the post-Jammeh era under the current democratic dispensation.

The discussion on electoral reform in Africa has highlighted the challenges in achieving consensus and unanimity on the need for reforms. The Rational Choice Theory provides insights into the resistance of political parties to changing electoral rules that may disadvantage them. On the other hand, the Institutional approach emphasizes the role of institutional dysfunction as a trigger for electoral reform. In the context of The Gambia, trust and electoral integrity are crucial concerns that must be addressed by the Independent Electoral Commission (IEC). The IEC's inconsistencies and allegations of electoral irregularities undermine trust in the electoral process. Civil society groups and strong legal guidelines are necessary to ensure impartiality and independence of electoral institutions. Reforms should focus on addressing immediate issues, such as modernizing the electoral process and introducing key electoral demands like a presidential term limit and diaspora voting. The failure of the 2020 Draft Constitution highlights the need for legal and institutional reforms to ensure transparency and consistency. Overall, electoral reform is a vital component of The Gambia's democratic path and the realization of a fair and impartial electoral system. The comparative analysis of the states of reform in Ghana and Nigeria shows that, while there are similarities in the evolution of EMBs in these countries, the Gambia remains behind in some distance. Electronic voting has been introduced in both Ghana and Nigeria to address trust and electoral irregularities. Efforts must be focused on the revitalization of the Draft Constitution to continue the reform process. Electoral reform is a critical facet of the reform initiative promised by the Barrow government, and changing the current electoral laws is inevitable to embark on this democratic path.

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