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Delivering 'democracy' in Africa

How EU election observer missions may be hindering the growth of genuine African democracy

During the Kenyan election process, international election observer missions (EOMs), including the European Union provided relatively favourable preliminary post-election statements, largely perceived as endorsements of the election process. But less than a month later, Kenya's Supreme Court annulled the election result, finding that the Independent Electoral and Boundaries Commission, which was in charge of the vote, 'failed, neglected, or refused to conduct the presidential election in a manner consistent with the dictates of the Constitution' and it was therefore deemed invalid. A fresh presidential election is now due to be held on 26 October 2017.

As such, preliminary statements made by international EOMs have been deemed by the jury of public opinion to be as tainted with irregularities as the election itself, because EOMs had given a favourable assessment which had been interpreted as an endorsement of the election process. This has led to serious questions being raised as to their legitimacy. Yet, claims of the EU EOMsendorsement of the Kenyan election process are largely exaggerated. The EU merely stated it had seen no signs of 'centralised or localised manipulation' of the voting process.

An endorsement of election results is beyond the EU's remit at the preliminary report stage, having not completed the entire assessment of the election cycle. It's clear the EU mission refrained from commenting on the tallying process in itspreliminary report - explaining it would consider the conduct of the tallying in its final assessment (the tallying process being the fundamental element of illegality leading the six-judge Supreme Court to annul the election results). A subsequent post-electioncommunique issued by the EU before the Supreme Court ruling specifically called on'the Independent Electoral and Boundaries Commission (IEBC) to continue, within the constitutionally provided timeframe, the tallying with full integrity and transparency so that all Kenyans can trust the announced results.'

Furthermore, EOMs do not seek to validate the result of an election, but

rather to 'observe and assess various aspects of electoral processes and produce recommendations to improve the democratic processes surrounding elections.'

Yet, what the Kenyan case does provide is an opportunity to critically re-assess the role of the EU in shaping norms and its legitimisation as a watchdog of universal values and legality in the African context.

EU election observer missions in Africa

The EU carries out EOMs between six and ten times per year, with an annual budget of approximately €40 million. EU EOMs are carried out only after an invitation from the host government and are usually deployed in the country six to eight weeks before the election day (long-term observers arrive four to five weeks before polling to assess the preparations for the election). This process also only happens after the EU has drawn up a list of priority countries for a mission, and an exploratory mission has been carried out to see if an EOM is 'advisable, feasible and useful.' The mission is then undertaken by a Chief Observer, which is ordinarily a Member of the European Parliament, and a team of experts. The mandate of EU EOMs is 'to collect and verify information concerning the election process, analyse the observations and then, after the elections, to publish their findings.'

In order to do this, they observe the election process and assess it against seven key criteria: the impartiality shown by the election administration; the freedom of political parties and candidates to convene and express their own views; the fairness of access to state resources for the election; the degree of access for political parties and candidates to the media - particular the state media; the right to vote afforded to voters; the polling and counting of votes; and any other issues concerning the democratic nature of the election, for example the rule of law. The EU EOMs will release a preliminary statement, usually 48 hours after election day, and a final report containing the conclusions and concrete recommendations regarding the entire electoral process. This is usually delivered within a month of the EU EOM concluding its observer activities.

The African continent accounts for 49 per cent of the EU's observation and assessment activity. The basis for the EU's engagement in African elections stems from Article 9 of the Cotonou Agreement. This accord applies to the African, Caribbean and Pacific (ACP) group of states and stipulates that 'democracy based on the rule of law and transparent and accountable governance is an integral part of sustainable development'. The EU also provides technical assistance to the African Union Commission (AUC) Democracy and Electoral Assistance Unit (DEAU)

to address, amongst other things, the implementation of EOM recommendations. Through its Pan-African Programme, the EU hasprovided €6.5 million to support AU election observation.

Legitimising normative Europe

'It is this notion of influencing others by directly and indirectly spreading its values, which characterises the notion of the EU as a normative power.'

Professor Ian Manners, University of Copenhagen.

Public outrage at the EU's alleged 'endorsement' of the Kenyan elections reflects acutely the extent to which Europe is positioned as the watchdog of universal values; and how the international community itself, including Africans, willingly legitimises and contributes to the 'normative Europe' narrative, in turn making Europe the de facto standard bearer for democracy. The concern here is that as the international community looks to Europe for its value judgments and guidance it is limiting the agency of Kenyan legal and political institutions.

In actual fact, Kenya'just delivered one of the most decisive victories for African democracy in recent history' : the annulment of an election that returned a sitting president is a first for Africa and indicates the presence of an independent judiciary undertaking checks and balances on the executive.

This is a major step forward, because let's not forget that this has taken place on a continent characterised by the tendency of some of its leaders to hold onto power, and use their position to silence critics and dissents. Some leaders, including Zimbabwe's Robert Mugabe and Congo's Joseph Kabila, even extend this power grab to the judiciary, which ought to be independent and the final port of call to deliver justice to citizens.

The Kenyan elections are also a stark reminder of the limitations of external observer missions - that despite making their own value judgments, it is the country subject to observation that has to act to ensure democratic principles are upheld. African problems do require African solutions. In Gambia, earlier this year, where observer missions from the EU were not sent for the Presidential elections, it was African institutions, both theEconomic Community of West African States (ECOWAS) and the African Union (AU) that made the practical transfer of power possible, one that was already expressed in the election process where democratically-elected Adama Barrow defeated then-President Yahya Jammeh, who had been in power since 1994.
There is also a conceptual issue - how do we apply a concept of

democracy created in Western Europe to a Northern, Eastern, Southern or Western African context? This is by no means saying that democracy is a western construct. Rather it means it is culturally, economically and politically context-dependent. For example, 'the EU attaches greater importance to civil and political rights, following the predominant Western perception on human rights,' according to Jean Monnet Professor, Stephan Keukeleire. Yet asargued by Alemayehu G. Mariam, Professor of political science, CSU San Bernardino:

'Before Africa can have political democracy, it must have economic democracy. Africans are more concerned about meeting their economic needs than having abstract political rights....African societies are plagued by ethnic, tribal and religious conflicts which can be solved not by Western-style liberal democracy but within the framework of the traditional African institutions of consensus-building, elder mediation, and conciliation.'

So it is problematic to rely on and give precedence to a democratic model built outside African borders. Instead models of democracy should build upon those traditional African decision-making processes already in existence, those which are community-led and are consensus-driven in nature. 'It has the advantage of taking all minority positions into account...and exists among various African tribes including: the Ashanti of Ghana, the Igbo of Nigeria, the Somali, the Tswana of Botswana, the Shona of Zimbabwe, the Xhosa and the Zulu of South Africa.' according to leading Economist, George Ayittey.

In looking outside for democratic models there is also the risk that vested interests play a greater role in shaping the EOM outcomes, to the detriment of the values the EU is trying to uphold and enforce globally. For example, a negative EOM report could require the suspension of EU relations with a country and could interfere with the EU's overall foreign policy objectives.

What's in it for Africa?

'For several years, election observers' main audience has been the international community, rather than the population whose election they are monitoring,'says Emma Gordon, senior East Africa risk analyst at the UK-based consultancy Maplecroft

This quote reflects the EU EOMs' PR credentials – to reinforce an already predominant international reputation as a values-based actor. Similarly, since it is now an international norm, African countries publicly invite EOMs to bolster their democratic credentials within the international community, sending the message that their commitment to

democracy can withstand external scrutiny. Yet this is only effective to stave off international media critics if the EU actually takes up the offer to observe elections. This was not the case most recently in Rwanda's August Presidential elections, where the EU had been cited asstating it lacked the resources to observe the elections. Or in the case of the Angolan Presidential elections, also held in August, where the EUdecided not to send a mission because the government had failed to allow the EU access to all parts of the country. A refusal to send an observer mission also hints at a democratic deficit in the said country, or may be an indication of bureaucratic bias (see above), illustrating how normative Europe can construct the rules of the game when it comes to 'democratic' elections in Africa.

So maybe it is time to reconsider the level of power, legitimacy, and primacy given to Europe as a watchdog of universal values, values which cannot always be easily transposed neatly into an African context and may be shaped by competing vested interests. It is not to say that the EOMs are not an important tool in supporting African democratic developments, particularly in contributing to the mitigation of violence. But rather that the starting point and responsibility for democratic change lie much closer to home, within African countries themselves. This is where the real accountability lies.



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