Dr Mehari Taddele Maru is Programme Manager for the African Conflict Prevention and Risk Analysis Programme at Institute for Security Studies, Addis Ababa Office.

Rethinking and reforming the African Union Commission elections

Mehari Taddele Maru

Recently, in July 2012, the high-profile and bitterly fought nine-month race for the post of Chair of the African Union (AU) Commission, between Dr Jean Ping of Gabon, and his main challenger, Dr Nkosazana Dlamini-Zuma, culminated in the latter's victory. Her victory came after the deadlock at the Eighteenth AU Summit in January 2012. Borne out of the considered need for a quick fix through reliance on a vote of expediency, the election of Dr Dlamini-Zuma represented a political resolution to the crisis that arose due to the earlier ongoing electoral deadlock. Far from being a competitive election by design, the 2012 AU Commission election by *default* became transformed into an intensely fought campaign that put the AU in the limelight. This article briefly introduces the electoral process, explains in detail the voting behaviour of AU member states, and offers five specific reasons for the victory of Dr Dlamini-Zuma. On the surface the election looks very competitive, but the article explains why this is not the case. To create greater competition for these posts, the AU needs to overhaul the nomination process and the voting procedure. In this regard, the article proffers detailed analysis and proposes a radical revision of the existing criteria for the nomination. The article also proposes specific recommendations for the amendment of the rules of procedure of the AU Assembly to allow for a *qualified majority* as a deadlock breaker in the fifth round. It also assesses whether the integrity of the AU Commission election was damaged during the campaigning and voting process. In this regard, it recommends the development of a code of conduct for future elections at the AU.

Keywords African Union, election, reform, integrity, legitimacy, representation, meritocracy

Introduction

By electing Dr Nkosazana Dlamini-Zuma as the first chairwoman of the African Union (AU) Commission, the July 2012 Nineteenth Summit of the AU has effected a change of guard. This has officially ended the electoral deadlock that occurred in the January 2012 Eighteenth AU Summit. The deadlock resulted from the extremely tight election competition between the incumbent Chairperson of the AU Commission, Dr Jean Ping of Gabon, and the South African candidate, Dr Dlamini-Zuma. Her victory came after the Ad Hoc Committee of Eight Heads of State and Government (Committee of Eight), established to formulate solutions to the electoral deadlock, failed to come up with a decisive solution.[1]

Like the 2011 North Africa uprisings that caught almost everybody by surprise, the nomination of Dr Dlamini-Zuma by South Africa, the fierce election race and deadlock in January 2012, and her eventual victorious election as leader of the AU Commission have also astonished many commentators, including many AU member states and staff members of the AU Commission. The election of Dr Dlamini-Zuma as chairperson reinforced old concerns that were raised after her nomination and spawned new worries about the impact of her leadership. Her election has also generated further discussion related to the reasons behind the changes in the voting behaviour of many member states of the AU. Furthermore, it has also raised novel questions about the short-term implications and long-term consequences of the 2012 election, the deadlock that ensued, and the manner of campaigning in view of the rules governing the elections for the AU Commission leadership. This election elicited excitement about the possibility of change at the AU Commission.

This article briefly introduces the electoral process and investigates the nature of the election campaign, comparing the voting behaviour of member states of the AU in the January 2012 Summit election, in which Dr Ping led in the balloting but failed to obtain the required two-thirds vote, to his subsequent defeat at the July 2012 AU Summit. Furthermore, the article explains the reasons behind the victory of Dr Dlamini-Zuma and the eventual defeat of Dr Ping. By examining the factors that caused the deadlock, identifying the major shortcomings in the election campaign and pinpointing the legal lacunae in the rules of procedure, the article examines the implications of the 2012 elections for future elections.
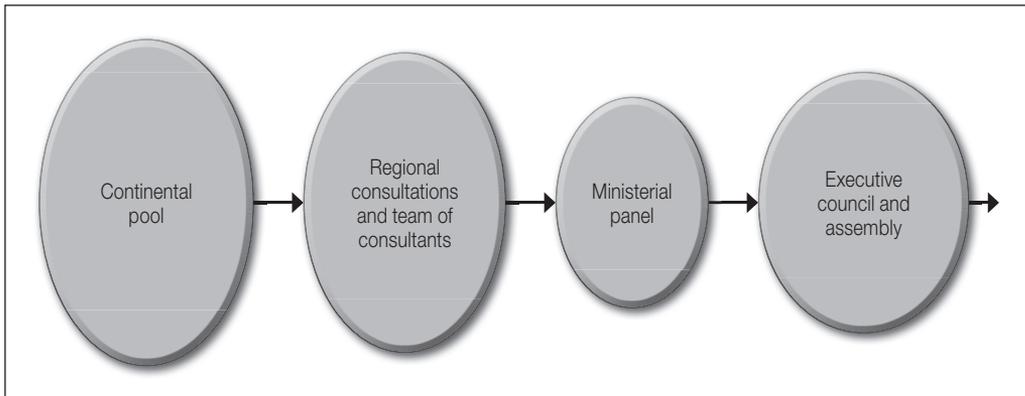
Looking forward, the article identifies a few areas of reform and proposes recommendations for more free, fair and credible elections with the highest possible ethical standards and competition.

Nomination and election process: gender and geographic representation

The first step in the election process for the leadership of the AU Commission is for the member states of the AU to forward the names of their candidates in response to calls by the Legal Counsel of the Commission.[2] The Counsel then prepares a list of the nominations from the member states. Based on this list, pre-selection processes are conducted at a regional level to identify candidates for each region. The elections are based on the AU regional geographic distribution formula. Each of the five regions, save those nominating candidates for the chairperson position, is entitled to propose two candidates for the ten portfolios of the Commission. At least one of the candidates for each region should be a female candidate. This makes a total of eighty candidates, of which at least forty must be female.[3] The regions from which the chairperson

and deputy chairperson are nominated can only propose one candidate each for commissioner positions. These selected regional candidates form the continental pool of candidates, which the Legal Counsel prepares with a team of consultants. The team of consultants is composed of two independent experts from each region who verify whether the candidates fulfil the required criteria and other elements such as the regional geographic distribution.[4] The central pre-selection process begins with the consideration of the pool of candidates and a report from the team of consultants by a ministerial panel composed of two ministers from each region. The ministerial meeting in turn submits the list of candidates for the commissioners and the chair and deputy persons to the Executive Council and the Assembly.[5]

Figure 1 Nomination and Election Process for the AU Commission

The worrying trend: declining nominations, and dwindling competition

A significant contribution of South Africa's nomination of and insistent campaigning for Dr Dlamini-Zuma, and the most enduring advantage of this election, is that it has aroused interest in, and stimulated debate on, the AU Commission by the AU in general. A long-term implication is that this competition has set a higher standard for the next elections at the AU Commission. Winning elections for posts at the AU Commission will not be as easy as it was before. Incumbency will not be a guarantee for re-election. Nonetheless, this election development happened by default, not by design. On the surface, the election looks very competitive. However, a closer look at the number and manner of nominations and the profile of the candidates shows that the nominations were insufficient in number and in competence. Since 2004, the number of nominations received by the Legal Counsel of the AU Commission has drastically declined. Central Africa forwarded the greatest number of nominations. Cameroon, for example, nominated nine persons.[6] As a result of regional consultations, the Ministerial Panel reduced the number of nominations from the central region by five nominations.[7] Entitled to two posts at the AU Commission leadership, North Africa nominated only two, rendering the election uncompetitive. Similarly, the incumbent Deputy Chairperson ran alone without a challenger and reduced the election for this high post into a vote of confidence.

While the Central African region nominates more than its share, North Africa nominated only two, the number of posts it is entitled to hold.

Figure 2 The worrying trend of the declining number of nominations, decreasing pool of candidates and dwindling competition
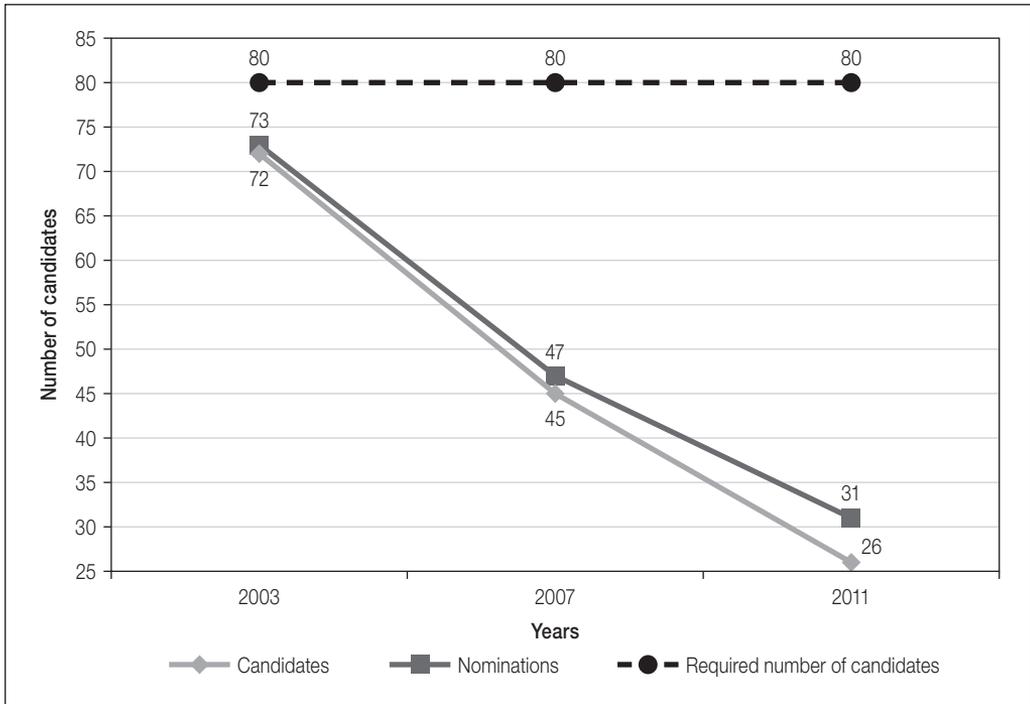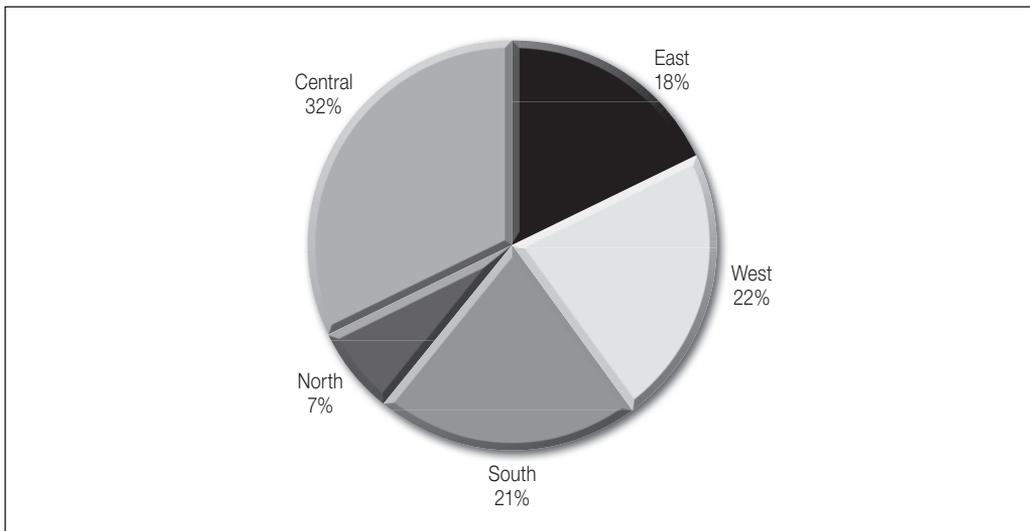

Figure 3 Some regions of Africa nominated more candidates than others

Candidates by department of the AU Commission[8]

Some portfolios have more than seven nominations while others only have one.

The percentage of female candidates compared to male candidates has increased since the AU's last ministerial panel meeting in Malabo, Equatorial Guinea, in November 2011.[9] This indicates positive progress in the nomination process.

Figure 4 Some regions limit the competition by nomination; some regions have more candidates than others
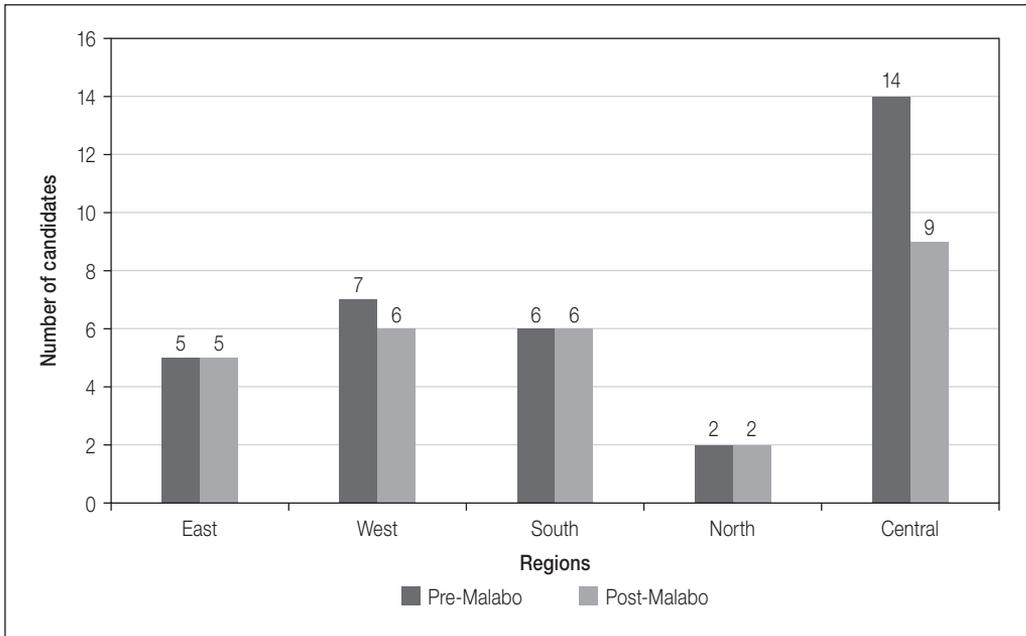

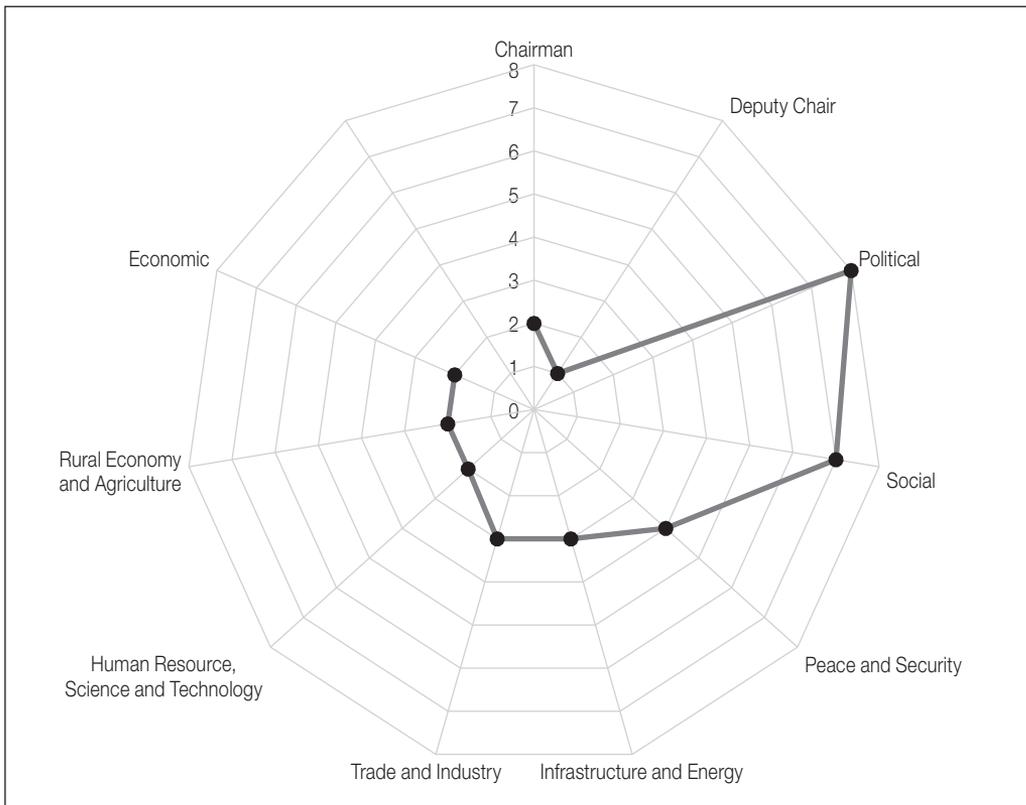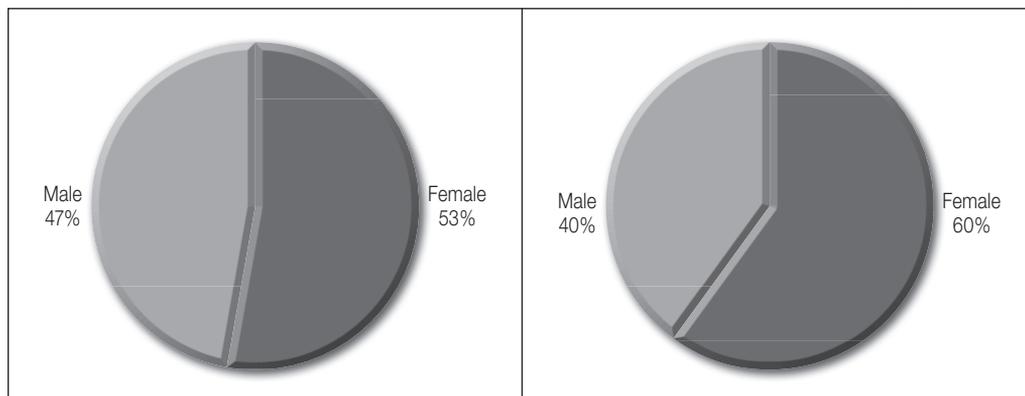**Figure 5** Candidates by department of the AU Commission

Figure 6 Increase in number of female candidates after the Ministerial Panel meeting in Malabo

Male 47%   Female 53%

Male 40%   Female 60%

Old concerns and new worries on the election of Dr Dlamini-Zuma

On the positive side, this election for the leadership of the AU election derived enormous benefit from the nomination of Dr Dlamini-Zuma. It has set several precedents that should be followed in future elections. The election established a high threshold for competitive elections for the leadership posts at the AU Commission. Regardless of the questions and misgivings associated with the manner of South Africa's election campaign, incumbent leaders of the AU Commission will face stiff election competition from new candidates in future. Furthermore, large African countries may propose candidates for the post of Chairperson, thereby overriding the traditional practice of candidates for chairperson only being nominated by small countries. It should not come as a surprise if, after four years, candidates from countries such as Nigeria, Ghana, Egypt, Algeria, Kenya and Ethiopia compete for the post of Chairperson. Dr Dlamini-Zuma's victory also broke another unwritten rule. Unlike previous elections, the posts of both Chairperson and Deputy Chairperson will, for the first time, both be held by Anglophone countries.

A gentlemen's agreement used to forbid big countries from running for the post of Chairperson, but now small countries may permanently be excluded from assuming this post. However, the concept of meritocracy benefits from this change from unwritten, traditional and basic rules. Now, competent candidates, regardless of their origin, the size of their country, the financial contributions of their government to the AU, or their colonial history, are entitled to compete for any AU Commission posts. By and in itself, Dr Dlamini-Zuma's election as the first chairwoman of the AU Commission represents progress at the AU. As a matter of principle, these changes constitute generational progress towards a meritocratic, competitive and gender-sensitive Pan-African political landscape.

Despite these positive aspects of the election, South Africa's 'do or die' election campaign has led to violations of many substantive and established procedural practices. Consequently, for South Africa, this victory came at enormous cost. Most of the concerns over the motives of South Africa's nomination of Dr Dlamini-Zuma still remain legitimate. Was the motive a genuine commitment to push a Pan-African agenda or a spillover of the domestic politics of South Africa? As an ex-wife of the current President of South Africa, Jacob Zuma, and the lone remaining member of the cabinet of the former President of South Africa, Thabo Mbeki, it was widely believed that Dr Dlamini-Zuma could have challenged her ex-husband in the

bid for the presidency of South Africa in 2014.[10] As an extension of South Africa's domestic political struggle and an internal arrangement within the ruling African National Congress, her candidature for election to the AU Commission chairpersonship represents a compromise deal to remove her from South Africa's domestic political landscape.

Concerns about the integrity of the AU and its election and voting process will remain, as their implication extends beyond the AU Commission. Questions have been raised about the manner in which South Africa carried out its election campaign. Did South Africa run an ethical election campaign within the bounds of the ethical code of conduct the AU requires from its member states in national elections? Election campaigning tactics of an opaque nature, involving enormous financial contributions, damage the integrity of such elections, regardless of whether the accompanying deals fall within the ambit of bilateral cooperation. Dr Dlamini-Zuma's victory came after nine months of targeted and aggressive election campaigning that included strategic vote-trading, some rough exchanges, shuttle diplomacy and the utilisation of significant amounts of funding for horse-trading and 'envelope diplomacy'.[11] Smear tactics and mudslinging and disinformation were also employed as part of the election campaign.[12] While the competitive nature of the campaign has to be nurtured, in this specific election one has to ask whether the end justified the means.[13] Moreover, the campaign involved unethical and probably clear violations of principles of a free and fair election due to back-door negotiations, inducements through horse-trading and bartering votes for favours.[14] The competitive nature of the campaign has to be nurtured. In this specific election, the end justified the means, while the election and the campaign strategies employed should have been exemplary to all contending political leaders and parties.

At the root of these concerns and questions lies the need to maintain the same level of integrity for the election of AU leaders that is applied to African elections. As the norm-setting body on the democratic principles of free and fair elections across the continent, the AU should hold the highest possible threshold of ethical standards for its own leadership elections. The elections for the AU Commission should pass the same rigorous tests and uphold the same principles that it requires from its member states.

The consequences of a surprise nomination by South Africa

Received with surprise by many African states, South Africa's nomination of Dr Dlamini-Zuma stirred concerns about the underlying motives and the total absence of prior consultation by South Africa. In the beginning, like most African countries, member states of the Southern African Development Community (SADC) were also alarmed by the nomination.[15] What is more, the nomination by South Africa contradicted the unwritten agreement that excludes regional powers from vying for the post of chairperson of the AU Commission. Indeed, one of the three important unwritten rules that the Committee of Eight intensively debated included the 'tradition whereby the big contributors abstained from standing for the post of AU Secretary General or Chairperson of AU'.[16] However, it failed to advance a concrete proposal and only indicated that

> at its level, it was not for it to pronounce on the aforementioned unwritten practices and rules and that it fell on the Assembly itself to examine them and indicate that, in future, the said unwritten practices and rules could be taken into account, and if need be, incorporated in the rules of the Organization in accordance with the procedures in force.[17]

Construed as part of this rather worrying foreign policy approach of President Zuma, the nomination of Dr Dlamini-Zuma was opposed by many AU member states, not because of their support for Dr Ping but mainly due to their disapproval of President Zuma's divisive, exclusive and insensitive approach to a number of key regional, linguistic and diplomatic African dynamics. His approach indirectly contradicts the longstanding tradition of pre-summit informal consultation by the major influential regional leaders as was done previously by his predecessor, Thabo Mbeki, and with former presidents Olusegun Obasanjo of Nigeria and John Kufuor of Ghana, as well as the Prime Minister of Ethiopia, Meles Zenawi, and Algeria's President Abdelaziz Bouteflika. To ensure common understanding, they consulted before proposing any agenda items of such a serious nature.
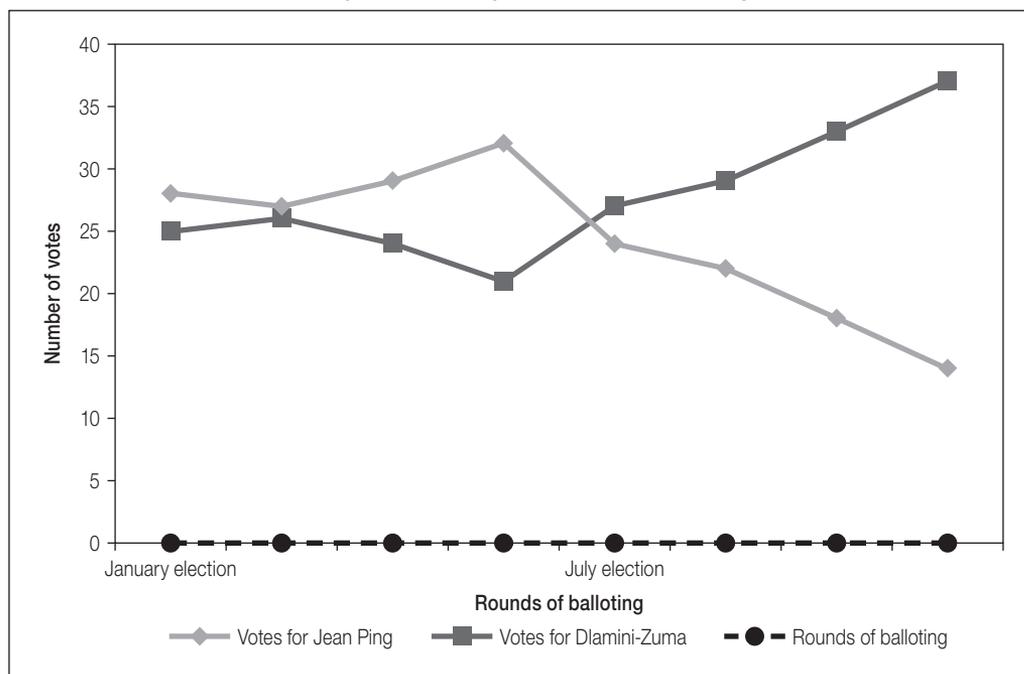
Furthermore, these countries all have reservations about giving power to Pretoria that may constrain their own spheres of influence and national interests in their respective regions.[18] Dr Dlamini-Zuma tried to address this concern immediately after her victory, stating that: 'South Africa is not going to come to Addis Ababa to run the AU. It is Dlamini-Zuma who is going to come to make a contribution.'[19] Smaller nations are also concerned that their candidates may never attain the top position at the AU Commission. Abolition of the old unwritten agreement may reduce them to being part of a permanent minority. Apart from serious misgivings about South Africa's foreign policy under President Zuma, the manner in which Dr Dlamini-Zuma conducted her election campaign and her public display of joy at the failure of Dr Ping to secure a two-thirds majority amused and offended many observers. Some regional players such as Nigeria, Ghana, Egypt, Kenya, and Ethiopia had actually actively promoted Dr Ping with the aim of preventing Dr Dlamini-Zuma's success.[20] According to some commentators, the victory of Dr Dlamini-Zuma was perceived as a defeat for regional players such as Nigeria.[21]

Paradoxical dichotomy of the two election results: the voting behaviour of states

In the January 2012 Summit, fifty-three of the fifty-four AU member states were eligible to vote, save Madagascar, which is under sanction for an unconstitutional change of government.[22] In the July 2012 Summit, Mali and Guinea-Bissau were added to the sanctions list and were also not eligible to vote.[23] Thus, only 51 countries voted in the July 2012 election. In the January 2012 election, Dr Ping led the balloting in the first three rounds by an average of three votes. He lost the fourth ballot that constituted a vote of no confidence, by winning only 32 of the 53 votes.[24] Dr Jean Ping failed to win 65 per cent of the votes, enjoying just over 60,3 per cent support. This indicates that he did not enjoy the support of one-third of the member states, most of them SADC member states. With Guinea-Bissau and Mali under sanction, and with the defection of Chad from Dr Ping's camp, Dr Dlamini-Zuma led by three votes. On the fourth ballot she won 37 of the 51 votes. Her victory in the fourth round constituted 72,5 per cent, not 60 per cent as widely reported by many media outlets and analysts. What explains this trend reversal?

Turning the tide: five reasons behind Dr Dlamini-Zuma's victory

In secret balloting, any conclusion about voting behaviour remains highly uncertain. However, based on some diplomatic sources and circumstantial evidence, one can provide an

Figure 7 Comparison of January 2012 and July 2012 AU Summit voting for the post of Chairperson

intelligent estimate of the voting behaviour of the states involved. The victory of Dr Dlamini-Zuma is attributable to the following five major factors: the solidarity and the support she enjoyed from SADC and the government of South Africa; the contrasting limited support the Gabon extended to Dr Ping; the micro-targeted election campaigning strategy and enormous election financing; the absence of two influential heads of state; and most importantly the urgent need felt by the leaders to break the electoral deadlock that had previously prevented the AU from electing a new leader of the AU Commission.

Although Dr Dlamini-Zuma gained most of her voter support from SADC and Africa's Anglophone countries, a number of Francophone countries like Benin, Chad, the Democratic Republic of the Congo (DRC) and Burundi reportedly also voted for her.[25] Some of Dr Ping's staunch supporters were Anglophone countries. This signifies a positive development in reducing the political barrier colonial language posed in the history of the AU and OAU. In this regard, South Africa's contributions in the DRC and Burundi peace mediation might have played a role. Throughout the election, the full machinery of South Africa's Ministry of International Relations and Cooperation was at the forefront of Dr Dlamini-Zuma's campaign. To ensure that she would win the election, the government of South Africa convinced and mobilised the SADC to act as a unified bloc in support of its candidate. Composed of no fewer than three ministers drawn from SADC member states, including a member from South Africa, the SADC sent delegations to almost all African states to solicit support for its candidate.[26] As part of its micro-targeting campaign, South Africa approached many of the member states with the specific interests of each country in mind, using favours and resources effectively. This required a substantial investment of resources, made available by South Africa.

While South Sudan expressly pointed out that it had voted for Dr Dlamini-Zuma in terms of its prior pledge to this effect long before the Summit,[27] bilateral economic cooperation and

personal interests might also have influenced the vote. Benin, Cape Verde, Somalia, Chad, Benin and Liberia may also have voted for Dr Dlamini-Zuma for various reasons linked to a presumed economic partnership, financial support towards the payment of their AU arrears and because of gender considerations. It is to be recalled that the arrears of some member states in terms of their contributions to the AU budget were paid only a few weeks before the Summit.[28] This aggressive campaigning, to some extent, explains the votes that Dr Dlamini-Zuma received particularly from countries outside of the SADC region. In a way, votes cast for candidates' countries did not necessarily reflect support for the vision, integrity or competence of the opposing candidates.

In contrast, although Dr Ping was officially supported by Gabon from the very beginning, apart from the private jet that his government placed at his disposal, the Government of Gabon did not actively campaign for Dr Ping. Gabon reacted only when media outlets, particularly from South Africa, reported many inaccurate and questionable stories regarding communications, indicating that Dr Ping lacked the support of his own country.[29] During the balloting, some heads of states from SADC countries were asking delegates in the hall to vote for Dr Dlamini-Zuma, but no similar effort was made by Gabon's head of state. Active *in situ* lobbying contributed to the surge in the number of votes in favour of Dr Dlamini-Zuma.

With the necessary security arrangements in place, both President Jonathan and Prime Minister Zenawi were expected to attend the Summit.[30] An Economic Community of West African States (ECOWAS) pre-summit consultation, similar to the one conducted in January 2012 to discuss the election, among other issues, was also cancelled due to the absence of President Jonathan.[31] According to many observers, the absence of Prime Minister Zenawi from both the third meeting of the Committee of Eight and the AU Summit, the cancellation of the ECOWAS pre-summit consultation, and the absence of President Jonathan from the Summit undoubtedly allowed South Africa and SADC to ultimately influence the AU Summit.

In its report to the Assembly, the Committee of Eight 'observed with regret that no progress had been achieved and that the two countries concerned had maintained their positions, with the risk of leading the Union into the same stalemate seen at the January 2012 Summit'.[32] It also strongly urged the Assembly to avert a further deadlock by stating that 'the image and credibility of the AU were seriously tarnished by the failure of the election of the Chairperson of the Commission by the 18th Session of the Assembly of the Union, and it is absolutely necessary to avoid a repeat of the same impasse at the July 2012 Summit'.[33] Accordingly, the leaders simply wanted to end the ongoing deadlock and avoid electoral fatigue. Once the first balloting went in favour of Dr Dlamini-Zuma, the rest of the balloting followed the example of the first balloting. Thus, the July election practically constituted less of a legal decision. Borne out of the considered need for a quick fix through reliance on a vote of expediency, the election of Dr Dlamini-Zuma represented a political resolution to the crisis that arose due to the earlier ongoing electoral deadlock.

Areas of reform

Far from being a competitive election by design, the 2012 AU Commission election by *default* became transformed into an intensively fought campaign that put the AU in the limelight. Undoubtedly, it aroused the interest of many commentators and stimulated further debate about the AU. The most enduring message of this election is that an incumbency does not

guarantee re-election; and being a candidate from an economically advanced and influential country does not ensure a smooth victory. Intensive election competition driven by a genuine commitment towards the AU Pan-African agenda, with a vision to provide better leadership, would certainly signify marked differences from the past and could result in a more effective and efficient AU. More importantly, if planned and maintained, such competitive elections could signify the relevance of the AU for its member states and indirectly the peoples of Africa. Hence, this election and the initial deadlock offered a welcome opportunity for reform.

Overhauling the nomination process: towards meritocracy

A competitive election requires an adequate number of nominations and competent candidates. While the AU member states are required to nominate eighty candidates, the continental pool had only twenty-five candidates.[34] Consequently, the 2012 election has been characterised by a sharp decline in the submissions of nominations.[35] The Ministerial Panel for the Election of Commissioners and the Team of Consultants noted with concern that the 'limited number of candidatures ... could be an impediment to the potential of selecting the most competent candidates for the portfolios'.[36] Member states bestow minimal attention on the elections. Most of the submissions were made with incomplete documents. In the 2012 election, a particular AU member state actually nominated a candidate without a university education. The Team of Consultants excluded this particular nomination without the minimum requirement of a university degree. No region 'complied with the rules and modalities for presentation of candidates'.[37] The pool of nominations included consultants and staff members of the AU Commission. This, by itself, should not be considered as problematic and could even be beneficial for the AU. Nevertheless, these facts indicate the lack of rigour in the nomination process. Member states and regions also proposed the incumbent leaders of the AU Commission as nominees. In this regard, the Ministerial Panel pointed out that the 'fact that no appraisal performance report was submitted for the incumbent Commissioners seeking re-election'[38] contributes to the uncompetitive nature of the elections. The current nomination process lacks transparency at national level, and it is not competitive. This election has already provided an excellent opportunity, if seized, to reverse the sharp decline in nominations, as evidenced in the past three elections.

Politically expedient compromise borne out of election fatigue and an absence of substantive choice would not deliver a popularly legitimate and effectively performing leadership at the AU Commission. Accordingly, the AU needs to overhaul the nomination process and the voting procedure to make available the best candidates for the AU Commission leadership in future. The AU needs to ensure the observance of the criteria by member states and regions. Failure in any of the required submissions of documentation and competence of the nominees should be sufficient reason for disqualification. New candidates should be strictly evaluated and incumbent contenders should be appraised based on their popular and performance legitimacy, as achieved during their first term. Regions should also ensure that their member states observe the rules and criteria in order for them to provide the best candidate for the Continental Pool. At the member state level, attention should be granted to the nomination. In reality this may require the allocation of resources for the process. Governments need to encourage the highest possible national level competition through public announcements and by ensuring the integrity of such a nomination process.

Criteria and marking system based on popular and performance legitimacy

Furthermore, the criteria applied by the Team of Consultants and the Ministerial Panel for the Pre-Selection Process of Commissioners need to be revised. Current marking procedures employ five criteria:

- *Education* that focuses on degrees and publications of the nominee as verified by official certificates, marked 30.
- *Experience* in both public and private, marked 25.
- *Leadership* as proved through previous positions held, marked 20.
- *Achievement* measured by career progression and merit awards, marked 20.
- *Vision and strategic approach* provided in a brief mission statement of the candidate that indicates his/her intention, marked 10.[39]

The passing mark for candidates is 60 per cent.[40]

To create the highest competitiveness for these posts, the existing criteria need to be revised radically. What is more, the marking formula corresponding to the criteria set by the Team of Consultants would serve the AU better if reversed. Accordingly, criteria for candidacy should focus on the merits and integrity of a candidate. Vision and a strategic approach that demonstrate a Pan-African commitment and understanding of the AU, as well as achievements and leadership quality corroborated in the popular and performance legitimacy of the candidate in previous posts, should be graded higher than mere educational background and experience, which the current marking system follows.

Amending the rules of procedure: qualified majority as a deadlock breaker

The need for amendment of the relevant rule of procedure of the AU is still valid. The electoral deadlock that the AU faced in January 2012 resulted from legal lacunae in and lack of foresight on the AU Rules of Procedure. One of the most important legal questions in this election was whether candidates like Dr Ping and Dr Dlamini-Zuma, who failed to secure a two-thirds majority in the first election, should be allowed to run again, or if fresh nominations should be called for. The rules are silent regarding candidates who fail to get the required two-thirds majority necessary to win the election. After three rounds of elections and a confidence vote, no winner emerged because of the failure of both the candidates to secure the required two-thirds majority support. Furthermore, such an electoral deadlock constituted a major impediment to the AU Commission's ability to focus on other urgent and important agenda items, reducing the AU Commission to a 'lame-duck' commission. The downside of this is that an extension of the term of the 'lame-duck' commission has continued to negatively affect the functioning of the AU Commission. During the past six months, the Chairperson and Deputy Chairperson, as well as half of the Commissioners, have spent a significant amount of their time campaigning and concentrating on how to win a second term. What is more, during this time, officials of the support services exceeded their mandates for recruitment, which could have serious implications in the future.[41] As the Committee of Eight has pointed out, this development tarnished the image of the AU.[42]

Thus, when such deadlocks occur in future, the Summit should decide that candidates failing to gain the required majority should withdraw, and call for new nominations for the relevant posts. This procedure would be desirable for the following reasons. First, it would offer an opportunity to member states to propose well-considered new nominations, particularly for uncontested posts. In actual fact, the Ministerial Panel for the Election of Commissioners recommended new nominations to the Executive Council for posts having only a single candidate.[43] This important recommendation should also be applied to the other positions in the AU Commission. Second, it would offer a diplomatic way out for member states to vote for other candidates, helping to unify the AU by preventing any similar diplomatic tensions in the future. This could be one option for the amendment of the Rules of Procedure of the AU Assembly.

However, this option may also require the extension of the mandate of the incumbent leadership until fresh elections are conducted. To avoid such deadlocks in the voting, and at the same time to prevent any extension of a mandate of an incumbent leadership, the AU Summit should amend the rules of procedure to provide a deadlock breaker when continuous balloting produces no winner. This could take the form of an amendment to the current rules of procedure to include a *qualified majority* rule as a deadlock breaker, when the balloting advances to the fifth round and the minority candidate continues to block the election. The amendment of the rules of procedure to allow for a *qualified majority* in the fifth round would require a blocking minority of 45 per cent as opposed to the current 35 per cent.[44] Finally, ensuring the integrity of the election process demands serious attention and further work by the AU. In this regard, a code of conduct should be developed for future elections at the AU. In the long term, the AU needs to adopt election voting quota based on population size. This will ensure the process of working towards transforming the AU from a 'union of states' to a 'union of African peoples'.

Notes

1   The Committee of Eight comprises the Prime Minister of Ethiopia, Mr Meles Zenawi, the President of South Africa, Mr Jacob Zuma, and the President of Benin, Thomas Yayi Boni, and heads of states of Algeria, Angola, Chad, Côte d'Ivoire, and Gabon.

2   See Article 6–17 of the Statutes of the Commission of the African Union, AU, Decision on the Statutes of the Commission of the African Union, Ass/AU/2(I)-d. Also see the Modalities for Election of the Members of the Commission of the African Union, the Nineteenth Ordinary Session of the Executive Council, Decision EX.CL/AU/Dec.661 (XIX). Note Verbal BC/OLC/217/5065.11 dated 21 September 2011. Rules 38-42, the Rules of Procedure of the AU Assembly, Assembly of the African Union, First Ordinary Session, 9–10 July 2002, Durban, South Africa, www.africa-union.org/rule_prot/rules_Assembly.pdf (accessed 23 July 2012).

3   Ibid. (5 regions × 2 candidates each × 8 portfolios = 80 candidates)

4   Ibid.

5   Ibid.

6   Report of the Ministerial Panel for the Election of Commissioners, Executive Council, Twentieth Ordinary Session, 23 – 27 January 2012, Addis Ababa, Ethiopia, EX.CL/713(XX); The Report of the Team of Consultants to Assist the Ministerial Panel on the Election of Commissioners, 19 November 2012. The Ministerial Panel on Election of Commissioners composed of Algeria, Chad, Ethiopia, Liberia, Libya, Malawi, Namibia, Rwanda, and Senegal met in Malabo, Equatorial Guinea on 24 November 2011 and January 14, 2012 in Addis Ababa.

7   Ibid.

8   CH: Chairperson, DCH: Deputy Chairperson, PA: Political Affairs, IE: Infrastructure and Energy, SA: Social Affairs, HRST: Human Resources, Science and Technology, TI: Trade and Industry, REA: Rural Economy and Agriculture, EA: Economic Affairs.

9   Report of the Ministerial Panel for the Election of Commissioners, Executive Council, Twentieth Ordinary Session, 23 – 27 January 2012, Addis Ababa, Ethiopia, EX.CL/713(XX); The Report of the Team of Consultants to Assist the Ministerial Panel on the Election of Commissioners, 19 November 2012.

10 Elissa Jobson, 'African Union chooses first female leader', *The Guardian*, Monday 16 July 2012, http://www.guardian.co.uk/world/2012/jul/16/african-union-first-female-leader (accessed 8 August 2012).

11 Interview with Key Informant No 9, and No 5.

12 Press Statement by the Chairperson of the AU Commission, Dr Jean Ping 9 July 2012, Addis Ababa, 'At Last, SA may get its woman into AU post', *The Sunday Times* of South Africa, 8 July 2012; Statement by Honourable Phandu T. C. Skelemani, Minister of Foreign Affairs and International Cooperation, on Dr Jean Ping's Response to an article in *The Sunday Times*, Addis Ababa, 12 July 2012.

13 Interview with AU Commission Senior Staff Member Key Informant No 9 Addis Ababa Ethiopia, July 21, 2012, an Ambassador and a Permanent Representative of an East Africa AU Member State Key Informant No 5, Addis Ababa, April 26, 2012.

14 Ibid.

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