

Promoting civic and voter education through the use of technological systems during the COVID-19 pandemic in Africa

Paul Mudau*

Senior Lecturer, Department of Public, Constitutional and International Law, College of Law, University of South Africa
<https://orcid.org/0000-0002-8696-7495>

Summary: *A human rights perspective to this article intertwines the rights to information and political participation. It deals with the intersections between the provision of civic and voter education (CVE), and the opportunities and threats pertaining to the feasibility of finding digital solutions for enhanced voter participation in democratic electoral processes during the coronavirus disease (COVID-19) pandemic in Africa. Under normal circumstances and while conducted through physical contact sessions, CVE is aimed at providing citizens with communication, general and life skills to constructively participate in democratic electoral processes. The greater the attendance in CVE events, the greater the conviction that a significant number of participants have been enlightened and encouraged to fully participate. As a result, electoral democracy becomes enriched and consolidated. However, the impacts of the COVID-19 pandemic render the physical training and dissemination of this crucial CVE information cumbersome, principally when considering the strictly-restricted number of attendants at events,*

* LLB (Limpopo) LLM (Pretoria) LLM (Western Cape); mudaufp@unisa.ac.za. Appreciation is conveyed to Marystella Simiyu for the exceptionally critical comments. Special gratitude is expressed to Dakalo Netshisaulu, Vuledzani Matodzi and Jeffrey Radzilani for providing enriching insights on the civic and voter education programmes of South Africa's Independent Electoral Commission.

consequently placing in disarray the enhancement of voter participation. Electoral management bodies, which are inherently charged with the responsibility for promoting CVE, confront the challenges for securing meaningful voter participation. Reliance on technological systems in the promotion of a consolidated electoral democracy during the COVID-19 pandemic emerges as a measure of last resort. Cognisant of the numerous developmental challenges encountered by many African countries, the feasibility of digital solutions in this instance could be far-fetched. More so, the digital divide and its impacts militate the empowerment of poor voters in remote rural areas where access to technological infrastructure and equipment is distantly slim.

Key words: Civic and voter education; COVID-19 pandemic; digital rights; electoral democracy; election management body; digital divide; political participation; technological systems

1 Introduction

The holding of competitive, periodic, inclusive and definitive elections is a defining feature of democracy.¹ It is important to note that, in the context of Africa, despite the fact that 'more elections are taking place on the continent than ever before',² a (third) wave of democratic recession is also materialising.³ Part of this slump involves manoeuvres used by incumbents before, during and after elections. These include changing the electoral calendar; the disenfranchisement of voters; decisively controlling communication channels; and interfering with elections in order to defer or prevent losing the grip of political power in the aftermath of credible elections.⁴

1 (a) Competitive: This component of democratic elections entails that political parties are conferred with the freedom to offer to voters, alternative policies and candidates, as well as express their criticisms of the government and other parties openly; (b) Periodic: At fixed intervals, usually for a period of five years, there are elections that oblige the elected officials to fulfil their election promises within that limited period; (c) Inclusive: With application of the universal adult suffrage, all the eligible adult population should be entitled to cast their votes; (d) Definitive: The elections must have a certain and clear outcome that determines the ultimate winner. See JJ Kirkpatrick 'Democratic elections and democratic government' (1984) 146 *World Affairs* 63. See also A Przeworski 'Minimalist conception of democracy: A defence' in I Shapiro & C Hacker-Cordon (eds) *Democracy's Value* (1999) 23.

2 W Gumede 'Africa: The democracy we want' (2017), <https://allafrica.com/stories/201704030173.html> (accessed 10 September 2021).

3 M Ronceray & B Byiers 'Elections in Africa – Playing the game or bending the rules?' (2019) 7-12, <https://ecdpm.org/wp-content/uploads/Elections-Africa-Playing-Game-Bending-Rules-ECDPM-Discussion-Paper-261.pdf> (accessed 10 September 2021).

4 As above.

Nevertheless, during the occurrence of natural disasters such as pandemics, it is not desirable to hold an election which could possibly threaten human life and security.⁵ In the present juncture, globally in general, and on the African continent in particular, there has been a widespread grappling to control the invasion and the spread of the coronavirus which has profoundly disrupted electoral activities.⁶ The 2020 African election calendar indicates that approximately 23 countries proclaimed presidential, legislative and/or local elections.⁷ However, due to the ravages of the COVID-19 pandemic, a number of these countries postponed the elections, including Angola, Ethiopia, Senegal, Somalia and Sudan.⁸

During health emergencies such as the COVID-19 pandemic, the opportunities for participation and contestation and the quality of election management become severely compromised.⁹ It is important to highlight at the outset that the COVID-19 pandemic has the gravity to tamper with the entire electoral cycle. The electoral cycle comprises an array of integrated building blocks that encompass various role players and stakeholders, with voters included.¹⁰ The ultimate credibility of elections also hinges on the nature of the interdependence between these stakeholders' roles and participation in the fusing and cross-cutting of electoral-related activities.¹¹

A key dimension that forms an integral part of securing meaningful voter participation and the promotion of a fully-fledged electoral democracy is civic and voter education (CVE).¹² Centrally, CVE ensures the readiness, willingness and ability of voters in participating in electoral activities. It imparts basic voter information which enables every voter to arrive well prepared at the correct voting station and to vote on the dedicated voting day(s).¹³ As evidenced by the trend

5 TS James & S Alihodzic 'When is it democratic to postpone an election? Elections during natural disasters, COVID-19, and emergency situations' (2020) 19 *Election Law Journal* 344.

6 MA Simiyu 'Digital solutions for African elections in the time of COVID-19' 22 April 2021, <https://africlaw.com/2020/04/22/digital-solutions-for-african-elections-in-the-time-of-covid-19/#more-1706> (accessed 10 September 2021).

7 Electoral Institute for Sustainable Democracy in Africa '2020 African election calendar' (January 2021), <https://www.eisa.org/calendar2020.php> (accessed 10 October 2021).

8 As above.

9 James & Alihodzic (n 5) 344.

10 ACE Electoral Knowledge Network 'What is the electoral cycle?' (2020), <https://aceproject.org/electoral-advice/electoral-assistance/electoral-cycle> (accessed 10 September 2021).

11 As above.

12 ÖB Yoldaş 'Civic education and learning democracy: Their importance for political participation of young people' (2015) 174 *Procedia – Social and Behavioural Sciences* 545.

13 ACE Electoral Knowledge Network 'CVE' (2020), <https://aceproject.org/ace-en/topics/ve/default> (accessed 10 September 2021).

of its incorporation in most legal frameworks of African countries, such as constitutions¹⁴ and legislation,¹⁵ the role and significance of CVE in the enhancement of voter participation in the democratic electoral processes have increasingly gained prominence on the continent.

During the pre-election period, the preparedness and willingness of voters to participate in the democratic electoral processes are contingent on the nature and level of CVE that is imparted mainly by the election management bodies. This pre-election phase is crucial for encouraging full participation in elections. It consists of the provision and management of CVE, which helps to prevent a declining voter turnout and spoilt votes.¹⁶ The inadequacy of CVE is both directly and indirectly associated with 'poor turnout and participation in voter registration, lack of understanding of voting procedures, underage voting and election violence'.¹⁷ Civic engagement is an imperative building block, given that education for active citizenship is the most effective manner to encourage full participation in the democratic electoral processes.¹⁸

In Africa the election management bodies are often mandated to conduct CVE by constitutions and legislation.¹⁹ When explicitly interpreted, this constitutes a legal power conferred on election management bodies in the sense that they bear the principal legal responsibility to conduct CVE.²⁰ As a consequence, civil rights movements and/or civic society organisations that similarly conduct CVE in collaboration with the election management bodies allow these principal duty bearers to take the lead.²¹ The election management bodies are obliged to ensure that their activities and

14 Ghana (art 45); Eswatini (sec 90); Kenya (art 88(4)(g)); Lesotho (sec 66); Somalia (art 111G); Zimbabwe (sec 61(4)(f)); Uganda (art 61(1)(g)).

15 Eg, Angola (Law 7/04 2004, A91, 155(a), (r)); Burundi (art 5 of Décret 100/125 2018); Liberia (sec 2.9 of New Elections Law); Malawi (sec 8 of Electoral Commission Act); Nigeria (secs 2 and 154 of Electoral Act 2010); South Africa (secs 5(1)(d) and (k) of Electoral Commission Act 51 of 1996); South Sudan (sec 14 of National Elections Act); Tanzania (sec 4 of National Elections Act); Zambia (sec 80 of Electoral Process Act 35 of 2016); sec 80 of The Gambia's 2019 Constitution which failed to be adopted. Art 6 of the Democratic Republic of the Congo Constitution enjoins political parties to participate in the reinforcement of the national conscience and of civic education.

16 O Ibeanu & N Orji (eds) *Approaches to CVE: Nigeria's experience in comparative perspective* (2014) 10.

17 As above.

18 United Nations Development Programme *Enhancing youth political participation throughout the electoral cycle: A good practice guide* (2013) 5.

19 International Institute for Democracy and Electoral Assistance 'Electoral law reform in Africa: Insights into the role of EMBs and approaches to engagement', <https://www.idea.int/sites/default/files/publications/electoral-law-reform-in-africa.pdf> (accessed 10 September 2021).

20 Ibeanu & Orji (n 16) 10.

21 As above.

operations benefit all citizens.²² Generally, this responsibility naturally entails conducting CVE programmes and events that are geared towards empowering target groups.²³ These groups comprise people that 'traditionally experienced specific and disproportionate difficulties in accessing information and knowledge about their basic democratic rights and freedoms, such as the right to vote and the right to be elected'.²⁴ In many societies, persons with disabilities, women, rural communities, economically disadvantaged persons, racial and ethnic minorities, and elderly persons have traditionally been excluded from participation in elections.²⁵

Under normal circumstances and while conducted through physical contact sessions, CVE is designed to provide citizens with communication, general and life skills to constructively participate in the democratic electoral processes.²⁶ The greater the attendance in CVE events, the greater the conviction that a significant number of participants has been enlightened and encouraged to fully participate in the electoral processes.²⁷ As a result, electoral democracy becomes enriched and consolidated. However, during the COVID-19 epidemic, many countries have introduced extraordinary legal measures, such as regulations and directives specifically dedicated to curb the spread of the pandemic, and imposed nationwide 'lockdowns'.²⁸ The applicable and binding lockdown regulations and directives prevented mass gatherings, restricted citizens' movements, and they require hygienic practices (such as cleansing the hands, covering coughs and sneezes, wearing masks), physical and social distancing, quarantine, and isolation measures.²⁹ The imposition and enforcement of these measures render the physical training and dissemination of crucial CVE information difficult, especially when considering the strictly-restricted number of attendants at events; from a quantitative standpoint, the percentage of eligibility of voters in a specific election when weighed against voter turnout

22 ACE Electoral Knowledge Network 'Election management', <http://aceproject.org/ace-en/topics/em/emc/emc02d> (accessed 10 September 2021).

23 As above.

24 As above.

25 As above. See also Al Pogson 'Understanding women, youth and other marginalised groups in political activities in Nigeria' (2014) 5-6.

26 M Shabane et al '2019 National and provincial election: Civic and democracy education training manual – Municipal Outreach Coordinators and Democracy Education Facilitators' (2016) 21-22.

27 As above.

28 James & Alihodzic (n 5) 351. See also P Mudau 'Has the COVID-19 pandemic exposed the fragility of South Africa's constitutional democracy?' 23 July 2020, <https://africlaw.com/2020/07/23/has-the-covid-19-pandemic-exposed-the-fragility-of-south-africas-constitutional-democracy/#more-1905> (accessed 10 September 2021).

29 As above.

and the number of spoiled ballots.³⁰ It therefore is reasonably concluded that this constitutes a synergy that could be reflective of how a country's level of CVE has flourished during the COVID-19 pandemic. Therefore, the COVID-19 pandemic places in disarray the effectiveness of enhancing active voter participation in promoting consolidated democratic electoral processes.

Against this backdrop, this article is largely concerned with setting the framework of the mandate of election management bodies in the provision of CVE through the lens of technological systems. It assesses the feasibility of digital solutions in enhancing voter participation in democratic electoral processes at the height of the COVID-19 pandemic in Africa. The article commences by establishing a common understanding as to the meaning of CVE as well as its role and significance in consolidating the democratic electoral process. Second, the article outlines the legal framework for CVE. Third, the right to political participation in elections under the relevant international and regional human rights framework is discussed. Fourth, the article links technological systems with CVE. In the fifth place the article traverses to ascertaining whether it is feasible for technological systems to enhance voter participation in democratic electoral processes in Africa. This assessment highlights the possible opportunities of and threats to this quest. The article finally makes an objective determination as to the possibility of finding digital solutions for enhanced voter participation in the democratic electoral processes during the COVID-19 pandemic in Africa.

2 Understanding civic and voter education

2.1 Defining civic and voter education

Ibeanu highlights that CVE emanates from the three conjunctures of society, politics and education.³¹ In this regard, political culture inter-links society and politics; socialisation connects society and education; and political recruitment is the interface of education and politics. Ibeanu further posits that 'civic education and

30 E Viebeck 'More than 500 000 mail ballots were rejected in the primaries. That could make the difference in battleground states this fall' 23 August 2020, https://www.washingtonpost.com/politics/rejected-mail-ballots/2020/08/23/397f92db3d-11ea-809e-b8be57ba616e_story.html (accessed 10 September 2021).

31 O Ibeanu 'Introduction' in Ibeanu & Orji (n 16) 15.

voter education are organically linked and yet distinct'.³² In its broad definition, civic education is the provision of the requisite information and learning experiences that equip and empower citizens to participate in democratic processes.³³ With the aim of imparting knowledge and skills and dispositions that mould the attitudes of citizens, civic education can be in the form of both formal and non-formal education.³⁴ This includes classroom-based learning in educational institutions, and informal training through discussion forums under the auspices of community mobilisation and stakeholder engagement.³⁵ In addition, civic education can be implemented through mass media campaigns, by partnering with public and private broadcasters and community media structures.³⁶

Civic education has three broad goals.³⁷ First, citizens are introduced to the basic rules and institutional features of democratic political systems as well as the knowledge about democratic rights and practices. Second, it imparts a specific set of values that are essential for democratic citizenship, including political tolerance, trust in the democratic process, and respect for the rule of law. Lastly, it encourages responsible and informed political participation.³⁸

Rietbergen-McCracken states that civic education has three main elements, namely, civic knowledge, civic skills and civic disposition. She sums these up as follows:³⁹

Civic knowledge refers to citizens' understanding of the workings of the political system and of their own political and civic rights and responsibilities (eg, the rights to freedom of expression and to vote and run for public office, and the responsibilities to respect the rule of law and the rights and interests of others). Civic skills refer to citizens' ability to analyze, evaluate, take and defend positions on public issues, and to use their knowledge to participate in civic and political processes (eg, to monitor government performance, or mobilize other citizens around particular issues). Civic dispositions are defined as the citizen traits necessary for a democracy (eg, tolerance, public spiritedness, civility, critical mindedness and willingness to listen, negotiate, and compromise).

32 Ibeanu (n 31) 13.

33 As above.

34 'Civics and citizenship education', <https://education.stateuniversity.com/pages/1831/Civics-Citizenship-Education.html> (accessed 11 September 2021).

35 Shabane et al (n 26) 22-26.

36 As above.

37 Ibeanu (n 31) 13.

38 This goal entails ensuring that citizens are informed of important activities such as voting, working in campaigns, contacting officials, lodging complaints, attending meetings, and contributing money; see Ibeanu (n 31) 13.

39 J Rietbergen-McCracken 'Civic education', https://www.civicus.org/documents/toolkits/PGX_B_Civic%20Education.pdf (accessed 10 September 2021).

On the other hand, voter education is regarded as a subset of civil education, specifically focusing on the citizen's role as a voter. Voter education refers to the information, materials and programmes that are used to inform voters about the voting process for a specific election, including details on voter eligibility, voter registration, candidates, how and where to vote, and the mechanisms to lodge electoral complaints or disputes.⁴⁰

Voter education consists of two categories: learning about the voting process, and the contents of the ballot.⁴¹ The imparted knowledge deals with numerous matters, including the voter's civic duties and obligations, the voting process, political parties and candidates, electoral offences, counting procedures, and the responsibilities of the election management bodies.⁴² Thus, voter education equips citizens with knowledge about the entire scope of the electoral process. Additionally, Shabane et al indicate that the combined objectives of CVE are to (a) promote a culture of democracy and human rights by creating and emphasising awareness of civic responsibilities; (b) increase knowledge and understanding of the electoral processes; (c) empower target groups and areas where voter turnout has been historically low, to participate fully in electoral processes; and (d) capacitate the electorate to participate in the voting process resulting in the decrease of the number of spoilt ballots.⁴³

A landmark study on CVE reveals that this form of education matters for voting and participation during election campaigns.⁴⁴ The greater the amount and quality of CVE, the greater the likelihood for voter turnout and participation in campaign activity. In turn, this enhances voter turnout and participation in democratic electoral processes.

2.2 Role of election management bodies

A 1993 Senior Policy Seminar on Strengthening Electoral Administrative in Africa recommends that a credible election management body should derive its mandate from the constitution and should include

40 As above.

41 G Pillsbury 'Voter engagement toolkit for community foundations' (2018) 19, <https://www.cof.org/sites/default/files/documents/files/Community-Foundation-Voter-Engagement-Toolkit.pdf> (accessed 11 September 2021).

42 As above.

43 Shabane et al (n 26) 22.

44 FL Kidwell 'Civic education for a global world' (2013) 13, <http://webcache.googleusercontent.com/search?q=cache:FlkzdmNi6pAJ:www.civiced.org/pdfs/GermanConf/CivicEducationforaGlobalWorld2013Final2.pdf+&cd=11&hl=en&ct=clnk&gl=za> (accessed 11 September 2021).

the method of conducting voter and other education.⁴⁵ Presently, in the context of elections, election management bodies are generally mandated by the constitution and legislation to conduct CVE.⁴⁶ This mandate is given effect through the formulation and implementation of voter education programmes, training programmes, research agenda and policies that promote the participation of marginalised groups.⁴⁷ Valenzuela argues that election management bodies 'do not function in a vacuum – they respond to institutional, legal and political contexts'.⁴⁸ The constitutional and legal dispositions form the basis of the work and behaviour of election management bodies.⁴⁹

CVE should be conducted on a continuous basis in order to develop an active and informed citizenry and to foster meaningful public participation in the democratic process before, during and after elections. The mandate includes developing a network of educational support and liaising with multi-stakeholders across government, civil society and the private sector without compromising the independence of election management bodies.⁵⁰ During the last two decades in Africa constitutional and legislative amendments sought to make election management bodies independent institutions that could deliver free, fair and credible elections.⁵¹ However, the impartiality of these bodies has been a continuous challenge which negatively impacts on democracy.⁵²

A credible election management body has a number of key attributes such as the crucial responsibility of organising and conducting non-partisan and neutral CVE.⁵³ Other attributes include the delimitation of constituencies; the registration of voters, parties

45 Africa Association for Public Administration and Management 'Report of the Senior Policy Seminar on Strengthening Electoral Administration in Africa' (1993) 5, <https://repository.uneca.org/bitstream/handle/10855/3327/Bib-27199.pdf?sequence=1&isAllowed=y> (accessed 11 September 2020).

46 IIDEA (n 19) 20-22. See also Ibeanu (n 31) 19.

47 As above.

48 C Valenzuela 'The impact of EMBs and other electoral stakeholders on the credibility and acceptance of an electoral process' (2014), <https://www.ec-undp-electoralassistance.org/wp-content/uploads/2018/08/ec-undp-jtf-04-our-trainings-2014-dead-sea-day-1-2-carlos-velenzuela.pdf> (accessed 11 September 2020).

49 As above.

50 C Atkinson-Jordan 'Stakeholders in the electoral process: The role of civil society, political parties and the media to support electoral management bodies' 2, http://www.oas.org/sap/docs/DECO/presentaciones_aceo/Charmaine%20Atkinson-Jordan%20-Presentation.pdf (accessed 11 September 2021).

51 AB Makulilo et al 'Election management bodies in East Africa: A comparative study of the contribution of electoral commissions to the strengthening of democracy' (2015) xvii, <https://reliefweb.int/sites/reliefweb.int/files/resources/AfriMAP%20EMB%20East%20Africa%20Text%20WEB.pdf> (accessed 11 September 2021).

52 As above.

53 MH Lekorwe 'The role and status of the independent electoral commission' (2006) 5 *Journal of African Elections* 67.

and candidates; the formulation of electoral policies and procedures; and the settlement of disputes over electoral matters.⁵⁴ An added key mandate is to organise and conduct periodic free and fair elections.⁵⁵ Hence, the delivery of successful elections heavily depends on the important role of election management bodies in the provision of timely and effective information to the electorate.⁵⁶ With the intent to maximise voter participation, the election management bodies enlighten citizens about the significance of their voting rights and what to do in order to realise these rights.⁵⁷

2.3 Other key actors: Stakeholder engagement and management

Stakeholder engagement and management refer to the establishment of a relationship between the election management bodies and a range of internal and external stakeholder groupings towards the promotion of electoral democracy.⁵⁸ Generally, stakeholders are people or groups with a direct or indirect vested interest in an electoral project or a certain level of performance or compliance from an election management body, and its strategic actions and corresponding activities.⁵⁹ The stakeholders comprise election management bodies, various government institutions, political parties and candidates, civil society organisations (including but not restricted to electoral observer groups), the academic community, the private sector, businesses, organised labour, traditional and religious leadership structures, and the media. The Guidelines on Access to Information and Elections in Africa⁶⁰ officially recognise the following stakeholders: (a) authorities responsible for appointing the election management bodies; (b) election management bodies; (c) political parties and candidates; (d) law enforcement agencies; (e) election observers and monitors; (f) media and online media platform providers; (g) media regulatory bodies; and (h) civil society organisations.

54 AAPAM (n 45) 5.

55 Lekorwe (n 53) 66.

56 S Bibler 'Gender equality and election management bodies: A best practices guide' (2014) 36.

57 As above.

58 Valenzuela (n 48).

59 Bibler (n 56) 4.

60 Guidelines on Access to Information and Elections adopted by the African Commission on Human and Peoples' Rights adopted during its 61st ordinary session in November 2017, http://www.chr.up.ac.za/images/researchunits/dgdr/documents/resources/guidelines_on_access_to_information_and_elections_in_africa_en.pdf (accessed 29 March 2021).

The stakeholders have the ability to influence the outcome of electoral activities, either positively or negatively. By and large, election management bodies encounter the formidable task of convincing stakeholders to trust the electoral processes and to perceive them as credible institutions.⁶¹ A vast majority of these stakeholders often receive training from the election management bodies in relation to their specific role in the electoral activities and processes. In the fulfilment of their mandate to conduct CVE, election management bodies need to consult, brief and inform these stakeholders about electoral activities and processes.⁶² In this regard, the bodies should promote key civic and voter messages and sensitise stakeholders on the specific needs of a particular target group in the electoral process.⁶³

In conjunction with the election management bodies, these stakeholders assist in conducting a number of CVE activities. However, they must do so in a non-partisan manner and without endorsing or opposing certain political parties or candidates competing in the elections.⁶⁴ As required by law, election management bodies play a leading role, and the other key actors collaboratively adhere to a binding code of conduct to ensure full compliance and uniformity in the implementation of CVE programmes and the intended outreach results.⁶⁵

2.4 Approaches and strategies

CVE is now more important than ever due to its significance of promoting and consolidating electoral democracy in Africa. However, many countries are still struggling to develop teaching methods and educational strategies that effectively fulfil its objectives.⁶⁶ Traditionally, CVE is provided through a range of strategies and complements both formal and informal education. A common project used to conduct CVE is its institutionalisation in the formal curriculum of basic and tertiary institutions of learning.⁶⁷ This method entails strengthening, mainstreaming and infusing its content into the curriculum. The scope involves designing a formal infusion of democracy and human rights into the educational curriculum. The project objectives are to educate learners/students about their civil

61 Valenzuela (n 48).

62 Bibler (n 56) 40-41.

63 As above.

64 Lekorwe (n 53) 66.

65 Shabane et al (n 26) 22.

66 Kidwell (n 44) 17.

67 Shabane et al (n 26) 22.

and political rights and responsibilities; to raise their awareness and consciousness of electoral processes; and to entrench voter registration, voting and active political participation as fundamental civic responsibilities.⁶⁸

The mass CVE campaigns with communities, partners and strategic partners largely assist in the promotion of a sustainable democratic culture. The scope of this activity requires the initiation and maintenance of discussion platforms. The approach is three-pronged.⁶⁹ First, the awareness-raising campaigns include edutainment and arts, linking with the heritage sector; second, community engagement that mobilises and empowers people to exercise their electoral rights. Finally, through stakeholder engagement and management, there are joint programmes that promote and implement CVE.

Multimedia remains one of the dominant approaches and strategies for propagating CVE,⁷⁰ and consists of all mechanisms of communication, including print media, television, radio and the internet.⁷¹ Mass media is important in a democracy,⁷² and Kariithi states that, through collecting, processing and dissemination of daily events, it keeps the society informed of local, national, regional and global issues.⁷³ Through exploring the possibility of enhancing the reach and effectiveness of CVE, election management bodies can collaborate with mass media.⁷⁴ The geographical reach and broad acceptance of education and entertainment among African societies make mass media suitable for education.⁷⁵ Van der Puye indicates that the 'African culture is functionally linked to the popular media forms – radio, TV, and the press'.⁷⁶ More so, digital technology is acclaimed for 'liberating, favouring the striving for equal justice, democracy and human rights'.⁷⁷ Reliance on targeted messages and information communication technology, in particular the use

68 Ibeanu (n 31) 22.

69 As above.

70 Ibeanu (n 31) 23.

71 ACE Electoral Knowledge Network 'CVE' (2020), <https://aceproject.org/ace-en/topics/ve/default> (accessed 10 September 2020).

72 NK Kariithi 'Mass media, state and society in Africa' in Y Seleti *Africa since 1990* (2004) 124.

73 As above.

74 O Ibeanu 'The future of CVE in Nigeria: Some lessons from the study' in Ibeanu & Orji (n 16) 97.

75 As above.

76 F van der Puye 'Media and the preservation of culture in Africa' June 1998, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/media-and-preservation-culture-africa> (accessed 14 October 2021).

77 W Gravett 'Digital neo-colonialism: The Chinese model of internet sovereignty in Africa' (2020) 20 *African Human Rights Law Journal* 126.

particularly of social media platforms such as Facebook, Twitter and SMS, could be effective in disseminating CVE.⁷⁸

Lastly, election management bodies can also build permanent local capacity for CVE, and pursue in-house and sectoral professionalism and capacity building.⁷⁹ They can also make use of expansion staff during heightened electoral activity periods, especially before and during elections.⁸⁰

2.5 Target groups

Election management bodies promote public awareness about electoral activities by conducting CVE, particularly among target groups such as women, the youth, persons with disabilities, the illiterate, voters in rural areas and disadvantaged minorities.⁸¹ Mostly, the voter turnout of these groups often is very low owing to the failure to acknowledge the significance of their participation in the democratic electoral processes.⁸² The goal of CVE is to increase voter registration and to narrow voter participation gaps of these marginalised social groups.⁸³

The development of targeted campaigns that comprise identifying key CVE messages has the potential of encouraging the relevant target group to be interested in actively participating in the electoral processes. For example, where there is a massive lack of women's participation, CVE messages must emphasise the importance of women's right to vote and how their participation can significantly shape electoral processes as voters and candidates, as well as outlining the specific measures that will facilitate their participation.⁸⁴

For the purpose of ensuring the effectiveness of CVE, it is imperative to assess and identify the disconnects between existing intervention strategies and the target groups.⁸⁵ For instance, in Nigeria the CVE programme of the Independent National Electoral Commission (INEC) has been criticised for neglecting four marginalised major groups: voters in remote areas; nomads; refugees and internally-displaced persons; and Nigerians in diaspora.⁸⁶ Hence, the assessments can

78 Gravett (n 77) 98.

79 Shabane et al (n 26) 26.

80 As above.

81 Lekorwe (n 53) 64.

82 Ibeanu (n 31) 20.

83 Pillsbury (n 42) 29.

84 Bibler (n 56) 37.

85 As above.

86 Ibeanu (n 31) 20-21.

include surveys and other information-gathering tools that provide insights about devising revitalised or new strategies that are capable of reaching the targeted voter education outreach.⁸⁷

3 Legal framework for civic and voter education

According to Beeckmans and Matzinger ‘all citizens, including young people, are entitled to the knowledge and information necessary to make well-informed choices and thus to participate in a meaningful way in electoral processes’.⁸⁸ In a transparent and unbiased manner, and while collaborating with stakeholders, particularly the media, election management bodies have the responsibility to ensure that all citizens are kept informed about all stages of the electoral process, including campaigns and voting.⁸⁹

Article 9 of the African Charter on Human and Peoples’ Rights (African Charter)⁹⁰ confers on individuals the right to receive information as well as the right to express and disseminate information. The principles contained in article 9 are established or affirmed by the Declaration of Principles of Freedom of Expression and Access to Information in Africa (Declaration) adopted by the African Commission on Human and Peoples’ Rights (African Commission) at its 65th ordinary session. Principally, Principle 31(1), which deals with the procedure for accessing information, states that ‘access to information shall be granted as expeditiously and inexpensively as possible, and in accessible formats and technologies’.

During its 61st ordinary session in November 2017, the African Commission adopted the Guidelines on Access to Information and Elections in Africa (Guidelines).⁹¹ The Guidelines provide:⁹²

For elections to be free, fair and credible, the electorate must have access to information at all stages of the electoral process. Without access to accurate, credible and reliable information about a broad range of issues prior, during and after elections, it is impossible for citizens to meaningfully exercise their right to vote in the manner envisaged by Article 13 of the African Charter.

The Guidelines direct election management bodies to facilitate access to information by creating, keeping, organising and maintaining

87 Bibler (n 56) 36.

88 As above.

89 Bibler (n 56) 76-77.

90 African Charter on Human and Peoples’ Rights, adopted on 27 June 1981, entered into force 21 October 1986.

91 Guidelines (n 60).

92 As above.

records in a manner that facilitates access to information, including for vulnerable and marginalised groups.⁹³ Additionally, during the pre-election period, election management bodies are obliged to disclose the full details of the voter registration process, including criteria, qualifications, requirements and location of voter registration centres.⁹⁴ Civil society organisations are required to also disclose information pertaining to operational plans, methodology, manuals and their implementation of CVE.⁹⁵

The African Charter on Democracy, Elections and Governance (African Democracy Charter)⁹⁶ openly recognises the importance of CVE. As a clear-cut continental legal framework that was promulgated to deepen the inroads of democratic electoral processes, the Democracy Charter contains a number of provisions that link political participation with CVE. As part of its objectives, the Charter aims to 'promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs'.⁹⁷ The Democracy Charter additionally requires that state parties must undertake to implement programmes and carry out activities designed to promote democratic principles.⁹⁸ These undertakings entail the integration of civic education in the educational curricula and appropriate programmes and activities.⁹⁹

Certain target groups, such as women, ethnic minorities, persons with disabilities, displaced persons and other marginalised and vulnerable social groups, have a history of low voter turnout. In order to guarantee their rights to participate in elections, the African Democracy requires its state parties to adopt legislative and administrative measures.¹⁰⁰ Accordingly, this provision is also applicable in terms of adopting legislative and administrative measures that set a conducive framework for the formulation and implementation of CVE programmes that are aimed at empowering these target groups to fully participate in the democratic electoral processes. Due to the fact that stakeholders may also assist the election management bodies in carrying out CVE, the Democracy Charter also recognises the important role of civil society organisations. It

93 Art 13(a) of the Guidelines.

94 Art 17(d) of the Guidelines.

95 Art 30(e) of the Guidelines.

96 African Charter on Democracy, Elections and Governance, the Assembly of Heads of State and Government of the African Union 30 January 2007, entered into force 15 February 2012.

97 Art 2(11).

98 Art 12.

99 Art 12(4).

100 Art 8(2).

requires state parties to legally create conditions conducive to their existence and operation.¹⁰¹ Together with government and other legally-recognised political actors, these stakeholders must adhere to a binding code of conduct.¹⁰² The election management bodies, as envisaged by the Democracy Charter, must be independent and impartial in the management of elections.¹⁰³

4 Human rights legal framework for the right to political participation

4.1 Setting the linkage of human rights and participation

The International Covenant on Economic, Social and Cultural Rights (ICESCR) stipulates that ‘education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms’.¹⁰⁴ Simply put, participation denotes taking matters into one’s own hands, and having the ability to influence the way in which the system functions.¹⁰⁵ Central to this participation is the active involvement in the democratic electoral process. The notion of equality of participation is accompanied by the underlying philosophy borrowed from retired Justice Albie Sachs of the South African Constitutional Court who professes that ‘everybody counts’.¹⁰⁶

Heyns broadly defines participation as follows:¹⁰⁷

In a democratic process, the basis of the legitimacy of the state and its exercise of power is participatory decision-making. To serve as such a basis, participation must provide real and meaningful opportunities to influence outcomes. Participation must thus be of such a nature that the authority of the state and its exercise of power can truthfully be said to rest in the will of the people on whose behalf the power is exercised and those who are subjected to such exercises of power.

Therefore, CVE plays a pivotal role in capacitating the voter to fully participate in the democratic process. The interface between democracy, participation and civic education has its roots in classical

101 Art 12(3).

102 Art 17(4).

103 Art 17(1).

104 Art 13(1) of the International Covenant on Economic, Social, and Cultural Rights, adopted by United Nations General Assembly on 16 December 1966, entered into force 3 January 1976.

105 C Heyns ‘Study on the right to equal participation in political and public affairs in Africa’ (2017) 1, <https://www.ohchr.org/Documents/Issues/PublicAffairs/ChristofHeyns.docx> (accessed 11 September 2021).

106 *August & Another v Electoral Commission & Others* 1999 (3) SA 1 (CC) para 17.

107 As above.

theories of democracy wherein citizen participation and active involvement in the political process promote a culture of democracy, good governance, accountability, participation, the rule of law and constitutionalism.¹⁰⁸ Political participation is multi-faceted and places different demands on citizens.¹⁰⁹ From a human rights standpoint, the culmination of public and political participation through voting requires that citizens have to be sensitised to their electoral rights.¹¹⁰ The scope of the right of political participation is conventionally considered to include the elements of (i) voting and (ii) to be elected.¹¹¹ Heyns observes that the right to political participation is traditionally viewed as an individual rights that can only be realised in conjunction with a range of other rights, including the right to information.¹¹²

Political participation by citizens is a key component of democracy and directly relates to the phenomenon of elections.¹¹³ As Buthelezi argues, elections symbolise ‘popular sovereignty and the expression of the “social pact” between the state and people, which defines the basis of political authority, legitimacy and citizens’ obligations’.¹¹⁴ Electoral democracy advances political rights,¹¹⁵ and takes form through both representative and participatory elements of democracy. A voter’s right to political participation through election entails several key rights. This includes the right to free and genuine elections; the right to vote or to be voted for; and the right to a free choice of party or candidate.¹¹⁶ The right to political participation through electoral processes is a basic human right recognised in international and regional legal instruments. The subjective content of the right to political participation is discussed in the parts below.

4.2 International human rights system

The Universal Declaration of Human Rights (Universal Declaration) states that everyone has the ‘right to take part in the government of

108 M Katusiimeh ‘Civic education and the promotion of participatory democracy in Uganda’, <https://www.elections.org.za/content/WorkArea/DownloadAsset.aspx?id=1945> (accessed 11 September 2021).

109 Yoldaş (n 12) 547.

110 A Evrensel ‘Introduction’ in A Evrensel *Voter registration in Africa: A comparative analysis* (2010) 9.

111 Heyns (n 105) 1.

112 As above.

113 S Buthelezi ‘Statehood and citizenship’ in Seleti (n 72) 8.

114 As above.

115 O Edigheji ‘A democratic developmental state in Africa? A concept paper’, <http://www.rrojasdatbank.info/devstate/edigheji.pdf> (accessed 10 September 2020).

116 See also sec 19 read in conjunction with sec 1(d) of the Constitution of the Republic of South Africa.

his country, directly or through freely chosen representatives'.¹¹⁷ In similar fashion, the UN International Covenant on Civil and Political Rights (ICCPR)¹¹⁸ provides that the right to political participation can be manifested through: participation in elections through direct or representative democracy, and voting or being voted. Persons with disabilities form part of the target groups in need of empowerment in order to actively participate in the democratic electoral processes. In this regard, article 29 of the UN Convention on the Rights of Persons with Disabilities (CRPD)¹¹⁹ recognises the rights of persons with disabilities in their participation in political life.

Women's participation in electoral processes is on equal footing with men as it amounts to the fulfilment of basic human rights.¹²⁰ However, traditionally women have had diminished participation.¹²¹ Apart from the explicit recognition of everyone's right to political participation and with the complement from interlinked rights as contained in the Universal Declaration, ICCPR and CRPD, the other important international instrument is the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹²² CEDAW requires state parties to take all appropriate measures to eliminate discrimination against women in the political life and, in particular, to ensure that women are capable of voting in 'all elections and public referenda and to be eligible for election to all publicly elected bodies'.¹²³

The Convention on the Rights of the Child (CRC)¹²⁴ has set out conditions in which state parties can encourage young people's participation. Nevertheless, with the emphasis on the protection of children, the conditions specifically relate to persons under 18 years of age. The General Comment on the implementation of the rights of the child during adolescence¹²⁵ builds on the definitions outlined in CRC.

117 Art 21 of the Universal Declaration of Human Rights, adopted 10 December 1948.

118 Art 25 of the International Covenant on Civil and Political Rights, adopted 16 December 1966, entered into force 23 March 1976.

119 United Nations Convention on the Rights of Persons with Disabilities, adopted 30 March 2007, entered into force 3 May 2008.

120 Bibler (n 56) 10.

121 Pogson (n 25) 5-6.

122 United Nations Convention on the Elimination of All Forms of Discrimination against Women, adopted 18 December 1979, entered into force 3 September 1981.

123 Art 7 CEDAW.

124 United Nations Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990.

125 United Nations Committee on the Rights of the Child 'General Comment No 20 (2016) on the implementation of the rights of the child during adolescence'.

4.3 African human rights system

The legitimacy of any state wishing to be democratically functional and successfully upholding its human rights project is based on securing the effective realisation of the right to equal participation in political affairs.¹²⁶ Regional instruments provide a solid foundation for the development of legislation, policies and practices that foster full participation in political and electoral processes. A clear understanding of these legal frameworks offers a high likelihood of election management bodies in ensuring that electoral laws and processes are compliant to international standards and that their strategies and programmes are sensitive to target groups.

The African Charter recognises the right to political participation in article 13(1) which stipulates that '[e]very citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law'. Article 3 of the Constitutive Act of the African Union (AU)¹²⁷ provides that the objectives of the AU are to promote, among others, democratic principles and popular participation, and to ensure the effective participation of women in decision making, particularly in the political, economic and socio-cultural areas. In addition, state parties to the African Democracy Charter are also required to implement its objectives in accordance with the principles of effective participation of citizens in democratic processes.¹²⁸ The Democracy Charter further obliges its state parties to recognise 'popular participation through universal suffrage as the inalienable right of the people'.¹²⁹

The rights of women to participation enjoy special protection under the African Charter system. Article 9 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol),¹³⁰ which supplements the African Charter, provides as follows:

- (1) States parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that
 - (a) women participate without any discrimination in all elections;

¹²⁶ Heyns (n 105) 14.

¹²⁷ Constitutive Act of the African Union, adopted 11 July 2000, entered into force 26 May 2001.

¹²⁸ Art 3(4) African Democracy Charter.

¹²⁹ Art 4(2).

¹³⁰ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted 11 July 2003, entered into force 25 November 2005.

- (b) women are represented equally at all levels with men in all electoral processes; (c) women are equal partners with men at all levels of development and implementation of state policies and development programmes.
- (2) States parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

The African Charter of the Rights and Welfare of the Child (African Children's' Charter)¹³¹ contains no specific provision dealing with political participation by children. However, the African Youth Charter¹³² does so. Pertinent to youth participation, article 11 of the African Youth Charter stipulates:

- (1) Every young person shall have the right to participate in all spheres of society.
- (2) States parties shall take the following measures to promote active youth participation in society: They shall:
 - (a) guarantee the participation of youth in parliament and other decision-making bodies in accordance with the prescribed laws;
 - (b) facilitate the creation or strengthening of platforms for youth participation in decision-making at local, national, regional, and continental levels of governance;
 - (c) ensure equal access to young men and young women to participate in decision-making and in fulfilling civic duties.

In one form or another, at least 39 constitutions in Africa recognise the right to political participation.¹³³ The trend of constitutionalising the right to political participation signals the importance of fostering an active citizenry and its involvement in the democratic electoral processes.

131 African Charter on the Rights and Welfare of the Child, adopted 2 July 2006, entered into force 8 August 2009.

132 African Youth Charter, adopted 2 July 2006, entered into force 8 August 2009.

133 Angola (art 28); Benin (art 6); Burkina Faso (art 12); Burundi (arts 8, 86); Cameroon (art 2); Cape Verde (art 54); Central African Republic (art 18); Chad (art 6); Comoros (art 4); Côte d'Ivoire (art 33); Democratic Republic of the Congo (art 5); Djibouti (art 5); Eritrea (arts 20, 30); Ethiopia (art 38); Gabon (art 4); The Gambia (arts 26, 39); Ghana (art 42); Guinea (art 2); Guinea-Bissau (art 47); Kenya (art 38); Lesotho (sec 20); Liberia (art 77(b)); Madagascar (art 15); Malawi (sec 40(3)); Mali (art 27); Mauritius (sec 44); Mozambique (art 73); Namibia (art 17(2)); Niger (art 7); Rwanda (art 8); São Tomé and Príncipe (art 57); Senegal (art 3); Seychelles (arts 24, 113); Sierra Leone (sec 31); South Africa (sec 19(3)); Swaziland (sec 85); Tanzania (sec 5); Togo (sec 5); and Uganda (art 59). See also Heyns (n 105) 13.

5 Linking civic and voter education with technological systems

According to Dubow, Devaux and Manville,¹³⁴ the growth of the internet has ushered in an unprecedented flow of information worldwide, and the rapid spread of social media technologies that enable access to and consummation of information. Equally transformative, when citizens access and interpret information online, their digital skills increase. In the process, technological systems have the potential to contribute to strengthened democratic processes.¹³⁵

Indeed, digital platforms hold significant potential for facilitating more inclusive electoral participation, with particular benefits for the target groups such as the elderly and persons with disabilities.¹³⁶ Political engagement of these groups has traditionally been lower. Digital technologies are capable of mobilising greater participation by these groups and enable more direct participation in democratic electoral decision making. However, Dubow et al argue that '[t]he degree to which digital technologies can strengthen citizen participation in democratic processes was felt to depend on the ability of digital technologies to mobilise higher levels of engagement and action from citizens across a broader spectrum of society'.¹³⁷

CVE is at the centre of the participatory governance process.¹³⁸ The use of the internet as part of multimedia and digital technology can maximise the reach to the general public and to the electorate.¹³⁹ The COVID-19 pandemic has triggered an urgent digital rights crisis.¹⁴⁰ Access to internet facilities and technological equipment such as computers, laptops and smaller devices, such as iPads and smart phones, becomes desirable for the purpose of ensuring that CVE can reach the general public and the electorate. Ibeanu indicates that Canada has profitably used two strategies to conduct CVE, namely, (i) targeted messages; and (ii) information communication

¹³⁴ T Dubow, A Devaux & C Manville 'Civic engagement: How can digital technology encourage greater engagement in civil society?', https://www.rand.org/content/dam/rand/pubs/perspectives/PE200/PE253/RAND_PE253.pdf (accessed 29 March 2021).

¹³⁵ As above.

¹³⁶ As above.

¹³⁷ T Dubow et al 'Civic engagement: How can digital technologies underpin citizen-powered democracy?', https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CF300/CF373/RAND_CF373.pdf (accessed 29 March 2021).

¹³⁸ National Initiative for Civic Education in Uganda 'A platform for inclusive and values based civic education for sustainable development' (2019) 8.

¹³⁹ Shabane et al (n 26) 25.

¹⁴⁰ Digital Freedom Fund 'Why COVID-19 is a crisis for digital rights' 29 April 2020, <https://edri.org/our-work/why-covid-19-is-a-crisis-for-digital-rights/> (accessed 11 September 2021).

technology.¹⁴¹ In the Canadian context, Ibeanu captures the its success as follows: 'The use of ICT, particularly social media platforms like Facebook, Twitter and SMS has proven to be veritable mechanism for engaging citizens and developing their sense of civic duties and political efficacy.'¹⁴²

A typical example of a case study where CVE was conducted through social media campaigns is derived from the United States. In 2016 a voter outreach and education campaign called 'My Hope. My Voice. My Vote' placed full reliance of social media.¹⁴³ In order to inspire and encourage citizens to vote, the social media campaign used videos and messaging. The videos depicted voters discussing their voting experiences, illustrating 'how participating in the democratic process can hold very different, but positive feelings for each person'.¹⁴⁴ Citizens who participated in the social media campaign shared their personal perspectives on voting, and related their participation in the electoral processes with family connection and community history up to the present landscape. In addition, this campaign provided 'important dates, deadlines, and other useful statewide-voting information in a positive, approachable, consumer-friendly way'.¹⁴⁵ Another element that amplified the potential of this CVE strategy was that '[i]ndividual social media posts and graphics had valuable links to information about how to register to vote, how to receive an absentee ballot, or how to find a poll. One message reminded those who have completed prison sentences and probation of their right to vote.'¹⁴⁶

The results of this social media campaign revealed that there was an increased voter turnout and voter participation in the elections, albeit with a recommendation that this approach for CVE must be planned and conducted earlier.¹⁴⁷ An ideal digital platform geared towards informing and mobilising participation should map civic activity and initiatives that help to share learning and examples of citizens voting and reasons for the voting procedure.¹⁴⁸

141 Ibeanu (n 74) 98.

142 As above.

143 Pillsbury (n 42) 29.

144 As above.

145 As above.

146 As above.

147 As above.

148 Dubow et al (n 137).

6 Feasibility: Opportunities and threats

6.1 Opportunities

Access to the internet is essential to human development, and the UN 2030 Agenda 'recognised the spread of ICTs and global interconnectedness as having great potential to accelerate human progress, reduce inequalities and develop knowledge-based societies'.¹⁴⁹ In order to develop an active and informed citizenry and to foster meaningful political participation in the democratic process before, during and after elections, CVE should be conducted on a continuous basis.¹⁵⁰ Accessibility and the usage of digital devices play an important role in promoting active participation in the democratic process. Hence, the use of digital solutions in the furtherance of information dissemination and outreach ensures that election management bodies can digitally continue with conducting CVE. During heightened electoral activities, election management bodies mostly conduct community engagements and joint programmes with stakeholders around the pre-election period. A proclamation of elections to be held in whatsoever format during the COVID-19 pandemic presents an opportunity to veritably use digital technology to conduct CVE during this pre-election period.

In the era of the COVID-19 pandemic, the right of access to the internet has become more important.¹⁵¹ The general public and the target groups can become informed about political processes through communication tools and platforms such as cellular telephones, YouTube, Facebook and Twitter.¹⁵² Simiyu suggests that governments can collaborate 'with telecommunication companies to facilitate zero rated access to certain public information including government websites as well as that of state institutions such as EMBs'.¹⁵³ In this regard, it is desirable that the relevant websites must contain CVE messages that encourage the intended target groups to actively participate in the electoral processes. The ultimate goal is

149 A Gillwald & O Mothobi 'After access 2018: A demand-side view of mobile internet from 10 African countries' April 2018, https://researchictafrica.net/wp/wp-content/uploads/2019/05/2019_After-Access_Africa-Comparative-report.pdf (accessed 29 March 2021).

150 ACE Electoral Knowledge Network (n 70).

151 E Sarpong 'COVID-19 shows why internet access is a basic right. We must get everyone connected' 15 April 2020, <https://webfoundation.org/2020/04/covid-19-shows-why-internet-access-is-a-basic-right-we-must-get-everyone-connected/> (accessed 11 September 2021).

152 R Beeckmans & M Matzinger *Youth participation in electoral processes: Handbook for electoral management bodies* (2017) 43.

153 Simiyu (n 6).

ensuring that citizens are made aware of these messages and taught how to access them.

The COVID-19 pandemic has the potential to create increased opportunities for digital literacy and the realisation of digital rights in Africa. Digital literacy is 'the ability to use information and communication technologies to find, evaluate, create, and communicate information, requiring both cognitive and technical skills'.¹⁵⁴ Smart phones, laptops and the internet are key digital tools for usage in social engagements, and are very useful for the purpose of information dissemination of CVE. The indispensable digital infrastructure requires governments and the corporate sector to collaborate and devise significant investments and the adoption of policies that effectively create opportunities for digital literacy and the enjoyment of digital rights. For that reason, Turianskyi recommends that 'African governments and the corporate sector should utilise and share information and best practices adopted during the pandemic in their ICT operations'.¹⁵⁵ The pursuit of digital literacy entails the commitment by governments to implement policies that ensure that everyone is connected to the internet.¹⁵⁶ Accordingly, article 37 of the Declaration deals with access to the internet. The provision stipulates:

- (1) States shall facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights.
- (2) States shall recognise that universal, equitable, affordable and meaningful access to the internet is necessary for the realisation of freedom of expression, access to information and the exercise of other human rights.
- (3) States shall, in cooperation with all relevant stakeholders, adopt laws, policies and other measures to provide universal, equitable, affordable and meaningful access to the internet without discrimination.

6.2 Threats

A major threat to promoting CVE through technological systems is 'digital divide'. This may be defined as any unequal information communication technology access pattern among populations.¹⁵⁷ It

154 American Library Association 'Digital literacy', <https://literacy.ala.org/digital-literacy/> (accessed 29 March 2021).

155 Y Turianskyi 'COVID-19: Implications for the "digital divide" in Africa' 14 May 2020, <https://www.africaportal.org/features/covid-19-implications-of-the-pandemic-for-the-digital-divide-in-africa/> (accessed 29 March 2021).

156 Sarpong (n 151).

157 T Mayisela 'The potential use of mobile technology: Enhancing accessibility and communication in a blended learning course' (2013) 33 *South African Journal of*

exists in both developed and developing countries, and affects users of information communication technology in urban and rural areas as well those from different socio-economic categories. According to Fink and Kenny, the digital divide may be interpreted as follows:¹⁵⁸

A gap in access to use of ICTs – crudely measured by the number and spread of telephones, [smartphones] or web-enabled computers, for instance; a gap in the ability to use ICTs – measured by the skills base and the presence of numerous complimentary assets; a gap in actual use – the minutes of telecommunications for various purposes, the number and time online of users, the number of Internet hosts, and the level of electronic commerce; a gap in the impact of use – measured by financial and economic returns.

Evidence of the persistent digital divide in Africa treads on historical social inequalities, and it widens the gap between the poor and the rich.¹⁵⁹ While women and the poor form part of the target groups of CVE, digital divide is primarily factored by poverty, with those at the bottom of the pyramid (women and the poor) being the most marginalised.¹⁶⁰

Simiyu has noted that only 28,2 per cent of the African population has access to the internet, meaning that Africa has the lowermost mobile and internet penetration, quality, and affordability in the world.¹⁶¹ At face value, Simiyu's analysis on digital solutions for African elections during the COVID-19 pandemic identifies the need for an information communication technology infrastructure, equal access to electricity, and digital literacy.¹⁶² As a result, digital divide could have a detrimental effect on the feasibility of finding digital solutions for empowering voters in remote rural areas where access to technological infrastructure and equipment is distantly slim. The COVID-19 pandemic has laid bare the nature of digital divide in Africa where millions of people who lack sufficient economic resources are unable to afford the correct technological equipment such as smartphones or laptops.¹⁶³

The challenges to promoting CVE through technological systems are not solely confined to digital divide *per se*. According to Beeckmans

Education 2.

158 C Fink & CJ Kenny 'W(h)ither the digital divide?' (2003) 5 *Journal of Policy, Regulation and Strategy for Telecommunications, Information and Media 2.*

159 Gillwald & Mothobi (n 149).

160 As above.

161 Simiyu (n 6). See also E van der Merwe 'Connectivity now: Why internet access in Africa is more vital than ever' 16 July 2020, <https://www.mandelarhodes.org/ideas/connectivity-now-why-internet-access-in-africa-more-vital-than-ever/> (accessed 9 September 2021).

162 As above.

163 Turianskyi (n 155).

and Matzinger, several governments feel threatened by the powerful influence of social media platforms, to the extent that they have occasionally or continuously blocked their access in an effort to prevent the dissemination of information by citizens on electoral processes.¹⁶⁴ In the past five years internet shutdowns occurred in 77 per cent of African countries.¹⁶⁵ This could be labelled as ‘authoritarian surveillance technology’,¹⁶⁶ or digital authoritarianism, which entails ‘the use of digital information technology by authoritarian regimes to surveil, repress, and manipulate domestic and foreign populations’.¹⁶⁷ Even in circumstances where governments are responding to fake news about the COVID-19 pandemic, ‘authoritarian surveillance technology’ is against the ethos, values and principles of democracy.¹⁶⁸

6.3 Case study: Malawi

Articles 75 and 76(4) of the Constitution of the Republic of Malawi established an independent electoral commission, officially referred to as the Malawi Electoral Commission (MEC). The functions and powers of the MEC are stipulated in article 76(2) of the Constitution and section 8 of the Electoral Commission Act¹⁶⁹ respectively. Importantly, section 1(8)(j) confers on the MEC the function ‘to promote public awareness of electoral matters through the media and other appropriate and effective means and to conduct civic and voter education on such matters’. Accordingly, the MEC states that the objectives of CVE are the following:¹⁷⁰

- to increase knowledge, awareness skills and attitudes about the various electoral processes and procedures and the making of informed choices among women and men, young women and young men;
- to encourage public participation in the various electoral processes;
- to promote participation of vulnerable groups such as the rural masses, women, the youth, disabled persons and those affected and infected by HIV/AIDS;
- to engender the right attitudes and behaviour conducive to peaceful elections and the smooth conduct of elections;

¹⁶⁴ Beeckmans & Matzinger (n 152) 78.

¹⁶⁵ Turianskyi (n 155).

¹⁶⁶ Gravett (n 77) 127.

¹⁶⁷ S Feldstein ‘When it comes to digital authoritarianism, China is a challenge – but not the only challenge’ 12 February 2020, <https://warontherocks.com/2020/02/when-it-comes-to-digital-authoritarianism-china-is-a-challenge-but-not-the-only-challenge/> (accessed 14 October 2021).

¹⁶⁸ Mudau (n 28).

¹⁶⁹ Electoral Commission Act (ch 2:03).

¹⁷⁰ Malawi Electoral Commission ‘Civic and voter education’, <https://mec.org.mw/civic-and-voter-education/> (accessed 1 March 2021).

- to build confidence and trust in the electoral processes by the electorate; and
- to increase access and quality of C&VE.

While collaborating with accredited stakeholders such as the International Foundation for Electoral Systems and the National Democratic Institute, the common implementation strategy of CVE employed by the MEC includes theatre performances and road shows; traditional authority meetings; faith-based and school outreach programmes; the distribution of CVE materials; radio and television programmes; and the use of loudhailers.¹⁷¹

Malawi held presidential, parliamentary and local government elections in May 2019.¹⁷² However, allegations of electoral irregularities culminated in electoral petitions that challenged the credibility of elections before the High Court and the Supreme Court of Appeal, respectively.¹⁷³ The petitions transpired in the annulment of the presidential elections. The Courts ordered fresh elections through the two-round electoral system,¹⁷⁴ instead of the previous first-past-the-post system used in 2019. The Courts also declared that the MEC had failed to uphold its constitutional obligation to manage free and fair elections. This landmark adjudication of presidential elections resembled a similar occurrence witnessed in the 2017 Kenyan elections, constituting the only two rare cases in Africa. Nevertheless, when the election run-off or double-ballot took place, it was in the midst of the COVID-19 pandemic. The first COVID-19 positive cases in Malawi were confirmed on 2 April 2020,¹⁷⁵ albeit prior to the declaration of a state of disaster and suspension of public gatherings by President Peter Mutharika on 20 March 2020.¹⁷⁶ Factually, the fresh elections were not budgeted for, plunging the MEC in financial

171 As above.

172 International Foundation for Electoral Systems (IFES) 'Elections in Malawi: 2020 fresh presidential election' 18 July 2020, <https://www.ifes.org/faqs/elections-malawi-2020-fresh-presidential-election> (accessed 1 March 2021).

173 J Chunga 'Malawians' voting intentions point to a closely contested presidential election' 20 May 2020, https://media.africaportal.org/documents/ab_r8_dispatchno363_malawian_voting_intentions_point_to_close_contest.pdf (accessed 1 March 2021).

174 With the two-round system, if no candidate receives more than 50% of votes cast in the first round, or at least some other prescribed percentage, the two leading candidates or all contenders who received above a prescribed proportion of the votes, contest the second round of elections. The candidate who receives the highest number of votes in the second round wins the elections. See A Wall 'Electoral systems briefing paper', <https://aceproject.org/ero-en/topics/electoral-systems/SDOC1584.pdf> (accessed 1 March 2021).

175 GC Chirwa et al 'Malawi at the crossroads: Does the fear of contracting COVID-19 affect the propensity to vote? (2021) *European Journal of Development Research* 1.

176 T Mwanjisa 'COVID-19 and the future of Malawi's 2020 presidential election re-run' 20 March 2020, <https://www.dailymaverick.co.za/article/2020-04-20-covid-19-and-the-future-of-malawis-2020-presidential-election-re-run/> (accessed 1 March 2021).

challenges that required ‘the procurement of personal protective equipment, adding further budgetary constraints’.¹⁷⁷ All these factors impacted on human safety and the conducting of CVE.¹⁷⁸

In preparation of the presidential elections, Mwanyisa reveals that there were ‘serious hurdles to overcome, particularly in the areas of voter registration, campaigning, voter education and voting itself’.¹⁷⁹ Owing to the Supreme Court’s decision that re-elections must proceed, the registration of voters at the voter registration centres was inevitable. However, due to the COVID-19 pandemic, the lockdown restrictions obligated citizens to remain at home, and only five people were allowed to congregate at any given time.¹⁸⁰ Such a strictly-restricted number of gatherings negatively affected the traditional CVE events. As result, out of fear of breaching lockdown regulations and contracting the virus, the voter registration process attracted a smaller number of voters.¹⁸¹ Mwanyisa also expressed the concern that limited CVE had a higher likelihood of increasing spoiled ballots ‘among those who lack information about the process’.¹⁸² Consequently, the MEC had to devise alternative strategies for reaching voters without breaching the COVID-19 regulations.

As a measure of last resort, the MEC adopted digital platforms to conduct CVE. While conducting CVE in order to inform voters of the electoral processes and procedures of the approaching 23 June 2020 presidential elections, the MEC, with the support from the International Foundation for Electoral Systems (IFES), produced a series of videos as part of the ‘My Country, My Choice’ campaign.¹⁸³ The video included sign interpretations, and information about MEC measures to mitigate the spread of COVID-19 as well as approaches to enhance the effectiveness of the electoral process.

177 IFES (n 172) 9.

178 As above.

179 Mwanyisa (n 176).

180 As above.

181 As above.

182 As above.

183 Election Access ‘My country, my choice: Voting procedures during COVID-19’ July 2020, <http://www.electionaccess.org/en/resources/voter-education/voter-education/643/> (accessed 1 March 2021).

Official election results released by the MEC were as follows:¹⁸⁴

Figure 1

Total valid votes	4 388 376
Total votes cast	4 445 699
Null and void	57 323
Total registered voters	6 859 570

The opposition candidate in the elections, Lazarus Chakwera, emerged victorious against the incumbent President Peter Mutharika. The voter turnout was 64,8 per cent, with 1,29 per cent of spoilt votes.¹⁸⁵ In contrast, 5 105 983 Malawians voted in 2019, representing 74,4 per cent of registered voters. Chirwa et al¹⁸⁶ state that the voter turnout of the 23 June 2020 presidential elections, which were held when the numbers of COVID-19 cases were increasing rapidly, was 10 per cent lower than in the general elections held a year earlier. A national representative survey of adult Malawians shows that nearly two-thirds of Malawians thought that they were likely to contract COVID-19.¹⁸⁷ However, the perceived risk of contracting COVID-19 impacted on the willingness of voters to participate in the presidential elections.¹⁸⁸

Although Malawi primarily relied on videos to promote CVE in order to encourage voters to participate in the presidential elections, the fear of contracting COVID-19 overwhelmed the willingness of voters to participate in huge numbers. This is evidenced by the fact that the voter turnout in the election re-run were 10 per cent lower than in the general elections held a year earlier. Furthermore, the desirability of using digital platforms to promoting CVE was affected by the digital divide. In 2019 internet penetration in Malawi was reported to be 13,78 per cent of the population.¹⁸⁹ One of the most

¹⁸⁴ Malawi Electoral Commission 'National results' 27 June 2020, <https://www.mec.org.mw/elections2020/> (accessed 1 March 2021).

¹⁸⁵ Electoral Institute for Sustainable Democracy in Africa 'Malawi: 2020 presidential election rerun results', <https://www.eisa.org/wep/mal2020results1.htm> (accessed 10 October 2021).

¹⁸⁶ Chirwa et al (n 175).

¹⁸⁷ As above.

¹⁸⁸ As above.

¹⁸⁹ J Johnson 'Percentage of population using the internet in Malawi from 2000 to 2019' 27 January 2021, <https://www.statista.com/statistics/640140/malawi-internet-penetration/> (accessed 29 May 2021).

significant barriers to internet penetration in Malawi is the high price of access to the internet.¹⁹⁰ In contrast to its regional neighbours, the country 'has one of the lowest and slowest-growing rates of internet access in the world'.¹⁹¹ In addition, there is unreliable electricity provision and a high cost of fuel-generator power which affect the usage of technological systems. World Bank revealed that only 12,7 per cent of the country has access to electricity, causing Malawi to have one of the lowest electrification rates in the world.¹⁹² There is no free internet access in public places in Malawi,¹⁹³ and this aggravates the challenges of promoting CVE through technological systems.

7 Conclusion

The article dealt with the intersections between the provision of CVE and the opportunities and threats pertaining to the feasibility of finding digital solutions for enhanced voter participation in democratic electoral processes during the COVID-19 pandemic in Africa. The election management bodies are legally mandated to conduct CVE in order to promote active citizenry and participation in the electoral processes. The COVID-19 pandemic caused many governments to impose lockdowns with stringent restrictive measures that prevented public gatherings and required hygienic practices as well as physical and social distancing.

Reliance on technological systems to conduct CVE during the COVID-19 pandemic emerges as a measure of last resort. However, due to the digital divide and the numerous developmental challenges encountered by many African countries, the feasibility of using digital solutions for disseminating CVE becomes far-fetched. The case study of Malawi included in the article shows that the combined factors, namely, the lack of use of digital technologies, the fear of contracting COVID-19, and the digital divide, contributed to the decline in voter turnout during the presidential elections held on 23 June 2020.

190 J Kainja 'Digital rights: How accessible is the internet in Malawi?' 15 February 2019, <https://malawi.misa.org/2019/02/15/digital-rights-how-accessible-is-the-internet-in-malawi/> (accessed 29 May 2021).

191 <https://freedomhouse.org/country/malawi/freedom-net/2020> (accessed 29 May 2021).

192 World Bank 'Access to electricity (% of population)' 26 February 2020, <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=MW> (accessed 29 May 2021).

193 T Chirwa-Ndanga 'Malawi's internet shutdown: When the powerful become afraid', <http://www.ngopulse.org/sites/default/files/attachments/Teresa%20Chirwa%20Ndanga%20MALAWI-INTERNET%20ACCESS%20LIMITATION.pdf> (accessed 29 March 2021).

Generally, CVE programmes are conducted through physical meetings. The failure to hold contact sessions for CVE events impacts on the right of access to information of target groups such as women, the youth, persons with disabilities, the illiterate, voters in rural areas and disadvantaged minorities. In addition, insufficient technological infrastructure and equipment aggravate the challenges to information dissemination and outreach during the COVID-19 pandemic.

Governments and other relevant stakeholders such as the private sector should invest in information communication technology infrastructure, particularly in rural areas, and low-cost internet-enabled devices with a view to bridging the digital divide in these societies and encouraging greater access to social media platforms. Governments must desist from authoritarian surveillance technology that is accompanied by assaults on media and internet freedoms. Civil society organisations, election management bodies and other stakeholders involved in CVE activities should prioritise digital literacy in their campaigns to enhance voter participation.

While in concurrence with Simiyu, the article equally further recommends governments' collaboration with 'telecommunication companies to facilitate zero rated access to certain public information including government websites as well as that of state institutions such as EMBs'.¹⁹⁴ Ideally, these websites have to contain CVE messages that encourage the intended target groups to actively participate in the electoral processes. The ultimate goal is ensuring that citizens are made aware of these messages and taught how to access them.

¹⁹⁴ Simiyu (n 6).