The struggle for the restoration of a multi party democracy in Africa began in the early 1990s and gained prominence with the first of such elections that were held between 1990 and 1995. But while twenty years should be sufficient time for the promises of democracy to begin to show, the slow pace of democratic consolidation in Africa has led to a debate about the nexus between elections and democratic consolidation in the continent. Over the last decade, the majority of elections that were held in Africa failed the legitimacy and credibility test (examples are Nigeria 2003 and 2009, Kenya 2007, Zimbabwe 2008, Cote d’Ivoire 2010). On the other hand within the same time a number of countries held elections that were seen to be largely credible (examples are Ghana 2008, Zambia 2011, Senegal 2012). From the standpoint of democratization, these elections brought out one telling fact: periodic elections are not by themselves a guarantee for sustainable democracy.

Post election violence in 2007/8...

Kenya held its fifth multi party elections on 4th March 2013. The 2013 elections came in the wake of the disputed 2007 elections and the post-election violence. Following the declaration of the results, the country faced violence and destruction of property that was previously unseen in its electoral history. The violence that began in January persisted until February 2008. The violence also led to over 600,000 internally displaced persons. In response to escalating violence, the international community appointed a panel of Eminent African Personalities led by Kofi Annan, the former Secretary General of the United Nations, to spearhead mediation work between the disputing parties. The mediation efforts led to the establishment of the National Accord and Reconciliation Act that ushered in the Grand Coalition Government.

... and its major implications

The overriding goal of the Grand Coalition government was to restore peace and stability while at the same time implementing comprehensive reforms. Between 2008 and 2012 Kenya embarked on a journey to institute reforms: The hallmark of these reforms initiatives was the passage of a new constitution in 2010. Within the electoral sphere, the new constitution created a radically new framework for holding elections, including new legislations as well as new institutions to manage and supervise the elections. Undoubtedly, these reforms raised a lot of expectations and confidence on Kenyans with regard to the electoral process.

Conversely, the introductions imposed by the new constitution also had the unintended effect of complicating the electoral process. The presidential run
off now contemplated a higher threshold; a winning candidate had to attain the majority of all the votes cast (50+1) which was hitherto unknown in the country’s electoral history. Within the context of Kenyan tribal politics, this provision, while noble, had the potential of entrenching ethnicity in the elections through tribal alliances and coalitions.

The new constitution also increased the number of elective offices from three to at least six. The cost implications of holding elections in six elective offices simultaneously were enormous. Holding six elections also caused logistical nightmares both to the IEBC and political parties.

The 2013 election was also a transitional election. President Mwai Kibaki, who had served his two-five years term, was ineligible for re-election. Thus, as with all transitional elections, the stake of winning or losing was great and manifested itself in the nature and tone of the political campaigns.

Finally, the 2013 election was held against the backdrop of the international criminal trials at the International Criminal Court (ICC) in The Hague. Two of the leading contenders, namely Uhuru Kenyatta and William Ruto, had been indicted as perpetrators of the 2008 post-election violence. Thus, the question of the ICC was politicized by both sides of the political divide and communities were mobilized for or against the ICC trials.

**Lessons learnt**

The elections from 2007 and 2013 provided useful lessons especially for transitional democracy countries in their quest for democratic consolidation. I will present the most important here:

Regrettably, the struggle for the restoration of multi party democracy in Africa was not accompanied by reforms that were suited for such a political dispensation: Moreover, most countries repealed the constitutional provisions that had outlawed multi party politics while leaving intact all the other laws that had entrenched single party dictatorship. Thus, an uneven playing field evolved. To democratize the electoral arena the new election laws in Kenya provided an opportunity for all contesting parties to canvass for votes while at the same time boosting public confidence in the process.

Weaknesses in the electoral process 2007 were enumerated by various commissions. According to the Kriegler Commission report, the manner in which the Kenyan constituencies were created undermined the principle of equality of the votes – as certain regions had a disproportionate share of constituencies. Equally, the voter register that was used in 2007 elections contained dead voters. Given these shortcomings, along with the setup of a new electoral framework the whole electoral circle was completely overhauled. Accordingly, a new process of the delimitation of constituencies, voter registration, establishment of a new electoral body, registration and nominations by political parties, electoral campaign and Election Day activities were restructured.

Institutional failures were at the core of the letdowns in 2007 elections. One of the institutions singled out by the Kriegler Commission was the Electoral Commission of Kenya (ECK). Thus, Kenya disbanded the old commission, and appointed a completely new one to prepare for the 2013 elections. The manner of appointment of the new commission was rested on parliament after vetting by an independent panel,
whereas in the past the president unilaterally appointed the commission – a practice that is still happening in most countries. Election management is critical to the overall success of elections but manipulations and a lack of independence have been major challenges facing electoral commissions in Africa. To insulate the new commission in Kenya from future abuse, the establishment was anchored in the constitution and a legal act that provided (among others) the mode of appointments, financial autonomy, security of tenure and the separation of the function of the commission and the secretariat.

The 2013 elections in Kenya also reaffirmed the need for strengthening initiatives geared towards election observation. Despite all the reforms put in place before the elections, serious weaknesses were noted in the process and the overall management of elections. All the major election observer missions that were deployed conducted themselves in a professional manner and highlighted the failures that were noted in the process. While there is reluctance by most countries to accept election observers, the Kenyan experience underscored their importance as a mean of enhancing confidence and transparency.

Judicial reforms and the restoration of the citizens in the judicial processes is also a major lesson that can be learnt from the Kenyan experience. The social construction of the African states from independence saw the centralization of power in the executive and the weakening of other state organs especially the judiciary. Almost all elections held in Africa over the last decade have ended in courts. In most cases, serious doubts were cast on the judiciary to be able to competently arbitrate over the election disputes. In Kenya 2007 the aggrieved parties failed to seek recourse in the judiciary – citing a lack of independence opting for mediation efforts. Due to the reforms in the Kenyan judicial sector, the aggrieved parties now challenged the presidential election in court and accepted the Supreme Court’s verdict (despite disagreeing with it).

As part of the lessons learnt from the 2008 post-election violence, Kenya invested heavily on peace building and conflict prevention programmes through Civil Society Organisations and government agencies. At the national and grassroots level mediation panels and peace committees were established which employed alternative dispute resolutions strategies. Judicial mechanisms for resolving conflict was also employed with the establishment of the National Cohesion and Integration Commission (NCIC) and the empowerment of the police and the judiciary to prosecute perpetrators of violence. The media also developed a code of conduct that bounds themselves to promote peace. The multi-pronged approach that involved the state and the non-state actors ensured that peace prevailed in the 2013 elections.

Résumé and recommendations

Despite the progress made, Kenyan elections 2013 still witnessed a lot of challenges. Redressing them will be crucial in consolidating democracy and good governance in future elections. For example all voter identification devices and the results transmission systems, failed on Election Day. Given the fact that most countries in Africa are embracing such technologies in elections, the Kenyan experience calls for caution. The conduct of political parties throughout the campaigns was also noted as a weakness. And indeed party primaries were bedeviled by poor organisation and logistical failures that undermined the process. A lack of internal democracy also characterized the nominations, rendering the entire process shambolic. Given the significance of political parties in a democracy, they should be strengthened to become strong and viable institutions – capable of representing the interests of the citizens. Finally, the resolution of the presidential petition by the Supreme Court was also cited as a challenge. While resorting to the judiciary to resolve the dispute was itself commendable, reliance on technicalities by the Supreme Court to dismiss the case without attending to the substantive issues raised, may set a bad precedent in future resolution of such disputes, which may in turn discourage people from going to courts. The alternative to the courts as was seen in Kenya 2008, Zimbabwe 2008, and Ivory Coast in 2010 is electoral violence that has negative impact on elections and democracy.
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