

INTERNATIONAL ELECTION OBSERVERS IN KENYA'S 2017 ELECTIONS

Impartial or Partisan?

Moses Nderitu Nginya

Moses Nderitu Nginya is a Graduate Student in the School of Peace, Diplomacy and Security Studies, Kenyatta University, Nairobi, Kenya

ABSTRACT

Recently, questions have emerged concerning the professionalism and impartiality of election observers. In Kenya, concerns arose after the August 2017 elections when the Supreme Court of Kenya nullified Uhuru Kenyatta's victory, despite observers suggesting that the elections were credible. Proceeding from this foundation, this paper examines the conduct of election observers in the elections and the claim that their behaviour was equivalent to being impartial. The data that informed the study was collected through interviews and analysis of previous research. The findings of this research demonstrate that election observation cannot be detached from the social, political and security context in which it takes place and the methodologies used by observers also influence their findings. Importantly, the technological expertise of observer missions is becoming increasingly important as states turn to more sophisticated electoral technology. In addition, the study reveals that elections have become a polarising factor in Kenya due to the rise of ethnic politics and prevalence of dysfunctional institutions. The bitter power struggles that unfold during elections have tended to implicate international observers as each political contender expects observers to support their position. We conclude that allegations of impartiality levelled against the observers are intended to serve the political goals of those who raise them. Our findings suggest three circumstances under which observers may be accused of bias. The first is when politicians feel that the odds are stacked against their chances of clinching victory in elections. Secondly, accusations of bias may be advanced as a campaign tool to whip up public sympathy or consolidate support. Thirdly, claims of bias may be used by the opposition to justify post-election protests intended to force a repeat poll or extract a political deal to cater for its interests.

Keywords: election observation, impartiality, ethnicity, Supreme Court of Kenya, KIEMS

INTRODUCTION

Since the 1990s election observation has become an important tool whereby the international community determines whether a country adheres to its obligations and commitments, as established in the framework of international political and civil rights norms and instruments. In Africa, observers have been hailed for supporting the growth of democracy (Hyde 2011). Its proponents have also argued that the presence of observers improves the faith of various players in elections and enhances the transparency and legitimacy of the process (Daxecker 2014), which is essential for political stability and sustainable development. That said, election observation has also attracted a fair share of criticism. Election observers, especially from the west, have been dismissed for superimposing western standards of democracy in Africa while ignoring local realities (Simpser & Donno 2012). Critics also claim that, despite the fanfare with which election observation is undertaken, it often proves to be little more than a public relations exercise with scant capacity to deter electoral fraud. Besides that, the impartiality of election observers has also been questioned (Kelley 2010; Hyde 2011).

Kenya embraced multipartyism in 1992, but only after sustained pressure led by opposition political leaders, civil society and university students (Oyugi 1997). This struggle was also strengthened by support from the donor community. For instance, the US threatened that it would withhold financial aid to the country unless it embraced multipartyism (Brown 2001). The advocates of multipartyism held that competitive elections were a panacea for the ethnic rivalry, corruption, and authoritarianism that had gained root during Kenyatta and Moi's rule (Makinda 1996). However, this proved to be unfounded. When Kenya became a multi-party democracy, the ethnic mobilisation of voters was employed with disastrous effect on national unity. The intense ethnic struggle for power resulted in inter-ethnic clashes which broke out in the general elections of 1992 and 1997 leaving hundreds dead and many more displaced. In 2007, violence broke out once more leaving 1 300 people dead and more than 400 000 displaced (Lafargue 2009).

Furthermore, and contrary to initial predictions, the return to multipartyism did not restore public trust in the electoral process nor in the institutions charged with settling electoral disputes. In nearly all general elections between 1992 and 2017 the opposition rejected the outcomes. The exception was in 2002 when Uhuru Kenyatta conceded defeat even before the electoral agency announced the final results. In 2007, the opposition refused to file a petition to challenge the controversial election of Mwai Kibaki, arguing that the courts could not be trusted. In 2013 the Supreme Court became the focus of sharp criticism by the opposition when its petition was dismissed. Raila Odinga reiterated his doubts about getting justice in the Supreme Court before the 2017 elections. In addition, both Kenneth

Matiba and Odinga relinquished their presidential candidatures in 1997 and 2017 respectively, hoping to scuttle the polls and force radical electoral reforms that would guarantee free and fair elections. However, their 'no reform no elections' movement collapsed because other candidates refused to boycott the elections, hence handing the incumbents an easy-victory (Kamau 2017). Afterwards, both Odinga and Matiba accused the election observers of bias.

Due to Kenya's regional stature and its troubled electoral history, general elections have generally attracted a large number of observers. The 2017 elections attracted more than 10 000 observers (Oruko & Kimanthi 2017). The observer missions included Intergovernmental Organizations (IGOs) such as the Commonwealth Observer Group (COG), European Union (EU EOM) and the African Union (AU EOM). Regional organisations from Africa also sent observers, notably the International Conference of the Great Lakes Region (ICGLR), East African Community (EAC), and the Intergovernmental Authority on Development (IGAD). Another important category was the international non-governmental organisations (INGOs) that engage in the business of election observation such as the Carter Center (TCC) and National Democratic Institute (NDI). The final category of observers were citizen groups such as the Election Observer Group (ELOG), a Kenyan citizen observer group which mobilised 7 000 observers. These were complemented by party representatives and journalists. Despite this spectacular diversity, the observers demonstrated a high level of harmony and coordination. For instance, both before and after the elections leaders of nine international election observations missions (EOM) held a consultative meeting to explore how to work together, and released a joint communique elaborating their common positions (The Commonwealth, 2017).

Voting took place on 8 August. A few hours after the polling stations closed, results started streaming in to the national tallying center set up at the Bomas of Kenya (a tourist village in Nairobi) with the incumbent President Uhuru Kenyatta of Jubilee Party taking a significant lead. However, things took a new twist when Raila Odinga of the National Super Alliance (NASA) party and the main opposition candidate called a press conference and bitterly questioned the outcomes, alleging that the Kenya Integrated Election Management System (KIEMS) had been hacked and the results manipulated in favour of the incumbent. These allegations were vehemently rejected by the IEBC. The following day, EOM released a joint statement calling for calm and restraint as the tallying continued (EU 2017). Individual observer missions released individual preliminary assessments a few days later to articulate their positions. TCC and EU EOM noted the opposition's concern but urged patience as the tallying went on (Carter Center 2017; EU 2017). Regional organisations such as the AU, IGIRL and EAC COMESA also issued a statement praising the manner in which the elections had been

conducted (AU 2017; Daily Nation 2017; COMESA 2017). IGAD was more direct in its praise for the conduct of the elections (IGAD 2017). In a media interview on 10 August, John Kerry noted the concerns raised by Odinga but encouraged him to wait and challenge the results in the courts, as stipulated in the Constitution (Jacinto 2017). Nevertheless, Odinga rejected the observers' positions and blamed the leadership of EOM for failing to make a strong and clear statement despite the challenges witnessed in the elections.

The IEBC announced the final results on 16 August indicating that Uhuru Kenyatta had retained the presidency by clinching 54% of the votes cast. His closest competitor was Raila Odinga who garnered 44% of the votes. The NASA coalition filed a petition in the Supreme Court of Kenya on 15 August challenging the legality of Kenyatta's election. This move was unexpected because Odinga had earlier pronounced that he had no faith in the Supreme Court because it did not rule in his favour when he filed a similar petition in 2013. Due to the high threshold of evidence required to overturn the outcome of a presidential election, it was widely expected that the Odinga petition would flop. However, in a surprising move, the Supreme Court nullified the presidential elections citing illegalities and irregularities in the transmission of results and ordered fresh presidential elections in 60 days (Jacinto 2017).

This verdict was the first such judicial decision in Africa and caught many observers flat-footed, considering their initial preliminary statements which did not highlight malpractices of a magnitude that would warrant the nullification of presidential results. Furthermore, the nullification of Kenyatta's victory also suggested that the concerns raised by the opposition were not as farfetched as had been thought. Besides, it renewed scrutiny on the roles of election observation in the media and beyond. This controversy forms the basis for this study.

CONCEPTUAL FRAMEWORK

The practice of election observation is enshrined in an obligation-based approach which holds that a state has obligations towards the international community to uphold the political and civil rights of its citizens to elect their government through a free and fair process (Chigudu 2015). These rights are articulated in the Universal Declaration of Human Rights (UDHR) and the United Nations International Covenant on Civil and Political Rights (ICCPR) of 1966. Regional organisations have also adopted instruments such as the African Charter on Human and Peoples' Rights of the AU and the European Convention on Human Rights of the EU which enshrine this right. At the same time, an obligation-based approach commits election observers to uphold certain standards with reference to their conduct in any country. The obligations that outline the conduct of election

observers are defined by the Declaration of the Principles on International Election Observation and Code of Conduct for International Observers (DOP) as well as the individual guidelines developed by particular missions to guide its observers.

In the context of the DOP, election observation is an extensive process that assesses events that transpire in pre-election, election, and post-election periods and is employed by governmental (IGOs) and non-governmental (INGOs) entities through a comprehensive process using a variety of techniques (NDI 2017). It focuses on the entire process of elections rather than only events on election day. This implies that ideally, election observation ought to be conducted on a long-term basis; however, in practice this is not always the case. Election observation can be long term (LTO) or short term (STO). The DOP also provides that in principle, all actors in the business of election observation are expected to be free from any conflict of interest and should seek accreditation from and respect the sovereignty of the host state. On the other hand, the state is expected to invite election observers, guarantee free and fair polls and refrain from interfering with observers' freedom of movement and action. After winding up their activities, observers are expected to issue an impartial statement to the public in timely and accurate manner. That said, it should be stressed that IGOs and INGOs are not the lone players in observation as local NGOs, citizen observers and the media also play an essential role in election observation.

CURRENT DEBATES ABOUT ELECTION OBSERVATION

Scholars have undertaken a considerable volume of research focusing on election observation, from which two contending schools of thoughts have emerged. The dominant perspective is that election observers are crucial players who make an invaluable contribution to the overall credibility of the electoral process. This applies before, during and after the elections. For instance, Hyde and Marinov (2008) hold that the presence of LTOs in the preparatory stages is vital to the effective organisation of the polls because it discourages players from engaging in pre-election abuses. It can also improve the capacity of the poll agency to organise credible elections. This is because the electoral agencies occasionally refer to the assessments of a country's election-preparedness prepared by the LTOs to identify areas that require improvement. Occasionally, development partners refer to these reports to determine the need for technical assistance. These reports also point out the challenges that can potentially undermine the smooth conduct of the polls, and gaps that may be exploited by unscrupulous officials to commit fraud.

Secondly, election observers minimise the likelihood of election day malpractices by making it difficult for brazen rigging to go unnoticed (Chernykh & Svolik 2015). In addition, election observation makes cheating costly by

increasing the likelihood of some form of international isolation or sanction on the perpetrators of electoral fraud. This is particularly the case because botched elections may result in civil unrest and bloodshed whose effects may reverberate across regions. Elklit and Svensson (1997) have emphasised that in the era of globalisation, election observers serve as the eyes and ears of the international community. In so doing, they facilitate the development of a self-reinforcing democracy by providing information that enables the voters and other countries to coordinate their actions against both perpetrators of fraud and sore losers. The value of election observation in societies emerging from conflict has also been emphasised (Lappin 2009). In a post-conflict situation, election observation helps to promote peacebuilding and encourages the growth of strong institutions of governance.

The alternative view holds that election observers have no meaningful impact on the integrity of the electoral process, and a number of arguments have been advanced to illustrate this view. Simpser and Donno (2012) have argued that because most observer missions engage in short term observation, they cannot make informed assessments of the elections based on the events that transpire within a span of a few days of the elections because elections are complex undertakings. The basis of this argument is that because elections take a number of years to prepare and execute, fraud can take place at different stages hence eluding the attention of short-term observers. Also, opposition parties in a number of instances have rejected the outcomes of elections supervised by observers or have withdrawn from the elections altogether. In 1997 Kenneth Matiba, leader of FORD-Asili and leading opposition politician in Kenya withdrew from the presidential elections, citing unfair poll laws and plans by Moi to rig the elections. Moi went ahead and won the elections as Matiba faded into political obscurity (Kamau 2017). In 2017 Raila Odinga of NASA coalition also withdrew his candidature from the repeat poll and advanced similar allegations. This was despite the fact that he had successfully challenged the electoral outcomes in the Supreme Court (Kamau 2017). Like Moi, Kenyatta sailed easily into victory despite low voter turnout. In both instances the elections had attracted a considerable number of reputable election observers, a situation usually seen to enhance the transparency of polls (Participant 5, Personal Communication, 4 February 2018). Elsewhere in Africa, opposition withdrawal occurred in Sudan in 2010 and Zimbabwe in 2008. Withdrawal of opposition is perceived as an indictment of the ability of observers to enhance the transparency and integrity of the polls.

Another issue debated by scholars is the tendency of election observers to arrive at different conclusions about the same elections. A number of explanations have been put forward to account for this. One is that despite increased coordination among observer missions, significant methodological approaches

remain. Also, even though observers have recognized the DOP as the basic framework for election observation, different agencies have formulated their own election observation charters (Participant 4, Personal Communication, 4 February 2018). Moreover, Laakso (2002) emphasises that the nature of interactions between the state and external environment may also account for different reports. The performance of election observer missions is also determined by their technical expertise, financial resources and contextual factors such as the security and political environment in which they operate (Kelley 2010). In his study, Pastor (1998) attributes conflicting assessments to the presence of ‘amateur observers’ like citizen observers, media and civil society who are not well grounded in this field. The tendency by some observer missions to put a ‘positive spin on messy elections’ has also been highlighted (Pastor 1998).

In addition, some critics argue that election observers are vulnerable to bias and double standards. Citing the case of Zimbabwe’s parliamentary elections in 2000, Laakso (2002) claims that in some cases observers have a pre-conceived bias that rigging will take place anyway, which in turn is reflected in their assessments. On the other hand, Kelley (2009) has observed that observer missions from regional organisations in Africa tend to be lenient in their assessment of elections in fellow African countries partially because they are cautious of being condemned for interfering with the internal affairs of a member state. Because democratic culture is still weak in Africa, many regional organisations are guarded about upholding standards they may not be able to match in their own elections. It is also worth noting that for decades the doctrine of non-interference was a central pillar of the defunct Organization of African Unity (OAU). In their study, Cheeseman et al. (2016) have argued that leniency towards elections in African countries also applies to observer missions from outside the continent. They attribute this to the perception that critical assessments have the potential to trigger political instability in fragile democracies or fuel post-election violence. This argument is reinforced by Kelley (2010), who observes that in 2007 observers withheld a damning report on Kenya’s electoral process because it was feared that it might escalate violence in an important anchor state for US interest in the region.

CAN ELECTION OBSERVERS REALLY BE IMPARTIAL?

As a general practice, the host government invites and accredits international observers. Therefore, even as observers endeavour to produce objective assessments of the elections, they are also wary of producing reports that can be counterproductive to their interests (Cheeseman 2017). Many IGOs observe elections in member states where their interests go beyond just the elections because they are also interested in preserving political and economic stability

within their regions. For instance, within the East African Region, Kenya is considered a crucial factor in regional peace and stability because of its place as the leading economic and political power in the region (Kelley 2009). Thus political instability in Kenya could spill over to other countries in the region. For instance, in the 1990s observers were reluctant to criticise Moi's regime out of fear that it would trigger chaos and regional instability (Simpser & Donno 2012). As a result, observers walk a tightrope between the moral obligation to expose fraud and the pragmatism of downplaying abuse for the greater good. Observers are also reluctant to allege fraud when they cannot prove their claims as this can offend the host government and increase the likelihood of being locked out of the country in future elections (Cheeseman 2017). Because the government accredits observers, autocratic regimes will not allow observers whom they regard as hostile. In some cases, states such as Zimbabwe refused to accredit observers from the EU and US claiming that they had a preconceived bias. In 2002, Mugabe's government refused to accredit the EU EOM, NDI and TCC because they did not come from friendly countries.

Election observers do not operate in a perfect environment. Their freedom is constrained by immense pressure from the public, the government and the opposition to endorse their claims vis-a-vis the polls (Elklit & Reynolds 2005). This leaves election observers in a position where they can be condemned by at least one side irrespective of the nature of their reports. In other words, the impartiality of election observers depends on whom you ask, the victor or the loser. Those favoured by the assessments generated by the observers tend to praise the observers for their impartiality. On the other hand, those not favoured will criticise them for having an open bias. In the second scenario, the aggrieved party may single out the leadership of an observer mission for criticism without reference to the truth of the facts articulated in their reports (Participant 2, Personal Communication, 16 February 2018). This is likely where the chief observer has a history of a close relationship with the side that benefits from their assessment.

The role played by the heads of a particular observer mission has emerged as a central issue. Normally key leaders such as former presidents, cabinet ministers, diplomats and other high-ranking officials are appointed to head the observer missions. These individuals have extensive experience in political leadership, elections, and diplomacy, which may be quite useful in the event of post-election disagreement. While this confers an obvious advantage to these leaders, it can also provide fertile grounds for critics to question their integrity. Indeed, after the August 2017 elections James Orendo, a key NASA leader and Odinga's ally, singled out John Mahama, former President of Ghana who led the Commonwealth Observer Group (COG), claiming that he was a friend of Uhuru Kenyatta. He insisted that Mahama harboured bitterness towards Odinga due to his closeness

to the Ghanaian president Nana Akufo Addo, who had defeated Mahama in 2016 (Olick & Awitch 2017). For this reason, his role as a head of observer mission undermined the perceived impartiality of the COG. The controversy surrounding John Kerry, who led the Carter Center observer mission, was an interesting one. Upon his appointment the opposition praised Kerry's record in his tenure as a politician and as secretary of state in the United States. However, they accused him of bias when he described the elections as largely smooth and peaceful and urged the opposition to use constitutional means to address its grievances (Obwocha 2017). Similar accusations were levelled against Thabo Mbeki, head of AU-EOM and former president of South Africa.

Historically, the IGOs have dominated the field of election observation. Regional organisations such as the AU, EU, and EAC OSCE have a tradition of dispatching LTOs to undertake election observation in countries of interest. Others such as IGAD, EAC and COMESA establish ad hoc mechanisms that engage in short-term observations. Scholars have questioned the validity of observer missions from IGO on various grounds. In his assessments, Chand (1997) suggests that IGOs whose members have a weak democratic culture engage in observation as a mere formality and rarely report irregularities. Moreover, Simpser and Donno (2012) aver that typically, IGO missions tend to be very cautious in the wording of their reports when assessing elections in a key member state.

Since its establishment in 2002 the AU has encouraged the formation of robust regional organisations and encouraged them to take the leadership in managing regional issues. Subsequently, regionalism has become evident even in the field of election observation, with regional IGOs routinely sending their own observers to witness members' elections. In 2017, five regional organisations including the AU observed Kenya's elections. Of these, only the AU and EAC sent LTOs. In their preliminary statements the AU, IGLR, EAC and COMESA described the polls using terms such as 'free and fair', 'peaceful', 'credible', 'verifiable' and 'up to the standards set by Kenya and the AU' (AU 2017; *Daily Nation* 2017; COMESA 2017). IGAD, on the other hand, termed the elections as 'peaceful, orderly and transparent' and directed the opposition to 'respect the will of the people and refrain from activities that could endanger peace and stability' (IGAD 2017). Issues such as the secrecy of the vote, security checks and the failure of KIEMS, which were covered by preliminary statements from EU EOM and TCC, were not addressed by regional observer missions.

NGOs have also become active participants in election observation in recent years. This involvement is a reflection of their growing influence in governance, which has taken place since the 1990s when NGOs were at the centre of democratisation movement, especially in Africa (Chernykh & Svolik, 2015). Today, international NGOs such as TCC have become some of the most respected actors

in election observation. National NGOs such as Kenya Human Rights Commission (KHRC) and African Centre for Governance (AFRICOG) from Kenya participate in election observation in their home countries as citizen observers.

Generally, scholars have showered NGOs with praise for exhibiting high levels of autonomy and professionalism in election observation. For example, Kelley (2010) argues that as a whole, observers from NGOs wield greater autonomy and therefore provide more reliable assessments than IGOs. However, in some instances NGOs have been accused of serving foreign interests and showing open bias against the incumbent or the opposition. In 2017 Odinga accused the TCC of bias. When elections were eventually nullified KHRC and AFRICOG, which had observed the election and had backed NASA's position, became subjects of a crackdown led by the NGO Coordination Board. This bias was attributed to a perception that they showed open bias against the government by working with the opposition to file an election petition in 2013 and again in 2017 (Kanyinga 2017). That said, Participant 2 clarified that such accusations of bias are rarely proven (Personal Communication, 16 February 2018). In fact, just like IGOs, assessments by NGOs show wide variations which can also be explained by their methodologies, technical and financial capacity to undertake election observation and environmental factors.

ELECTION OBSERVATION IS NOT SUFFICIENTLY EXTENSIVE

Another issue that has dominated the debate in election observation is that it is not extensive enough. This is because, in practice, the majority of election observers engage in short-term observation as opposed to long-term observation. This raises serious concerns about the validity of their reports. With reference to the foregoing, Elklit and Reynolds (2005) reason that elections must be seen as a continuous process beginning with voter registration, party nominations, the creation of a voter register, campaigning, voting, counting ballots and finally the announcement of the winner. Elections are not a simple event that start with voting and end with the announcement of the results. Once the elections are over, the electoral agency begins the cycle all over again in preparation for the next elections. Electoral fraud can thus occur at any stage. Indeed, Schmitter and Karl (1991) have demonstrated that one of the most commonly used approaches is falsifying the voter register or using covert tactics to ensure that large numbers of voters in opposition strongholds are not registered. Incumbents also use reward systems and deploy public resources to boost their chances of being re-elected. STOs may not be able to detect these abuses because they take place in the early stages of the electoral cycle.

In view of the foregoing, international organisations are increasingly investing in long-term observation which entails sending out election observers several months before elections. Moreover, observer's missions recruit experts who assist them to understand and consider the effect of historical factors on the election process (Aubyn 2012). This way they can understand how rigging takes place in that country and develop measures to detect it if and when it occurs. The EU is a good example of an organisation with a tradition of sending long-term observers who start operations months before the actual election date. In 2017, LTOs from the EU were active in Kenya as early as June (EU 2018). The AU and EAC also deployed LTOs who arrived in June-July. Reports generated by longer-term missions are also crucial because they identify areas that require improvement in future elections. Local civil society organisations (CSOs) also complement the activities of these foreign LTOs. Their permanent location in the country gives them a superior understanding of its political history and the loopholes that can be exploited to facilitate electoral fraud (Beaulieu & Hyde 2009). Coordination between international observers and CSOs enable the STOs to benefit from their extensive knowledge of the local political dynamics.

However, the perception that civil society has political interests jeopardises their efforts to project themselves as impartial actors (El Baradei 2012). Their involvement in election observation therefore tends to elicit strong reactions, especially from less democratic countries. In Kenya, CSOs have had an acrimonious relationship with the government due to suspicions that they had been driving the opposition's agenda since the 1990s. On a number of occasions the government has launched a sustained clampdown which weakened the capacity of CSOs to observe the elections. For instance, after the 2017 elections in which the leading CSOs in Kenya supported the opposition's assertions that the elections were not credible, the NGO Coordination Board undertook a crackdown which targeted the leading NGOs, including the Kenya National Commission on Human Rights (KNHCR) and the Africa Centre for Open Governance (AFRICOG). Other issues that weaken the capacity of CSOs are inadequate funding and lack of technical capacity.

Election observers recognise the fact that it is practically impossible to have a perfect election. They therefore consider both the scale and the nature of the malpractices (rather than mere presence of malpractice) and whether those faults have been serious enough to change the outcomes of the elections (RuthRauff 2017). The effectiveness of the observers is also impinged on by the circumstances in which they operate. Recently, rapid advancement in election technology has made the technological know-how of observer missions a key determinant of their effectiveness (Cheeseman 2017). As a result, observers are increasingly under pressure to hire data analysts and IT experts to cope with

changing trends in election technology. Indeed, the primary reason why NASAs rejected the electoral outcomes after the August elections was the claim that the KIEMS had been hacked and the results manipulated in favour of Jubilee. The key reason why observers were condemned by NASA was also their failure to address this concern. The inability of the IEBC to respond to weighty questions on the integrity of the KIEMS also formed the basis for the Supreme Court to nullify the presidential results (Participant 3, Personal Communication, 9 February 2018).

Another factor is that even in the best circumstances observers are few and far between. Their small number compared to the enormous number of polling stations renders them unable to cover all polling stations. To mitigate this challenge, election observers sample their stations carefully to maximise effectiveness and guarantee representativity. This ensures that despite their limited numbers, their findings are valid. In unstable and insecure countries, observers perform their duties at significant risk to their physical security. In Kenya, the Commonwealth, EU and TCC scaled down their observation operations during the repeat poll held in October 2017 due to security concerns. The remoteness of some regions coupled with poor infrastructure and bad weather may also impede access in some regions. That said, Hyde (2011) demonstrates that the credibility of election observers is also weakened by the fact that some observers conduct their business as a formality, and thus have earned the reputation of either giving positive assessments or of discrediting elections with little reference to the actual credibility of the elections. This erodes their perception of impartiality.

CALMING THE WATERS OR STOKING THE FIRE?

There are three competing arguments for how the presence of election observers shapes the perception of both the contenders and the public about the electoral process. The predominant school of thought is that the presence of international election observers has a positive impact in the country in question. Election observers primarily reassure the political players in the country that the election process will be protected from abuse (Daxecker 2012). This confers credibility on the outcomes of the election and legitimacy on those elected into office. Other than deterring rigging, election observation also encourages the growth of sustainable democracy and facilitates the development of intimate relations between the actors concerned and the state in question (Simpser & Donno 2012).

Secondly, there is emerging evidence that election observation can have negative effects on the stability of a country. Pre-election analysis by LTOs showing poor preparedness on the part of the electoral agency may establish a basis for the opposition to reject the election outcome by citing these concerns (Kelley 2010). Scholars have also documented evidence suggesting that when

observers report electoral fraud, they may ratchet up political tension, trigger an outbreak of electoral violence or aggravate the scale and duration of post-election protests (Hyde & Marinov 2008). Reports by the media and a section of election observers of massive rigging in Kenya's 2007 elections helped convince the Orange Democratic Movement (ODM) supporters that Kibaki had snatched their victory, hence stirring up tension.

The third perspective is that the presence of observers has no effect whatsoever on the events that transpire on election day. Simply put, this perspective holds that perpetrators will still use alternative channels to rig the elections regardless of the presence of observers (Chernykh & Svolik 2015). This view perceives election monitors as helpless bystanders with inadequate power to shape events on election day. For instance, Cheeseman (2017) observes that even though citizens hold observers in high regard, the role they play in securing the integrity of the elections is overrated. This view holds that politicians can orchestrate abuses in the preparatory stages of the elections or migrate their schemes to regions not covered by observers. These reasons lead Obi (2008) to conclude that election observations are fraught with contradictions, because whereas they are supposed to offer legitimately free and fair elections, they occasionally encourage the acceptance of flawed polls. Recognising this possibility, the opposition in Kenya, Ethiopia, and Sudan have in the past boycotted elections despite the presence of international observers. The implication here is that the opposition was convinced that electoral fraud had already taken place or would take place regardless of the presence of election observers, and that there would be no consequence for perpetrators. In essence, when the opposition boycotts elections where international observers are present, they are questioning the ability of observers to have a meaningful effect on the integrity of the electoral process.

ELECTION OBSERVERS AND KENYA'S AUGUST 2017 ELECTION

More than 25 observer missions witnessed the August elections in Kenya (Oruko & Kimanthi 2017). They were headed by two former heads of state, diplomats, and other senior officials. Many countries with diplomatic missions in Kenya also took part in election observation by setting up diplomatic watcher missions

Most of the observers were there for a short term although a number of LTOs had been in the country months before the elections. Throughout 2017 a number of the LTOs that were active in the country released reports on the preparedness for polls which highlighted issues that could potentially affect the credibility of the polls. These included inadequate consultations (Kenya Human Rights Commission 2017), delays by the IEBC to open the voter register for the public scrutiny, ethnic polarisation (National Democratic Institute 2017), opacity around the awarding of

ballot printing tender and KIEMS, controversy over whether to use an electronic voter register or a manual register (AU 2017b), systematic abuses on the part of the government including the use of state resources to campaign (AFRICOG 2017), the deployment of public servants to assist in government campaigns, and heightened tension in the country (EU 2018). In these reports, a consensus emerged that there was a need to fast-track the preparedness of the IEBC and improve security and the political environment to guarantee free and fair elections.

Following the end of voting on 8 August, NASA called a press conference where it termed the results being streamed live by IEBC at the Bomas of Kenya a sham. They also advanced the claim that the result transmission system had been hacked and the actual results changed to give Jubilee a consistent 10% edge over NASA. The IEBC rejected these allegations. On the following day election observers from nine international missions added their voice to this development in a joint statement urging all sides to exercise restraint so as to allow the IEBC space to complete the vote tallying process (EU 2017). Individual observer missions also released their preliminary assessments of the situation.

On 10 August, the AU EOM released preliminary reports that praised the elections for being peaceful, verifiable and up to acceptable standards (AU 2017a). A joint statement by EAC and IGLR termed the process as 'free, fair, transparent and [an] expression of the will of the people' (*Daily Nation*, 2017). On the other hand, IGAD praised the IEBC for conducting polls in a 'peaceful, orderly and transparent manner' and urged those aggrieved with the outcomes to refrain from acts that would jeopardise peace and stability (IGAD 2017). The EU EOM released a statement on 10 August noting that the IEBC had upheld transparency in the voting process and tallying at constituency levels, although it highlighted concern over the secrecy of the ballot, security checks, some errors in ballot counting and the failure of KIEMS in some areas (EU, 2017). The statement by TCC on the same day stressed similar concerns (Carter Center 2017). However, NASA took issue with these statements arguing that they did not adequately consider the basis of their complaint regarding the transmission of the results.

When the IEBC announced the final results, they indicated that Uhuru Kenyatta of Jubilee retained his seat with 54.17% of the votes cast against Raila Odinga of NASA who garnered 44.94% of the votes. Moreover, Jubilee garnered a clear majority in both the Senate and the National Assembly. As it had already suggested, the NASA coalition refused to recognise the outcomes terming them 'computer generated results'. Contrary to initial indications, NASA filed a petition in the Supreme Court of Kenya challenging the validity of Kenyatta's victory one week after the declaration of results. In a historic ruling that shocked the world, the Supreme Court nullified the presidential elections on 1 September citing 'illegalities and irregularities', especially in the results transmission process. It also implicated the IEBC for failing to open its records for scrutiny. This ruling was the

first of its kind in Africa and was also hailed as a demonstration that democracy was taking root in Africa (Cheeseman, Lynch & Willis, 2017). As pointed out by Participant 3, it is worth emphasising that the Supreme Court ruling did not fault the voting and tallying process, but rather the opacity of KIEMS and the inability of IEBC to open it to scrutiny (Personal Communication, 16 February 2018).

Furthermore, the opposition escalated their attacks by singling out individual leaders of observer missions for criticism. In an interview with local media, John Kerry described the elections as 'largely a success' and voting as 'smooth and peaceful'. He called on all parties to exercise restraint as the IEBC prepared the results and urged the aggrieved parties to challenge the outcomes in court or move on. This was followed by an interview with CNN where he described the elections as positive and credible and observed that IEBC had used impressive measures to safeguard the integrity of the polls. However, in an interview with same TV station, Odinga condemned Kerry for ignoring questions on the integrity of the results system transmission system and of rushing to a conclusion (Heerden & Said-Moorhouse 2017). The opposition also dismissed Thabo Mbeki of AU EOM and John Mahama of COG as being close friends of the incumbent and who could thus not provide an objective assessment. Diplomats, particularly from the United States, were not spared criticism by NASA.

It should also be stressed that whereas the opposition had alleged that international observers had endorsed the polls, the full reports released by observer missions such as the Carter Center and EU-EOM provided further revelations on malpractices witnessed in the polls. The EU EOM reiterated that in the polling stations the observers visited, they were able to establish the paper trail from the moment the ballot was cast, counting and announcement of the results at the polling station. They also noted malpractices ranging from the falsification of figures, intimidation of IEBC staff and failure to countersign the forms in some polling stations (EU 2017). However, as results generated by ELOG suggests, this malpractice was limited in scale (Carter Center 2018; EU 2018). They also noted that observers could account for the voting and tallying process but had no access to the online transmission system. Interestingly, our analysis pointed out that KIEMS played a central role in the Supreme Court nullification of Kenyatta's victory. Failure by observers to address the fundamental concerns over the integrity of the vote transmission system was also a key reason why they were accused of being impartial (A. Bashir, Personal Communication, 25 May 2018).

ELECTION OBSERVATION DYNAMICS IN KENYA

Our findings suggest that the controversies that emerged around the role of election observers are an outcome of the political culture that has gained root in

Kenya since the 1960s. Since 1992, ethnic balkanisation has intensified. Politicians progressively retreated to their ethnic identities as the basis for voter mobilisation at the expense of national unity (Oyugi 1997). As observed by Participant 1, 'the political parties that emerged after the introduction of multipartyism are controlled with an iron-fist by regional kingpins, who are usually the most prominent leaders of their ethnic group, or region...' (Personal communication, 22 January 2018). Politicians use these ethnic political parties to pursue power in the guise of protecting their collective interests. Therefore, ethnic affiliation is a major determinant of how voters cast their ballots, with many dedicatedly voting for their own.

The growth of ethnic politics has polarised the country and heightened tension among groups. For instance, vicious competition between ethnic kingpins routinely breaks out into open inter-ethnic conflict as witnessed during and after the general elections of 1992, 1997, 2007 and 2017. Moreover, the big ethnic groups such as Gikuyu, Luhya, Kalenjins, and Luos dominate electoral politics, often at each other's expense. On the other hand, smaller groups bargain with the dominant groups hoping to reap benefits in exchange for support (Oyugi 1992). Tribalisation in Kenyan politics has made elections a zero-sum game in which only candidates from big communities stand a real chance of clinching the presidency. Because of the patronage role played by the president with regard to public projects and appointment to public service, losing an election is considered unbearable (Lafargue 2009). Presidential candidates, politicians and other election contenders also expect observers to support their cause, and when observers fail to do so they become the subject of scathing attack from the loser.

Secondly, electoral agencies have a troubled history which is also a reflection of the general attitude Kenyans have to public institutions. In 2007, the glaring malpractices in elections and failure of the chairman of the Electoral Commission of Kenya (ECK) to stamp his authority paved the way for a serious outbreak of post-election violence. The IEBC was established to replace its disgraced predecessor; however, since its establishment the IEBC has increasingly faced criticism and accusations of favouring the incumbents. In April 2016 the opposition started street protests to force radical reforms on IEBC with a view to improving transparency and weeding out individuals it accused of undermining its credibility. These agitations brought together a number of opposition parties under the umbrella of the NASA Coalition at the end of 2016. Opposition pressure found support from the diplomatic community and eventually the IEBC did acquiesce to some of the demands. For instance, the IEBC commissioners resigned, hence paving way for a new electoral commission chaired by Wafula Chebukati. However, the IEBC did not heed NASA's demands for the voter register to be published by IEBC, access

to KIEMS, and cancellation of the ballot-printing tender. In 2017 the opposition demanded the postponement of results claiming that the IEBC was not ready. These concerns emerged from the belief that IEBC gave away its victory in 2013. These tense relations between NASA and IEBC contributed to the lack of trust that paved the way for the results to be rejected.

Subsequently, the findings of this study suggest that election observers in Kenya have tended to be caught up in aggressive political manoeuvring by politicians in the context described above. For instance, whereas the opposition accused the western observers of bias after the August 2017 elections, a closer examination of the statements released by TCC and EU EOM did not endorse the elections in their entirety, as alleged by the opposition. Rather, both noted that election day had run smoothly despite a number of security and technological hitches and urged all parties to wait for the final results and go to court if dissatisfied. Interestingly enough, statements released by observers from IGAD, AU EOM, COMESA, EAC and IGLR offered relatively more positive assessments although these were generally spared from NASA's criticism (IGAD 2017; AU 2017a; COMESA 2017; *Daily Nation* 2017). It should also be stressed that the final reports by TCC and EU EOM highlighted a number of shortcomings in the electoral process (EU 2018; Carter Center, 2018).

In addition, this study notes that the leadership of both Jubilee and NASA selectively picked up on words or statements released by election observers to buttress their claim to victory or to justify their rejection of the electoral results. When observers released a preliminary report a few days after the elections that appeared to endorse the conduct of the elections, Jubilee cited these reports to justify Uhuru Kenyatta's victory. Opposition leaders on the other hand accused them of bias and of prematurely jumping to conclusions. However, the more detailed final reports by the EU EOM and TCC demonstrated how shortcomings such as the use of state resources, police brutality towards voters and the failure of IEBC to guarantee the integrity of the KIEMS had weakened the credibility of the August polls (EU 2018; Carter Center 2018; EU 2018). Jubilee dismissed these assessments (Participant 4, Personal Communication, 4 February 2018). The opposition, on the other hand, welcomed them because they appeared to buttress their claim that irregularities had taken place. A case in point was when the EU EOM chief observer Marietje Schaake released the full report on Kenya's elections on 10 January 2018, criticising the government for abuses orchestrated in the campaign period and failures by IEBC to demonstrate the integrity of the KIEMS (EU 2018). The opposition welcomed these findings; however Jubilee condemned the report and lodged a formal complaint about the conduct of the chief observer in Brussels (Kenya 2018).

BASIS FOR ACCUSATIONS OF IMPARTIALITY

Overall, our analysis of the controversies surrounding election observers in Kenya points to three scenarios under which accusations of bias have been advanced against election observers. Political leaders question the role of election observers if they feel that the odds are stacked against their chances of clinching victory in elections. Kenneth Matiba accused observers of failing to prevent Daniel Arap Moi both from rigging elections in 1992 and plans to rig the 1997 elections. On the other hand, Moi condemned them for attempting to force political change in Kenya (Brown 2001). In reality Matiba faced an uphill task winning the elections, thanks to the fragmented opposition. In 2017 NASA failed to consolidate its support base by allowing affiliate parties to field candidates in the same regions, hence weakening its internal unity (Kamau 2017). It is important to note that both Matiba and Odinga ended up withdrawing their candidature from the elections, hence handing their opponents a smooth path to victory.

Secondly, political contenders may advance allegations of bias against international actors as part of a campaign strategy intended to whip up public sympathy in order to turn the tide against their competitor. In 2013 Uhuru and Ruto made spirited efforts to portray diplomats from the United States and EU as meddlers in Kenya's affairs, and Odinga as a protégé of the west. On the other hand, Odinga exploited the west's concerns over Uhuru's presidency due to the ongoing cases at the International Criminal Court (ICC), in order to bolster his own candidature (Mangu 2015). After the 2017 August elections Odinga accused international observers and western diplomats of failing to criticise both electoral malpractices and the brutal repression of protests that broke out after the elections. NASA exploited the claims of a complicit cover-up to convince its supporters to boycott the repeat poll, which culminated in a record low voter turnout and violence in NASA strongholds.

Finally, the claims of bias may be used by the opposition to strengthen its rejection of the electoral outcomes and to justify protests, with a view to forcing a repeat poll or extracting a political bargain. After the disputed polls of 2007, the ODM called for mass action to force Kibaki to step down. This led to the death and displacement of people on an unprecedented scale. The opposition ended the protest after mediation steered by Kofi Annan resolved to form a coalition government, with Kibaki as the president and Odinga as prime minister (Lafargue 2009). A similar development unfolded in Zimbabwe after disputed polls in 2008 when Robert Mugabe, who controversially won the elections, was forced to form a government of national unity with the opposition leader, Morgan Tsvangirai (Chigora & Guzura 2011). After the 2017 elections NASA called for protests which continued until Odinga and Kenyatta reached an agreement that gave Odinga

a role in addressing critical issues such as corruption, ethnic animosity and historical injustice.

CONCLUSIONS

There were many challenges that characterised the 2017 elections in Kenya. These included political tension, questions concerning the preparedness of the IEBC and failure by all parties to work together to solve questions over the integrity of the KIEMS and the procurement of election materials. These disagreements set the stage for a rejection of election outcomes. There were remarkable levels of coordination among the EOMs, as demonstrated by the release of joint statements before and after the elections. However, individual preliminary statements revealed noteworthy differences. Some observer missions described the elections favourably, whereas others highlighted concerns with KIEMS, ballot tallying and the security environment. These differences can be attributed to different approaches used by observers. That said, the EOMs faced accusations of impartiality due to rushed endorsement and failure to adequately address the questions over the vote transmission system. Detailed reports released by some observer missions did address these concerns. Interestingly, the opposition warmed to the reports whereas the incumbent criticised them. It can therefore be seen that NASA and Jubilee reacted differently to observers' assessments depending on whether or not these favoured their interests, without interrogating the methodologies used and the substance of the reports. Finally, due to the central role played by KIEMS in the Kenyan election dispute, observers will need to pay more attention to electoral technology in future elections.

— REFERENCES —

- Africa Centre for Open Governance 2017, 'Ready or Not? An Assessment of Kenya's preparedness for the 8 August 2017 general elections, April-June 2017', Africog, viewed 21 December 2017, <https://africog.org/wp-content/uploads/2017/07/Ready-Or-Not_An-Assessment-of-Kenya%E2%80%99s-Preparedness-for-General-Elections-on-8-August-2017_Edition2_Final.pdf> .
- African Union 2017a, *Preliminary Statement African Union Election Observer Mission to the 2017 General Elections in Kenya*, Press release, viewed 31 December 2017, <<https://au.int/en/pressreleases/20170810/preliminary-statement-african-union-election-observer-mission-2017-general>> .
- African Union 2017b, *Pre-Election Statement. The African Union Election Observation Mission to Kenya's 2017 Elections*, Press release, viewed 8 December 2017,

- <https://au.int/sites/default/files/pressreleases/32744-pr-pre_election_kenya.pdf>.
- Aubyn, F K 2012, 'Election Observation and Democratic Consolidation in Africa: The Ghanaian Experience', *Managing election-related violence for democratic stability in Ghana*, vol. 240.
- Beaulieu, E & Hyde, SD 2009, 'In the Shadow of Democracy Promotion: Strategic Manipulation, International Observers, and Election Boycotts', *Comparative Political Studies*, vol. 42, no. 3, pp. 392-415.
- Brown, S 2001, 'Authoritarian Leaders and Multiparty Elections in Africa: How Foreign Donors Help to Keep Kenya's Daniel Arap Moi in Power', *Third World Quarterly*, vol. 22, no. 5, pp. 725-739.
- Carter Center 2017, *Carter Centre Preliminary Statement on the 2017 Kenyan Election*, viewed 15 August 2017, <<https://www.cartercenter.org/news/pr/kenya-081017.html>>.
- Carter Center 2018, *Carter Centre Calls for Dialogue and National Reconciliation to End Kenya's Protracted Political Impasse*, viewed 8 January 2018, <<https://www.cartercenter.org/news/pr/kenya110717.html>>.
- Chand, VK 1997, 'Democratisation from the outside in NGO and international efforts to promote open elections', *Third World Quarterly*, vol. 18, no. 3, pp. 543-562.
- Cheeseman, N, Lynch, G & Willis, J 2016, 'How Election Monitors Are Failing', *Foreign policy journal*, viewed 23 December 2017, <<http://foreignpolicy.com/2016/04/29/how-election-monitors-are-failing-uganda>>.
- Cheeseman, N 2017, 'A look into pivotal role observers plays in elections', *Saturday Nation*, <<https://www.nation.co.ke/oped/opinion/A-look-into-pivotal-role-observers-play-in-elections/440808-4202354-t8t7ebz/index.html>>.
- Chernykh, S & Svulik MW 2015, 'Third-Party Actors and the Success of Democracy: How Electoral Commissions, Courts, and Observers Shape Incentives for Electoral Manipulation and Post-Election Protests', *The Journal of Politics*, vol. 77, no. 2, pp. 407-420.
- Chigora, P & Guzura, T 2011, 'The politics of the Government of National Unity (GNU) and power-sharing in Zimbabwe: Challenges and prospects for democracy', *African Journal of History and Culture*, vol. 3, no. 2, pp. 20-26.
- Chigudu, D 2015, 'Foreign Election Observers in Africa: Towards an Obligations-Based Approach', *Mediterranean Journal of Social Sciences*, vol. 6, no 1 S1, p. 272.
- COMESA 2017, 'COMESA lauds Kenya for conducting peaceful elections', viewed 8 March 2018, <http://www.comesa.int/wp-content/uploads/2017/08/comesa-newsletter_528.pdf>.
- Commonwealth 2017, 'Communique Issued at the Joint Meeting of Heads of International Observer Mission to the 2017 General Elections in Kenya', viewed 12 January 2018, <<http://thecommonwealth.org/sites/default/files/inline/COMMUNIQUE%20BY%20IEOMs%20revised.pdf>>

- Daily Nation* 2017, 'EAC and ICGLR observers laud IEBC for conducting credible polls', viewed 10 December 2017, < <https://www.nation.co.ke/video/news/4146788-4052342-hjruhgz/index.html>>.
- Daxecker, UE 2014, 'All quiet on Election Day? International election observation and incentives for pre-election violence in African elections', *Electoral Studies*, vol. 34, pp. 232-243.
- Daxecker, UE, 2012, 'The cost of exposing cheating: International election observation, fraud, and post-election violence in Africa', *Journal of Peace Research*, vol. 49, no. 4, pp. 503-516.
- El Baradei, L 2012, 'The Role of Civil Society Organizations in Monitoring Elections: Lessons Learned for the New Egypt', *International Journal of Public Administration*, vol. 35, no. 9, pp. 587-602.
- Elklit, J & Svensson, P 1997, 'What Makes Elections Free and Fair?', *Journal of democracy*, vol. 8, no. 3, pp. 32-46.
- Elklit, J & Reynolds, A 2005, 'A Framework for the Systematic Study of Election Quality', *Democratization*, vol. 12, no. 2, pp. 147-162.
- Embassy of the Republic of Kenya mission to EU (2018) Press statement, < <https://www.theelephant.info/uploads/2018/01/Kenya-Embassy-Brussels-Press-Statement-10th-Jan.pdf>> accessed 26.05.2018
- EU 2017, 'Democratic commitment demonstrated by the people of Kenya, despite parties' forceful criticism of key institutions', Nairobi, 10 August 2017, viewed 8 February 2018, <https://eeas.europa.eu/sites/eeas/files/eu_eom_kenya_2017_preliminary_statement_final.pdf>
- EU 2018, *EU EOM Kenya 2017 Final Report, 10 January 2018*, viewed 10 January 2018, https://eeas.europa.eu/election-observation-missions/eom-kenya-2017/38099/eu-eom-kenya-2017-final-report-10-january-2018_en.
- Heerden, D & Said-Moorhouse, L 2017, *Kenya Opposition Claims Election System Hacked, Rejects Early Results*, viewed 20 October 2017, <<https://edition.cnn.com/2017/08/09/africa/kenya-election/index.html>>.
- Hyde, SD & Marinov, N 2008, 'Does Information Facilitate Self-Enforcing Democracy? The Role of International Election Observation', *Unpublished manuscript, Yale University*.
- Hyde, SD 2011, 'Catch Us If You Can: Election Observation and International Norm Diffusion', *American Journal of Political Science*, vol. 55, no. 2, pp. 356-369.
- IGAD 2017, *Statement on the General Elections in Kenya from the IGAD Chair Person*, viewed 21 December 2017, <<https://igad.int/press-release/1622-statement-on-the-general-elections-in-kenya-from-the-igad-chair-person>>.
- Jacinto, L 2017, 'Kenyan Court Ruling Puts "Election Observer Industry" in a Tight Spot', viewed 4 December 2017, <<http://www.france24.com/en/20170901-kenya-court-ruling-election-observer-industry-missions>>.

- Kamau, J 2017, 'Matiba and Raila: The boycotts, diplomats and political gamble', *Sunday Nation*, Sunday, 15 October 2017.
- Kanyinga, K 2017, 'Why government and NGOs aren't friends, and what not to do about it', *Sunday Nation*, 15 January 2017.
- Kelley, J 2009, 'D-Minus Elections: The Politics and Norms of International Election Observation', *International Organization*, vol. 63, no. 4, pp. 765-787.
- Kelley, J 2010, 'Election observers and their biases', *Journal of democracy*, vol 21, no 3, pp. 158-172.
- Kenya Human Rights Commission 2017, 'The Road to Credible 2017 Elections: The Kenya Human Rights Commission and Kura Yangu Sauti Yangu Briefing Paper', viewed 11 March 2018, <<https://www.khrc.or.ke/mobile-publications/civil-political-rights/157-the-road-to-credible2017-elections/file.html>>.
- Laakso, L 2002, 'The Politics of International Election Observation: The Case of Zimbabwe in 2000', *The Journal of Modern African Studies*, vol, 40, no. 3, pp. 437-464.
- Lafargue, J 2009, *The General Elections in Kenya, 2007*, African Books Collective, Oxford.
- Lappin, R 2009, 'Why Observe Elections? Reassessing the Importance of Credible Elections to Post-Conflict Peacebuilding', *Peace Research*, vol. 41, no. 2, pp. 85-117, retrieved from <http://www.jstor.org/stable/23608091>.
- Leeffers, S & Vicente, P 2017, 'Does electoral observation influence electoral results? Experimental evidence for domestic and international observers in Mozambique', *NOVAFRICA* (No. novaf: wp1704).
- Makinda, SM 1996, 'Democracy and multi-party politics in Africa', *The Journal of Modern African Studies*, vol. 34, no. 4, pp. 555-573.
- Mangu, A 2015, 'The International Criminal Court, Justice, Peace and the Fight against Impunity in Africa: An Overview', *Africa Development / Afrique Et Développement*, vol. 40, no. 2, pp. 7-32.
- National Democratic Institute 2017, 'Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers', viewed 26 August 2017, <<https://www.osce.org/odihr/16935?download=true>>.
- National Democratic Institute 2017, 'Statement of the NDI Pre-Election Assessment Mission to Kenya's 2017 General Elections Nairobi, April 7, 2017, viewed 9 December 2017, <<https://www.ndi.org/sites/default/files/FINAL%20-%20Kenya%20PEAM%20statement%20-%20For%20Release.pdf>>.
- Obi, CI 2008, 'International Election Observer Missions and the Promotion of Democracy: Some Lessons from Nigeria's 2007 Elections', *Politikon*, vol. 35, no. 1, pp. 69-86.
- Obwocha, B 2017, 'Raila: I am disappointed with Kerry, poll observers', *Daily Nation*, 11 August 2017.

- Olick, F & Awitch, L 2017, 'Uhuru named a winner, reaches out to Raila', *The Star*, 12 August 2017.
- Oruko, I & Kimanthi K 2017, '5000-Strong World Team Keeps an Eye on Critical Kenyan Polls', *Daily Nation*, 4 August 2017.
- Oyugi, W 1997, 'Ethnicity in the Electoral Process: The 1992 General Elections in Kenya', *African Journal of Political Science / Revue Africaine De Science Politique*, vol. 2, no. 1, pp. 41-69.
- Pastor, RA 1998, 'Mediating elections', *Journal of Democracy*, vol. 9, no. 1, pp. 154-163.
- RuthRauff, H 2017, 'EU Election Observers Play Vital Role', <<https://euobserver.com/opinion/138895>>.
- Simpser, A & Donno, D 2012, 'Can International Election Observation Harm Governance?' *The Journal of Politics*, vol. 74, no. 2, pp. 501-513.
- Schmitter, PC & Karl, TL 1991, 'What democracy is... and is not', *Journal of democracy*, vol. 2 no. 3, pp. 75-88.