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Stephanie M. Burchard

December 2019

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IDA Document NS D-10992

Log: H 19-000625



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About This Publication

This work was conducted by the IDA Systems and Analyses Center under contract HQ0034-14-D-0001. The views, opinions, and findings should not be construed as representing the official position of either the Department of Defense or the sponsoring organization.

For More Information

Stephanie M. Burchard, Project Leader
sburchar@ida.org, 703-845-2526

Richard B. Porterfield, Director, Intelligence Analyses Division
rporterf@ida.org, 703-578-2812

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**The Role of the Courts in Mitigating
Election Violence in Nigeria**

Stephanie M. Burchard

The Role of the Courts in Mitigating Election Violence in Nigeria

Violence occurs in a slight majority of elections held in sub-Saharan Africa. Several recent studies have examined the effectiveness of various interventions on the prevalence of violent elections; however, the role of the courts has been relatively less studied. Using data from the 2011, 2015, and 2019 Nigerian elections, we examine under what conditions courts can moderate election-related violence. We find that successfully challenging an election outcome in the courts is related to a reduction in the lethality of violence in the next election, but only if the courts are generally perceived as trustworthy. These findings indicate that in addition to building judicial capability, improving generalized trust in judicial institutions is key to reducing electoral violence.

Introduction

African countries reintroduced¹ multiparty politics in the early 1990s as the curtains came down on the Cold War era. Although most sub-Saharan African countries have made significant strides towards democratic development, election-related violence has also increasingly become a common feature of the politics of alternation of power in Africa. By 1997, 75 percent of countries in sub-Saharan Africa had adopted multiparty democracy, with the exception of Eritrea, which has not conducted presidential or national assembly elections since the independence referendum in 1993.² Although elections in sub-Saharan Africa have become ubiquitous, challenges around election management, particularly related to electoral violence, still remain.

On average, a majority of elections conducted in sub-Saharan Africa result in violence.

Conservative³ estimates from the social conflict in Africa dataset (SCAD) (Salehyan et al. 2012)

¹ After the end of colonialism, most African countries emerged with at least two political parties, many informed by either a Western or Soviet Union ideology. Countries such as Botswana, Kenya, Senegal, Tanzania, and Zambia, for example, all held multiparty elections in the 1960s. These countries, however, reverted to a one party system shortly thereafter as many founding fathers sacrificed democracy for political stability, which they deemed favorable for managing such diverse social groups. See, Englebort and Dunn (2013).

² For more on elections in Eritrea, see <http://africanelections.tripod.com/er.html>.

³ Demarest and Langer (2018) look at conflict patterns in Nigeria as recorded by Social conflict in Africa dataset (SCAD), Armed Conflict Locations and Events Dataset (ACLED), and a dataset developed by the authors using

indicate that sub-Saharan African countries conducted 390 elections from 1990 to 2012 in which 57 percent of the elections experienced some form of electoral violence. Of the 390 elections, 132 elections experienced pre-election violence, and 91 elections also experienced post-election violence. Consistent with the SCAD dataset, Straus and Taylor's (2012) African Electoral Violence Database (AEVD) also indicate that at least 60 percent of African elections experience electoral violence from 1990 to 2008. Burchard's (2015) work concludes that at least 55 percent of elections conducted in Africa experienced some form of electoral violence and suggests that whereas post-election violence is less common, it tends to be more intense.

Electoral violence has been associated with various negative consequences, ranging from instability to the increased likelihood of civil war (Bekoe 2012). For instance, the election violence experienced in Ethiopia in 2005, Nigeria in 2007, Kenya in 2007, Zimbabwe in 2008, and Ivory Coast in 2011 was deemed violent enough to destabilize each of these countries.⁴ Similarly, election violence has been linked to effects on voter turnout (Collier and Vicente 2008; Bekoe and Burchard 2017) and the quality of democracy as assessed by potential voters (Burchard 2015). Burchard (2015) further suggests that voters are less likely to express satisfaction with and support democracy or have trust in governing institutions if they are routinely subjected to election violence. Therefore, lessening election violence might help improve voter satisfaction and trust in governing institutions and, overall, shore up support for democracy. Such sentiments also find support in works such as Diamond (1997), which lend

Nigerian sources and suggest that ACLED tends to underreport conflict events because it relies on international sources, which are more likely to only report high profile events.

⁴ For more, see Bekoe (2012).

credence to the role of institutions in improving the quality and consolidation of democracy,⁵ improve governance, and lessen fraud, which are all detrimental to democratic consolidation.

What we have so far in the burgeoning literature on election violence are explanations for why some countries provide fertile grounds for election violence both at the national or macro-level (Fjelde and Höglund 2014; Hafner-Burton, Hyde, and Jablonski 2013; Norris, Frank, and I Coma 2015; Salehyan and Linebarger 2015) and subnational or micro-level (de Smedt 2009; Höglund and Piyarathne 2009; Klaus and Mitchell 2015 and Söderberg Kovacs and Bjarnesen 2018). Yet, less examined, is the role of institutions in exacerbating or reducing election violence.

Recent research efforts, motivated to identify effective interventions to lessen election violence, have focused on exploring strategies that can be employed to alleviate election violence; however, the role of courts as an intervention strategy remains under-researched. To this end, we conduct an empirical analysis on the effect of election petition tribunals (EPTs) on the likelihood of election violence taking place in contemporary Nigerian elections. EPTs are temporary courts specifically established by the Nigerian government to resolve disputes after an election has occurred. Nigerian elections have been particularly violent since the country's return to civilian governance in 1999. Fatalities have occurred before and after elections in 1999, 2003, 2007, 2011, 2015, and 2019.

Elections by their very nature are contentious, and it seems reasonable to assume that a dedicated mechanism put in place to adjudicate election-related grievances and suspected violations could reduce incentives to engage in electoral violence. If electoral actors believe that

⁵ See Lindberg and Morrison's (2006) field work in Ghana which suggests that the quality of democracy improves as countries engage in regular elections.

irregularities can be fairly challenged in an impartial venue, they may be less likely to resort to violence to win. In situations where electoral actors believe that there are no viable venues to resolve problematic elections, political actors may be more likely to turn to intimidation, harassment, and physical attacks to win elections. Furthermore, if political actors believe that an independent court system will hold them accountable for electoral infractions, they may be less likely to engage in fraud and violence. If no such judicial avenue exists, the inverse may be true.

In this paper, we test the efficacy of the judiciary in mitigating electoral violence with the caveat that for the courts to have a suppressive effect on electoral violence, political actors must have trust in the system. We argue that if those aggrieved during the electoral process, specifically political elites, lack trust in the dispute-resolution mechanism, the expected utility of courts as an alternative to violence for resolving election disputes will remain low. We argue that, particularly in Nigeria, the courts can provide an alternative to violence in disputed elections and reduce the prevalence of electoral violence, but only if the courts are perceived as trustworthy. The paper proceeds as follows. We start with an overview of electoral violence in sub-Saharan Africa. We follow with the theoretical argument on why courts can reduce election violence. We then conduct an empirical test on the effects of the courts on election violence in Nigeria's 2015 and 2019 elections. We analyze and discuss the findings in the section thereafter, then conclude with how and why courts matter in reducing election violence and consolidating democracy.

Overview of Election Violence in sub-Saharan Africa

Electoral violence is not a new phenomenon, nor is it idiosyncratic to Africa. Countries in the early throes of democratic transition often face election-related violence as citizens seek to

exercise their freedoms within the extended franchise. Seymour and Frary (1918) present one of the earliest voter suppression tactics in the 20th century, positing that Magyars in Hungary engaged in non-Magyar voter suppression by destroying bridges and quarantining horses in the outlying villages that would be used to get the non-Magyars to polling stations.

Most recent research has argued for disaggregating election violence based on timing, strategy, and actors to better understand the motivation behind violence. On timing of election violence, scholars have argued that election violence essentially falls into three phases, each phase ideally driven by different theoretical motivations and causal processes. Both Höglund (2009) and Daxecker (2014) suggest that the motivation behind pre-election and election-day violence is to affect the outcome of the elections or disenfranchise voters that would otherwise help tip the election in favor of an opponent. On the other hand, post-election violence is employed as a response to the outcome of an election deemed fraudulent or to force the hand of other actors like courts or election commission to recount the ballots or cancel the results and call fresh elections. Essentially, whereas pre-election and election-day violence are theoretically intended to increase the chances of winning for the violence entrepreneur by suppressing voter turnout for the opposing party election, post-election violence theoretically happens as a reaction to the contested election outcome. To this end, recent research on electoral violence can therefore be viewed through two broad categories of pre-⁶ and post-election⁷ violence.

Similarly, electoral violence can be strategically employed to suppress voter turnout or mobilize supporters, or it can occur incidentally due to heightened competition between different

⁶ Conceptualized as violence related specifically to elections starting 6 months before elections to include election day.

⁷ We conceptualize and measure post-election violent events as election-related violent events that happen right after polling stations close to 3 months after polling.

political camps (Bekoe and Burchard 2017). At the same time, state actors and opposition groups can engage in electoral violence strategically to influence the turnout and outcome of elections, although state actors are much more likely to engage in electoral violence. Taylor, Pevehouse, and Straus (2017) estimate that more than 80 percent of electoral violence is perpetrated by the state.

Prevention of Election Violence

The general understanding that electoral violence can lead to prolonged conflict (see Bekoe 2012), lower satisfaction with and support for democracy (see Burchard 2015), and democratic stagnation (see Bogaards 2013) due to poor quality elections has led to budding research whose efforts are directed at exploring election violence prevention. These efforts are informed by the theoretical argument that political exclusion is the main driver for electoral violence and political inclusivity might lower the likelihood of electoral violence. To this end, electoral-violence-prevention strategies have been based on interventions such as capacity building (Birch and Muchlinski 2018; Darnolf and Cyllah 2014; Claes and Von Borzyskowski 2018), attitude transformation (Finkel 2014; Fischer 2017; Höglund and Jarstad 2009; Birch and Muchlinski 2018), security planning (Claes 2016; Claes and Von Borzyskowski 2019), and election monitoring (Asunka et al. 2017; Claes 2016; Claes and Von Borzyskowski 2018). Proponents of capacity building suggest that building technical skills in entities entrusted with conducting elections, for instance, election management bodies, to help conduct credible elections can reduce electoral violence by increasing institutional trust and the quality of elections, as well as ensure the acceptability of the election outcome for involved parties and, subsequently, legitimates the winner. Attitude-transformation interventions are also deemed to reduce electoral violence by targeting grievances that would otherwise foment and lead to

electoral violence. These interventions can include educating voters, peace messaging, mediation, engaging the youth, roundtable discussions, peace pledging, and codes of conduct. Similarly, as Claes and Von Borzyskowski (2019) find, security engagement by way of the police having a closer working relationship with local communities is associated with lower levels of electoral as evidenced by Kenya and Liberian elections. The evidence regarding the impact of election-monitoring interventions, on the other hand, is very mixed. While some have found that the presence of election observers can decrease the likelihood of electoral violence from breaking out under certain circumstances (see Smidt 2016), recent research suggests that election observation can exacerbate election violence instead of reducing it by incentivizing political actors to strategically shift violence to the pre-election period not observed by election monitors (see Daxecker 2014; Luo and Rozenas 2018; Claes and Von Borzyskowski 2019).

Although the above research on interventions to mitigate election violence is instrumental and groundbreaking, it tends to focus on efforts that can be undertaken in the pre-election period to avoid election violence during or after elections. Subsequently, the gap we find in the literature so far is the lack of scholarly work on the role of domestic courts as key intervention actors by virtue of their dispute-resolution role. Therefore, we are examining what exactly the role of courts is in mitigating election violence.

Ideally, the courts would alleviate election violence by providing a dispute-resolution mechanism through which aggrieved political contenders can seek redress. In other words, whereas interventions around capacity building, attitude transformation, and security planning can pacify the eruption of election violence, they lack a dispute-resolution component that political actors can revert to if they perceive that they have lost an election unfairly. It is against this backdrop that countries like Nigeria have tried to address election-related disputes by

creating election petition tribunals (EPTs) at the federal and state level for legislative and gubernatorial election petitions that deal specifically with cases stemming from electoral fraud, irregularities, and other illegalities. Established by the 1999 Nigerian Constitution, and amended in 2010, the specific statute tasks tribunals with determining whether or not an individual has been validly elected (Library of Congress 2011). Consequently, we are interested in understanding if an impartial and independent court, as measured by trust in judiciary and EPT ruling, has any effect on electoral violence. Because in Nigeria there is both variation in the occurrence of electoral violence and public trust in the courts across the country's 36 states, Nigeria is an ideal candidate to examine how judicial processes could affect the frequency and/or intensity of electoral violence.

Theory: Judicial Systems and Electoral Violence

The constitutional function of courts as arbiters of domestic disputes predisposes them to being viewed as one of the first institutions political actors might seek intervention from during the electoral period. Ideally, the courts would provide an alternative for resolving election disputes because political actors would seek redress from the courts instead of resorting to violence. In addition, a robust court system may act as a deterrent for violence if political actors believe they will be punished for the use of violence during an election campaign. Yet no research at this point exists to help us understand the effect of courts on electoral violence.

What we know so far is that judicial independence in Africa varies widely, and different countries have taken different pathways to achieve varying levels of judicial independence. Works such as Widner (2001), VonDoepp (2006), VonDoepp and Ellet (2011), Ellet (2013), and Prempeh (2017), although unrelated to the effectiveness of judiciaries in reducing electoral

violence, have spoken to the evolution of the independence in African judiciaries. While Widner (2001) attributes the rise of judicial independence since the end of colonialism to the role of judges within the judiciary fighting for the independence of courts, Prempeh (2017) cautions that the judicial constitutional revival in Africa has been curtailed by imperial presidencies that are too strong to be checked by weak legislatures. VonDoepp (2006) and VonDoepp and Ellet (2011) examine factors that might affect judicial assertiveness suggesting that the security of tenure by the incumbent, extent of power concentration in one actor, and the level of interest in a given case by political actors will determine whether judges will choose to be assertive or exercise strategic self-restraint. In analysis of Uganda, Tanzania, and Malawi, Ellet (2013) finds that judicial independence was higher in countries that had a robust civil society, a strong independent media, and a strong law society.

We also know, at least for Latin American countries, that effectively functioning judiciaries are important for maintaining democratic gains. Larkins (1996) opines that an institutionalized judiciary is integral to democratic consolidation because it is the one institution tasked with enforcing the rule of law both on citizens and governments to keep either from exceeding their reach. To this end, various researchers are in agreement (Larkins 1996; Utter and Lundsgaard 1994; Diamond 1997; and Chavez 2004) that strong judiciaries play a critical role in consolidating democracy. But challenges on the effectiveness of judiciaries in Africa still remain under-researched.

That is, research like Abdul-Ethem (2002) and Widner (2001) point to the shortcomings of African judiciaries to safeguard the rule of law. For instance, Widner (2001) suggests that competing centers of power and the weight of colonial legacies effectively delegitimized the African judicial systems by understaffing them while expecting them to blend customary and

common law. Handicapped as such, African judiciaries perennially suffered from a lack of legitimacy by overpromising but failing to deliver justice. The lack of legitimacy by African judiciaries can be seen by the perennially low trust in judiciaries among African citizens. Based on survey data from 2014 and 2015, only a slight majority of respondents across 36 African countries stated that they had confidence in the courts, and around one-third stated that “most” or “all” judges are corrupt (Logan 2017). As poignant as these works are, they lack an interrogation of the extent to which judiciaries have been effective in reducing violence or forestalling instability. This is partly due to the lack of data on judicial decisions and the long processes the courts take before making pronouncements on cases. For instance, Simati’s (2018) dissertation work finds that it took an average of two years for the courts to pronounce themselves on election petitions filed against President Moi’s election victories in 1992 and 1997. There is a consensus that institutions responsible for dispute resolution in unconsolidated democracies have become increasingly important. Widner (2001) posits that when courts adjudicate election-related disputes, they forestall the potential for violence and instability between contestants and negate the attraction of these groups from resorting to pressing their grievances through their social groups. Ostensibly, during elections, those that feel aggrieved by the electoral process but have less trust in the judiciary are more likely to resort to other means of dispute resolution, for instance, violence. Essentially, by providing an avenue through which electoral disputes can be addressed, courts would ideally reduce the utility of reverting to electoral violence during elections by political actors.

Nevertheless, the mere presence of courts will not incentivize political actors to choose courts to resolve their election disputes instead of using violence. Political actors are more likely to take their election-related grievances to court if they have trust that the court will be impartial.

For instance, while looking at the behavior of the Ugandan courts regarding presidential and parliamentary election petitions, Murison (2013) finds that whereas the Ugandan High Court upheld election petitions and nullified various parliamentary elections, the Court of Appeal overturned most of the high court decisions. Similarly, although the Uganda Supreme Court acknowledged irregularities in the presidential elections won by Museveni in 2001 and 2006, it was unwilling to rule in favor of the opposition candidate and nullify the presidential elections. Under such circumstances, the opposition is less likely to lodge their complaints with the courts due to perceived impartiality and lack of trust. Consequently, they are more likely to resort to electoral violence.

Similar research looking at the effect of courts on electoral violence from a dissertation by Simati in (2018) conducted cross nationally on African countries between 1990–2012 finds that variation in judicial independence can influence both state actors and the opposition's choice to employ post-election violence. The author finds that both the incumbent and the opposition are less likely to employ post-election violence in African countries that have independent or dependent judiciaries. Under independent judiciaries, both actors are more likely to bring their election-related grievance to court due to trust in the impartiality of the court system. Similarly, under dependent judiciaries controlled by the incumbent, the opposition is less likely to strategically employ electoral violence to influence the judges because the judges are less likely to strategically defect and rule in favor of the opposition. The author argues that post-election violence is particularly prevalent under semi-independent judiciaries precisely because opposition candidates can strategically use electoral violence to create levels of political uncertainty to influence judges to strategically defect or be assertive. Strategic use of violence is

especially useful for the opposition if it deems the incumbent weak, due to being a minority in the legislature,⁸ a small win margin, or a short security of tenure.

Since courts can mitigate both pre-election and post-election violence by providing an alternative to election violence, we theorize that a trusted dispute resolution mechanism can alleviate electoral violence. However, in the absence of a trusted court system, political actors are more likely to revert to electoral violence either to influence the outcome of an election or in reaction to a concluded election. We therefore argue that increased trust in courts will be correlated with lower levels of electoral violence while low trust in courts will be associated with higher levels of electoral violence. Similarly, we argue that successful nullification of election results by the EPTs will have a constraining effect on electoral violence. Due to data limitations, we only conduct our analysis on pre-election violence⁹ but not post-election violence.

Data and Variables

We seek to test this theory of court effects on electoral violence on the pre-election period in Nigeria during the 2015 and 2019 elections based on the dependent variable operationalized as the EPT decisions from the 2011 and 2015 elections, respectively. We conduct this analysis on Nigeria because the country's history with military coups before multiparty politics and the systematic violence that routinely breaks out during elections makes it the best candidate for this type of empirical analysis. More important, Nigeria is the only African country with specific EPTs set up precisely to deal with election petitions and pre- and post-

⁸ For presidential elections.

⁹ At the time of writing this paper, data on pre-election violence for the 2019 elections were available but the data on post-election violence and EPT rulings for 2019 election petitions were not available yet. Subsequently, we are able to test the effect of the 2011 and 2015 EPT rulings on the 2015 and 2019 pre-election violence, respectively. In other words, how did the 2011 EPT rulings affect the 2015 pre-election violence? Similarly, how did the 2015 EPT rulings affect the 2019 pre-election violence?

electoral disputes. We also examine changes over time in Nigeria because we believe that experience with the courts in one election can have an impact on behavior in subsequent elections.

After independence in 1960, Nigeria was largely ruled by successive military governments, with brief interruptions for episodic civilian rule. In 1999, Nigeria transitioned to a civilian-led government and conducted its first multiparty elections of its Fourth Republic. Violence has been a common feature of every election since 1999, although the intensity, timing, and type of violence have varied across different elections. For instance, Nigeria experienced significant levels of pre-election violence, with an estimated 300 fatalities and 100 fatalities before the 2007 and 2015 elections, respectively (Bekoe 2012). The 2011 elections, however, experienced extreme post-election violence, around 800 fatalities taking place after the results were announced (Bekoe 2012).

Electoral violence in Nigeria has varied across both time and space. Nigeria is a federal republic with 36 states and one Federal Capital Territory located in Abuja. Certain states such as Lagos, Rivers, and Delta have borne more of the brunt of electoral violence. During the 2015 election, violence was concentrated in the southwest of the country, with some fatalities also occurring in the Middle Belt (Harwood 2019). During the 2019 elections, much of the violence took place in southern Nigeria and the Middle Belt again (Harwood 2019).

For the purposes of our analysis, we use data on violent events from the Armed Conflict Location and Event Dataset (ACLED) to code the dependent-variable, pre-election violence events. ACLED collects information on political violence by type, time, intensity, and location. We identify election-related events and the number of associated fatalities, if any, and aggregate

them at the state level for elections in 2015 and 2019. Since Nigeria typically holds general elections for all elected offices over a two-week period, we collected information on pre-electoral violence associated with the presidential, assembly, senate, state house, and gubernatorial races. Similar to other researchers, we confine our analysis of pre-electoral violence to the six-month period before the elections (including election day) (Straus and Taylor 2012; Burchard 2015). After a six-week postponement to allow the government to address insecurity in the North East related to the Boko Haram insurgency, elections in 2015 were held on March 28 for President and National Assembly and April 11 for governor and the state houses. Election in 2019 were delayed one week due to logistical challenges and ultimately held on February 23 for President and National Assembly and March 9 for governor and state houses.

Based on data from ACLED, pre-election violence took place in most Nigerian states before the 2015 and 2019 general elections at roughly similar rates. Across Nigerian states,¹⁰ only five states (Abia, Ekiti, Kogi, Niger, and Zamfara) did not have a recorded instance of pre-election violence before the 2015 election, and only two states (Gombe and Kebbi) did not have a recorded instance before the 2019 election. Ahead of the 2015 elections, there was an average of 4.8 violent events per state. Post-election violence was significantly lower in 2015 than in 2011. After the 2015 elections, there was an average of 0.79 violent events per state and an estimated six fatalities. Before the 2019 elections, there was an average of 4.6 violent events per state. There were at least 98 fatalities across 20 states in 2015 and 91 fatalities across 19 states in 2019.¹¹ Eighteen states experienced fewer violent incidents in 2019 than in 2015, and 14 states

¹⁰ Due to insecurity in the North East, elections were not held in Adamawa, Borno, or Yobe states. We do not include data for these three states in our analysis.

¹¹ Data for the 2019 post-election period were not available at the time of writing.

experienced more violent incidents. In terms of fatalities, 12 states experienced fewer election-related fatalities in 2019 compared with 2015, where 12 states experienced more fatalities.

According to Sani (2015), the Nigerian government in the 1999 Constitution established election petition tribunals to resolve electoral disputes in a timely fashion due to delays experienced through the regular court system in previous petitions. Through the 2000s, however, EPTs were still not known for their speed. For example, it took 34 months to resolve a 2003 gubernatorial dispute. As a result, the 2006 electoral act also introduced a raft of changes aimed at improving efficiency in adjudication of election petitions by empowering any state or federal High Court to address all pre-election disputes. The 2010 Amendment to the Constitution requires that all election petitions be submitted within 21 days after an election has been decided, that EPTs deliver their final written verdict within 180 days, and that all appeals be heard and adjudicated within 60 days of the initial judgment.

EPTs vary by level of election and institution. EPTs at the state level hear cases from the National Assembly petitions, whose appeals terminate at the Court of Appeals. The presidential and gubernatorial EPTs appeals terminate at the Supreme Court. Only candidates or parties directly participating in an election can file a petition. A petition must be based on at least one of the following four criteria: a candidate was not qualified to contest the election; the election was marred by corruption or non-compliance with the Electoral Act (as amended in 2010); the winner did not actually receive a majority of the votes; or the petitioner was unlawfully prevented from participating in the election. EPT appointments are managed by the President of the Court of Appeals, National Judicial Commission, and Federal Judicial Service Commission. EPTs comprise three to five justices from the High Court, Sharia Court of Appeal, Customary Court of Appeal, or other judiciary members at the rank of chief magistrate or higher. See Table 1 for an

overview of the number of petitions filed per election since 2003 (Policy and Legal Advocacy Center 2017).

Table 1: Election Petitions by Year

Election Year	Petitions Filed
2003	560
2007	1290
2011	732
2015	~600

To code the independent variable (election petitions filed at the state level), we collected data from a number of sources, including the National Democratic Institution, a non-profit organization located in Washington, D.C., and the Policy and Legal Advocacy Center, a non-governmental organization located in Abuja. For the 2011 and 2015 elections, in particular, we were able to track how election petitions were ultimately resolved. From these data, we created our independent variables on EPT decisions for the 2011 and 2015 elections. Since elite choice to use the court can be informed by previous court decisions, we create the tribunal election-nullification variable by coding the petitions that were successfully overturned by the EPTs in 2011, where 1 represents a nullified election and 0 represents an upheld election. We do the same for 2015 EPT decisions and create a dummy variable, where 1 represents at least one successful EPT challenge at the state level and 0 represents no EPT successes. Across all elective offices in 2015, there were a total of around 600 election petition challenges filed in 2015 (Policy and Legal Advocacy Center 2017, 51).¹² The range was from 2 to 49 election petitions challenges per

¹² PLACNG only provides disposition data for 560 of the petitions filed in 2015.

state. There were a total of 333 appeals filed, with a range from 1 to 46 per state. Approximately 15 percent (84) of the total challenges at either the tribunal, appeals, or High Court stage were successful in overturning the election result or requiring either a partial or complete re-run of the election. Delta State in particular was forced to re-run several elections for both state and federal offices in March 2016 after the 2015 results were annulled due to corruption and violence. This marks a substantial increase in the success rates of cases before tribunals. In 2007, only around 2 percent of cases were successful in annulling the results or forcing new elections (Sani 2015). This figure increased to 4 percent after the 2011 elections (Sani 2015).

To calculate trust in the courts, we used Afrobarometer survey data. We created an index for respondents who stated they had “no trust” in the courts for round 6 and round 7 of Afrobarometer survey conducted in 2014 and 2017 before the 2015 and 2019 elections, respectively. The index ranges from low to high trust, captured numerically between 1 and 3, where 1 indicate low trust, 2 some trust, and 3 high trust.¹³

We control for the margin of victory at the gubernatorial level, a good indicator of how competitive elections are in the state; the total population of the state at the last census (logged due to its right skew); and trust in the national elections commission (NEC). We also control for the intensity of pre-election violence by including a variable for number of pre-election fatalities

¹³ For robustness checks, we took the average percentage of respondents who stated they had “no trust” in the courts over a 12-year period at the state level as our alternative measure of trust/lack of trust. We did this for two reasons. First, the total number of respondents per survey per state ranges from about 15 to 80, so aggregating surveys together over time increased our total number of respondents per state, increasing our ability to generalize from the sample. In addition, because public opinion can be temporarily influenced by short-term shocks or specific events close to the timing of the survey (i.e., a corruption scandal or the like), we chose to take the average of the past several surveys (Round 3 fielded in 2005 through Round 7 fielded in 2017) as an alternative measure of trust and the findings that still stays consistent and significant compared with using round 6 and 7 trust indices for 2015 and 2019 elections, respectively.

that took place in a given state in the 6-month period before an election.¹⁴ Our primary independent variable is informed by our theory that courts give election political players a less violent avenue through which they can adjudicate election-related disputes. We use the independent variable, trust in courts, to proxy the likelihood of political players' choice to take their case to the courts as opposed to the streets with violence. Subsequently, high trust in court indicates the belief that political players' belief in the impartiality in the court and vice versa. The other variables (pre-election fatalities, population, win margin, election overturned) are control variables that previous research suggests can explain electoral violence. We include them in the model to rule out that these control variables are the ones driving the correlation between the dependent and independent variables. Research by Collier and Vicente (2012) has also established that closely contested elections with a small win margin can increase the likelihood of electoral violence, so we control for this variable as well. Since our analysis only covers three election cycles, we do not control for electoral systems because there is no variation in electoral rules that would influence electoral violence.

Discussion and Analysis

For the empirical analysis, we use a negative binomial regression to test whether the nullification of elections results by EPTs and trust in court have a constraining effect on pre-election violence at the state level. We test this hypothesis for the 2015 elections in *model 1* and in *model 2* for 2019 elections while controlling for logged population, trust in the national election commission, and pre-election fatalities. (See Table 2.)

¹⁴ While we acknowledge that election violence has many consequences other than death, ranging from physical, psychological, displacement, destruction, etc., our paper focuses on fatality because it a consequence that is both measurable and readily accessible in available datasets.

Table 2: Dependent Variable: Number of Pre-election Violence Events

	Model 1: 2015 β/P	Model 2: 2019 β/P
Election overturned	-0.504** (0.266)	-0.057 (0.228)
Trust in court		
2. Some trust	-0.491 (0.477)	-0.750*** (0.272)
3. High trust	-0.775* (0.434)	-0.878*** (0.264)
Trust in NEC	-0.010 (0.009)	—
Pre-election Fatalities	0.186*** (0.034)	0.094*** (0.019)
Logged Population	-0.049 (0.357)	-0.137 (0.252)
Constant	(5.241 (0.357)	3.616 (3.809)
Observations	33	33

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$: Coefficients listed with standard errors in parentheses. Negative binomial regression used.

For *model 1* we find support that overturning an election outcome by an election tribunal and high trust in courts reduce the likelihood of pre-election violence in the next election. The election overturn by tribunal variable has a negative coefficient (-0.503) and is statistically significant with a (0.050) p -value. The high trust in court variable is also statistically significant with a negative coefficient (-0.775) and p -value (0.07). The control variable for pre-election fatalities is also statistically significant with a positive coefficient (0.185) and p -value (0.00), indicating that intensity of violence can lead to more violence, possibly retributive. Both controls

for population and trust in the national election commission are not statistically significant. Our findings suggest that all else being equal, favorable rulings for the challenger by the EPT in the 2011 elections and trust in court before 2015 were important factors in reducing the possibility of pre-election violence during the 2015 elections in Nigeria.

In *model 2*, we run the same analysis for the 2019 elections, modeling the effect of EPT decisions and trust in the courts on pre-election violence at the state level. We use an EPT's successful nullification of an election in 2015 and Afrobarometer's trust in courts from round 7 conducted in 2017 before the 2019 elections as our main independent variables. We control for population and 2019 pre-election fatalities while excluding trust in the national election commission because the variable was not available for 2019. We find support for the conclusion that having trust in the court significantly reduced the likelihood for pre-election violence in the 2019 elections. While controlling for population and pre-election fatalities, we find that having some trust in the court was statistically significant with (coefficient -0.7501 ; p -value -0.006). Similarly, having high trust in the court was also statistically significant with a (-0.8784) coefficient and a (0.001) p -value. However, the successful nullification of elections by EPTs in 2015 did not have any significant effect on the pre-election violence experienced during the 2019 elections. Consistent with 2015 elections, pre-election fatalities experienced before the 2019 elections also influenced the prevalence of pre-election violence.

Unlike an ordinary least squares model where we can interpret the substantive effects of the independent variable on the dependent variable based on coefficients, the coefficients on the negative binomial regression, as a maximum likelihood model, help indicate the direction of the effect but are less helpful in interpreting the substantive effect of the EPT decisions and trust in courts on pre-election violence. To this end, we use incident rates ratio to explain the substantive

effect of EPT decisions and trust in courts on electoral violence for models 1 and 2. (See Table 3.)

Table 3: Incidence Rates Ratio for Pre-election Violence for 2015 & 2019 by State

	2015		2019	
	<i>IRR</i>	<i>Std. Error</i>	<i>IRR</i>	<i>Std. Error</i>
Election overturned	0.604	0.160	—	—
Some Trust in court	—	—	0.472	0.129
High trust in court	0.460	.199	0.415	0.109
Pre-election Fatalities	1.204	0.040	1.099	0.022

Based on the incidence rate ratios in Table 3, every election result that was overturned by an EPT in 2011 reduced the incidence of pre-election violence in 2015 by a factor of 0.60, holding other variables constant. Comparing low trust and high trust in courts, we find that having high trust in courts reduced the incidence of pre-election violence by a factor of 0.46 in comparison with the reference category of low trust. Pre-election fatalities also increased the incidence of pre-election violence by 1.20. In 2019, having some trust and a lot of trust in the courts reduced the incidence of pre-election violence by 0.47 and 0.41, respectively, while pre-election fatalities increased incidents of pre-election violence by factor of 1.09.

These findings, although limited to elections in Nigeria, suggest that the role of courts and trust in dispute-resolution mechanisms can be instrumental in alleviating pre-election violence. We find that if an EPT overturns an election in favor of the petitioner, the likelihood of pre-election violence in a subsequent election is reduced by 60 percent. Similarly, the number of election petitions filed in 2015 was significantly related to the disposition of petitions associated

with the 2011 election. The number of petitions filed was significantly higher in states where a tribunal overturned previous election results (average: 21.5, $n = 14$ states) in 2011 than in states where no elections were overturned in 2011 (average: 12.9, $n = 19$ states). This suggests that a successful experience with the tribunal system might encourage others to turn to tribunals to resolve disputes in future elections. Most important, trust in courts is a good indicator of whether election-related disputes will be resolved through the court or through violence. We find that on average, incidents of pre-election violence are reduced by 45 percent if citizens have some trust or a lot of trust in courts.

Conclusion

Recent efforts targeted at interventions for preventing electoral violence have emphasized election monitoring, security planning, attitude transformation, and capacity building. Despite these efforts, the courts as a key domestic component responsible for dispute resolution still remains under-researched. This work contributes to the ongoing research on electoral violence prevention by evaluating the role election petition tribunals and citizens' trust in courts play in mitigating electoral violence. We find that all else being equal, EPT rulings that nullify election results and trust in the judicial system constrain the prevalence of electoral violence.

Although these findings may not be generalizable to sub-Saharan Africa and the rest of the democratizing countries around the world, we hope that at the very least they stimulate future research efforts regarding the role of the judiciary in mitigating electoral violence. From a policy-implication perspective, there might be value setting up ad hoc election petition tribunals and building capacity in domestic judiciaries to be efficient in adjudicating election-related disputes in a shorter time frame. Work could also be undertaken to build trust in the courts by citizens. Both factors are important in reducing incentives for election-related violence. Due to

data constraints, the focus of this research was on the pre-election period. Future work can look at whether the same relationship holds for the post-election period.

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REPORT DOCUMENTATION PAGE*Form Approved*
OMB No. 0704-0188

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1. REPORT DATE December 2019		2. REPORT TYPE FINAL		3. DATES COVERED (From-To)	
4. TITLE AND SUBTITLE The Role of the Courts in Mitigating Election Violence in Nigeria				5a. CONTRACT NUMBER HQ0034-14-D-0001	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) Burchard, Stephanie M.				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Institute for Defense Analyses 4850 Mark Center Drive Alexandria, VA 22311-1882				8. PERFORMING ORGANIZATION REPORT NUMBER IDA Document NS D-10992	
9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES) Institute for Defense Analyses 4850 Mark Center Drive Alexandria, VA 22311-1882				10. SPONSOR/MONITOR'S ACRONYM(S) IDA	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution is unlimited (28 January 2020).					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT Violence occurs in a slight majority of elections held in sub-Saharan Africa. Several recent studies have examined the effectiveness of various interventions on the prevalence of violent elections; however, the role of the courts has been relatively less studied. Using data from the 2011, 2015, and 2019 Nigerian elections, we examine under what conditions courts can moderate election-related violence. We find that successfully challenging an election outcome in the courts is related to a reduction in the lethality of violence in the next election, but only if the courts are generally perceived as trustworthy. These findings indicate that in addition to building judicial capability, improving generalized trust in judicial institutions is key to reducing electoral violence.					
15. SUBJECT TERMS Africa; Electoral Violence; judiciary					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT SAR	18. NUMBER OF PAGES 31	19a. NAME OF RESPONSIBLE PERSON Porterfield, Richard B.
a. REPORT Uncl.	b. ABSTRACT Uncl.	c. THIS PAGE Uncl.			19b. TELEPHONE NUMBER (include area code) 703-578-2812