

MAKING DEMOCRACY WORK IN AFRICA

From the Institutional to the Substantive

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ABSTRACT

This paper argues that democracy can better facilitate and promote development when it is transformed from the institutional level, where it was at the time of transition, to the substantive level, where it is more likely to yield the 'dividends of democracy' and become more relevant to the lives of ordinary citizens. This transformative process at a minimum requires the institutionalisation of participation/citizen empowerment, accountability and legitimacy. After making the point that democracy and development are mutually reinforcing, the paper examines how human rights and elections can be strengthened to serve these purposes.

INTRODUCTION

The 'liberalisation' of political space that came through pluralism, multiparty politics and constitutional reform in the wave of democracy which swept through Africa in the 1980s and 1990s was a major achievement on a continent where authoritarian one-party and military regimes previously held sway. However, because the ensuing democracy was in many cases the product of conditions imposed by Western powers and/or the diffusion effect of the globalist triumph of liberal democracy, emphasis has tended to be laid on building formal democratic institutions and structures. A number of countries, especially those that have institutionalised periodic elections and functioning legislatures and established human rights commissions and constitutional courts, seem to have done well in this regard. But, as the experience of many of them has shown, democracy is not simply about satisfying theoretical expectations. For example, it is not about the electoral defeat of unpopular or

discredited incumbents (the euphoria of 'regime change' does not last long!) or, for that matter, about holding periodic elections.

Rather, the democratic project is about and for citizens who have stakes in the project and expect dividends from it. Ordinary citizens who queue for long hours to cast their votes, or take part in riots and demonstrations to oust authoritarian governments, and those who lead and join reform-seeking social movements and political parties, as of legitimate right, expect immediate and long-term dividends. Political scientists and policy analysts have engaged in the search for how best to establish the link between formal and substantive democracy with a view to making democracy more workable and meaningful in the lives of ordinary people. The focus on human rights, which the USA under Carter spearheaded as a foreign policy objective in relations with Third World countries, was one of the earliest fruits of this search.

The concern with third generation rights represents a more recent face of this trajectory. The 'invention' of the governance perspective, which has been embraced by most donors, following in the footsteps of the World Bank and IMF, and the premium placed on accountability, participation, decentralisation, transparency, constitutionalism and the rule of law as key governance variables, represents another landmark in this search.

But by far the most conceptually and theoretically profound effort to bridge the gap between formal and substantive democracy is to be found in the democracy-development or *developmental democracy* perspective. This perspective rejects the notion that democracy can be desired for its own sake, and ties the necessity and utility of democracy, especially in Africa, to its role as a promoter and facilitator of just and equitable development. The major underlying premise is that the underdevelopment of most states on the continent, and the conflicts and wars that originate from structural injustices and inequalities (which constitute some of the defining elements of underdevelopment) are attributable to the non-democratic regimes (military and one-party systems) that dominated the African political scene in the 1960s, 1970s and 1980s. But what exactly is the nature of the link between democracy and development, and how has it played out in Africa? How can democracy become deeper and more substantive? Put differently, how can we ensure a movement from legalistic and pseudo-democracy to real democracy? What roles do elections and human rights play in this process? These are the key questions around which this paper is organised.

It begins with an elaboration of the democracy-development nexus in the light of the African experience. This provides the backdrop for examining issues of elections and human rights in the sections that follow. The final section presents the conclusions and recommendations of the paper. The central argument of the paper is that the process of transforming democracy from the formalistic level to the more substantive level at which it can facilitate development depends on making the system more participatory and accountable. This is why elections and human right are crucial to the process.

THE DEMOCRACY-DEVELOPMENT NEXUS

The link between democracy and development has long been recognised by political scientists. Following the precepts of modernisation theory, which dominated (Western) social science until the late 1970s, the link was typically posed as a sequencing problem in relation to Third World countries whose democratisation was supposedly part of the modernisation process of becoming more like the West¹. Was democracy a precursor of development or its consequence? Could democracy thrive without development? Adherents to the 'social and economic prerequisites' school argued that relative affluence (as opposed to poverty), capitalist growth, high levels of literacy, industrialisation, urbanisation, national cohesion, participant political culture and vibrant civil society were necessary conditions for the survival and consolidation of democracy (Lipset 1981; Lipset et al 1993; Przeworski 1991; Diamond 1992, 1993, 1997). The insistence by the Bretton Woods institutions and the international donor community on economic reforms, including structural adjustment and marketisation as concomitants of democratisation (or political reforms), which represent the 'new' neo-liberal wisdom, is also informed by the old precepts.

These postulations, however, raise some basic conceptual questions. Are the processes of democracy and development really sequential or are they simultaneous and mutually reinforcing? Are the so-called necessary conditions for democracy not, in fact, more likely to be the results of thriving democracy rather than vice versa? The history of liberal democracy in the West suggests that the processes are simultaneous and mutually reinforcing. In the African case, democracy's chances of survival and consolidation would be very slim indeed if economic development and modernisation were necessary conditions – not when Keller (1995, pp 228) has added 'a democratic past' to the list of requirements. With only fifteen countries on the continent having adult literacy levels above 50 per cent; less than 30 per cent of the labour force in most countries employed in the industrial and service sectors (the vast majority belong to the category of Hyden's (1980) 'uncaptured peasantry'); the average income per capita for countries in the poverty category (and they are in the majority) being less than US\$300, and the burden of foreign debts and debt servicing being so crippling that many countries have to depend on donor aid to run government budgets (cf ADB 2002), it will be something of an uphill battle to get democracy working in Africa.

To get it to work, a different sequencing of the development-democracy processes – assuming the sequence was really more than a conceptual construct – is necessary. This is because, first and foremost, democracy has great potential to be a facilitator of development in Africa – in fact, its success or failure hinges on the

1 The issue of democratisation as a form of Westernisation has been resolved, at least for now, with the triumph of liberal capitalism as one of the major World Time markers in the post-Cold War period.

economic performance of elected state power holders. The notion of 'democracy dividends'² that has been popularised in a number of African countries to represent the 'expectations of democracy' akin to the 'expectations of independence' clearly reflects this point. This is the essence of the concept of leading African social scientists of democratisation as liberation, and especially of the phase of the 1980s and 1990s as 'second liberation' (Ekeh 1997; Osaghae 2001). As it is, democracy will be nothing if it cannot bring about (or provide the enabling environment for) social and economic transformation and tackle chronic problems of legitimacy, peace, security, poverty, social and distributive justice, illiteracy, disease and participation.

It is instructive that the few African countries, for instance Botswana, that have managed to remain (at least nominally) democratic – or have some democratic past – have not only recorded high levels of economic development but have also enjoyed relatively high political stability, peace and security, which are also crucial referents of development (Kieh 1996). Conversely, countries such as DR Congo, Liberia, Sudan, and Nigeria, which also have the potential to be some of Africa's richest countries but in which authoritarianism and despicable personal dictatorships have held sway, have had retarded economic growth and suffered the worst forms of political instability and insecurity, including civil strife and war (see Przeworski and Limongi 1993 and Joseph 2000 for critical analyses of the impact of regime type on development)³. Moreover, the new lease of life enjoyed in countries like Zambia, Kenya and Ghana, including improved governance structures and processes, anti-corruption crusades, virile civil society, and expansion of non-state productive and development processes, may be directly linked with democratic reinvigoration.

But a lot more still needs to be done, especially in the economic sphere, where declining state capabilities have become a formidable obstacle to development. This is largely because as Przeworski (1991, p 49) points out, 'The durability of the new democracies will depend ... not only on their institutional structure and the ideology of the major economic forces, but to a large extent on their economic performance'. This, indeed, is the greatest challenge facing democracy in Africa today, and the fact that citizens are beginning to lose patience with the slow pace of delivery of democracy dividends in some countries – incessant strikes by various categories of workers is one clear indication of this – means that the development concomitant of democracy has to be taken more seriously. This is more so since other forces, such as globalisation and HIV/AIDS, are taking their toll of development efforts on the continent.

2 Dividends of democracy may be simply defined as the better life expected to be reaped from democracy. They include poverty alleviation, efficient and affordable social service delivery (safe drinking water, health care, education) employment, infrastructural rehabilitation and development, higher incomes, and all other improvements necessary to raise the standard of living.

3 As Joseph has observed, if authoritarianism facilitated development, as some scholars argued in the past, a country like Nigeria, whose track record of military dictatorial rule is unsurpassed in Africa, would be one of the most developed on the continent. The fact that it is one of the least developed reinforces the point being made.

From the foregoing it should be fairly obvious that the more appropriate concept of the democracy-development nexus for Africa – which is also supported by experiences in different parts of the world – is one that links the two processes as simultaneous and mutually reinforcing (Sklar 1987; Ake 1996; Osaghae 2000). This postulation should not, however, be confused with the perspective of the Bretton Woods institutions which pushed for democratisation as a condition for aid to several African countries and a concomitant of the strangling economic reforms that were imposed as recovery and growth strategies. The paradigm turned out to be a failure and retarded the quest for genuine democracy in Africa for at least two reasons.

First, some countries became formally democratic by legislating multiparty politics, holding elections, establishing constitutional courts and adopting new constitutions just to satisfy the requirements for ‘policy-based lending’. The changes that took place were largely cosmetic and, outside of the purview of donors, it was business as usual (Ihonvbere 1996; Osaghae 1999; Young 1999).

Secondly, it is now well known that the implementation of structural adjustment is incompatible with democratisation because while the former engenders authoritarianism, repression and contraction of political space, the latter requires thoroughgoing liberalisation (cf. Gibbon et al 1992 and Mkandawire and Olukoshi 1995; for an essentially alternative view, see Bienen and Herbst 1996).

The fundamental flaw of the Bretton Woods perspective would seem then to derive from the fact that it is imposed and externally oriented rather than internally driven and self-determined (Osaghae 1995). This is why the concept of the recent wave of democratisation in Africa as ‘second independence’, which places the emphasis on internal dynamics and popular struggles (cf Anyang’ Nyong’o 1987), provides a more appropriate framework for relating democracy to development. Having clarified the issue of context, the question may be asked: in what specific and concrete ways does democracy facilitate development? How can these be expanded, what obstacles stand in the way, and how can they be overcome? These are the questions I grapple with to close this section.

The essence of democracy may be summarised as involving (i) enhancement of the responsiveness and accountability of the state; and (ii) the empowerment of citizens to participate in and claim ownership of the state and the development project that it superintends. The import of these is that democracy engenders the redirection of the state to serve the interests of citizens rather than those of global capital and its local clients, as has been the case since colonisation. Without this fundamental reclaiming and reorientation of the state, development (from above) will be meaningless to ordinary citizens.

Only a democratic system that enables the creation of a (new) social contract between the state and citizens, and minimally ensures participation and accountability, is capable of effecting such fundamental, if not revolutionary redirection of the state. Anything short of this will most likely make democracy formalistic and disempowering of ordinary peoples (Ake 1994).

In the sections that follow I analyse two issues that have a direct bearing on the democracy-development nexus and are generally regarded as key to the deepening, survival and ultimate consolidation of democracy in Africa. These are human rights, especially third generation rights, which are necessary to guarantee the enjoyment of democracy dividends by ordinary citizens, and elections, which engender the legitimacy of both democracy and development.

HUMAN RIGHTS

One of the areas of national life where democracy is expected to make a major difference and facilitate development is the enjoyment and protection of human rights. According to Cohen (1993, p 3), 'as the ramifications of the democracy movement unfold it is becoming apparent that many development goals are tied to rights issues. People are less likely to contribute to the common good in an atmosphere of ... insecurity ... as well as unpredictable and prejudicial outcomes of their hopes and plans.' For a variety of reasons that had to do with the deficits in the decolonisation process, human rights were not regarded as an important concomitant of democracy and governance. One of these reasons is the fact that very few countries (South Africa is the one example that readily comes to mind) experienced any sustained popular struggle for (individual) human rights as part of the decolonisation process; instead these were subsumed by the overarching right of the state to self-determination. In the hierarchy of rights that subsequently developed, this was to make the rights of the state superior to rights belonging to individuals and groups.

Perhaps the best example of this hierarchy is to be found in the Zimbabwean Constitution, which hinges the enjoyment of most rights and privileges on the overriding interest of the state. After independence the imperatives of state-directed development and nation building provided further justification for the relegation of individual human rights.

Nothing shows up the hollowness of the pretensions to democracy in the period immediately following independence better than the fact that the importance of the Bills of Rights that were embodied in several constitutions was reduced to the perception that they were merely an integral part of equipping the post-colonial state with defining elements of the modern state. For the most part, the Bills simply reproduced parts of the Universal Declaration of Human Rights related to civil and political rights (to which many countries have now added the African Charter on Human and Peoples' Rights).

Francophone countries also imported and grafted portions of the French Declaration of the Rights of Men and Citizens. For example, the Preamble to the independence (1960) Constitution of Côte d'Ivoire stipulated that 'The people of Côte d'Ivoire proclaim their attachment to the principles of Democracy and Human Rights, such as they have been defined by the Declaration of Human and Citizens Rights of 1789, by the Universal Declaration of 1948, and such as are guaranteed in

this constitution.’ Diabate’s (1991, p 170) commentary that ‘[t]he explicit reference to the vested interests of the French Revolution and to the Declaration of 1948 leaves not a shadow of doubt as to the meaning of the words “democracy” and “human rights”’, summarises the point being made here about the hollowness and mere formality of human rights provisions.

It was within this context that lawless autocracies and personal rulerships emerged to deny at will citizens’ rights, including the right to life; to repress opposition elements, and to transform governments into exclusionary clubs of privileged ethnic groups and elites. The regime of deprivation and abuse of civil and political rights effectively curtailed the participation of vast segments of the citizenry in the governance process. Socio-economic or third generation rights fared no better. This was quite unfortunate, in view of the argument that these rights, which have the potential to liberate people from the scourge of illiteracy, hunger, disease and poverty, and to engender and protect human capacity for sustainability and survival, are a necessary condition for the assertion and enjoyment of civil and political rights in societies like those in Africa, where most people live in conditions of abject poverty and illiteracy. As Dahl (1999, p 175) puts it, ‘[t]he achievement of certain rights and liberties is likely to precede the achievement of others ... Some democratic rights and liberties are unlikely to exist or endure unless they have already been preceded by the attainment of certain other rights and liberties.’ Making a similar point, Vincent (1986, p 13) argues that civil and political rights would be unattainable – in fact unthinkable – without a ‘reliable expectation about the maintenance of life itself’. Where the social and economic rights were ‘granted’, they were paper rights and not justiciable because their enjoyment depended on the solvency and capability of the (ailing) state to deliver⁴.

Widespread disaffection with the poor state of human rights was one of the internal propellants of the clamour for democratic reform. The strangulating effects of economic decline and structural adjustment precipitated demands for a better life and security, while the opening up of previously closed political space produced demands for group rights and more equitable power and resource sharing. The struggle to assert civil and political rights, especially freedom of association and press freedom, was also stepped up. These developments were invigorated by the ample support offered by major Western countries, the United Nations, other influential international organisations and donors who made human rights issues key to their dealings with African countries. Aid was withheld from countries whose governments were guilty of gross abuses, and in the case of Nigeria and Liberia, sanctions were applied on the basis of reports by UN human rights investigators. All these made local and international civil liberties and human rights organisations key actors in the democratic transition process.

4 Moreover, the point has been made that ‘[w]here references to human rights are found in the preamble or in the objectives and principles, they are considered under common law jurisprudence not to confer rights and obligations and are consequently non-justiciable’ (Eze 1984, p 27).

With so much emphasis on human rights it is not surprising that some of the most visible dividends of democracy so far recorded, at least at the formal level, have been in the area of creating cultures of human rights. Several countries now have human rights commissions, constitutional courts, public protectors/ombudsmen, and other rights promoting and protection agencies. To right the wrongs of the past and create an enabling environment for peaceful co-existence and stability some countries, notably Nigeria and Ghana, have followed the example of the Truth and Reconciliation Commission in South Africa by instituting committees to investigate past human rights abuses and violations. Constitutional reforms; the increased profile of legislatures, especially of their oversight powers; the subordination of military and security agencies to civilian control; increased emphasis on power sharing, consensus-building and negotiations as elements of the political process, are some of the other indicators of marked improvements in the human rights sector in many countries. Social and economic rights nevertheless remain highly problematic and unrealistic thanks to the precipitate disappearance of the developmental state. Citizens of many countries are less well off than they were at independence over forty years ago and the state seems unable to do much to reverse the decline. As was pointed out in the preceding section, this might yet be the greatest challenge and danger to the survival and consolidation of democracy in Africa today.

ELECTORALISM AND LEGITIMATION

Although the dangers or fallacy of electoralism, that is, the equation of democracy with the holding of elections, are well acknowledged (cf Karl 1986; Olufemi 1999), they do not diminish the importance of elections, especially in the context of democratic transition where they serve as foundations and vehicles of transformation. In Africa where control of or access to state power seem to be the only motivation for participation in politics, the very success of transition depends heavily on the conduct and outcome of elections, and it is not for nothing that Huntington (1991, pp 266-267) has set the two-consecutive election test for measuring democratic survival and consolidation. On balance then, although elections can be said to be formalistic and cannot by themselves bring about democracy, they nevertheless remain fundamental to the democratic process. As Bratton and Posner (1999, p 379) have argued, 'while you can have elections without democracy, you cannot have democracy without elections'.

This is so for at least three reasons. One is that elections represent the most guaranteed form of direct participation by citizens in the governance process. Second, elections offer citizens an opportunity to choose those who govern them and vote out non-performing incumbents. To this extent, elections promote and institutionalise competition, participation and accountability, which are necessary for democratic consolidation (Bratton and Posner 1999, p 378). Thirdly, elections are crucial to the legitimacy of the democratic system, for the very acts of free choice/

participation, competition, and acceptance of electoral outcomes strengthen its validity and credibility. This is because, as Diamond (1997, p 14) argues, the one factor that is capable of enhancing the legitimacy of democracy among citizens is direct experience with it.

However, the aforementioned functions of elections are neither given nor guaranteed. Elections have to be free and fair, and offer *real* as opposed to cosmetic choices to the electorate in order for the functions to be attainable. It is in these terms that elections have had serious problems in Africa. The wide-ranging – in the past absolute – powers wielded by incumbents over the media, the electoral machinery, the police and security agencies, and the inclination towards rigging and manipulating the electoral process to ensure the re-election of incumbents, all made elections non-credible. For a long time it was possible to know the results of elections before they took place: majorities would overwhelm minorities and ruling parties and incumbents would score landslide victories, with little or nothing left for the opposition. Where the opposition was strong – with foreign backing in some cases – disputes over results sometimes led to civil strife or military intervention.

A lot of changes have, however, come with the (second) wave of democratisation in Africa. The expansion of the competitive arena through multiparty politics, efforts to ensure the neutrality of electoral commissions, the deregulation of media ownership and control, and the increased involvement of civil society constituents and foreign observers and monitors in the electoral process are some of the factors that have made these changes possible.

Though a lot of the changes are still formalistic, they have gone far enough to make it possible for powerful incumbents to be defeated and for more countries to pass Huntington's two-consecutive elections test⁵. Nevertheless, because of the high stakes of politics, elections continue to suffer from serious problems of credibility and legitimacy. In most cases, the problem has to do with the neutrality of electoral commissions whose members are appointed by incumbent executives and their inability to administer the electoral process according to the rules of the game. The zero-sum, winner-takes-all nature of political competition, which is engendered by the exclusionary character of the possession of state power, is another source of problems. Finally, the abject poverty and illiteracy of the vast majority of the citizenry leave ample room for electoral processes to be manipulated through pay-offs and bribes.

CONCLUSION AND RECOMMENDATIONS

How can the anomalies and problems which presently make it difficult for human rights and elections to serve as veritable instruments for transforming formalistic democracy to substantive democracy be dealt with? With regard to human rights,

5 Even so, the possibility of a relapse into authoritarianism remains high in virtually all the countries. To this extent, discussions of democratic consolidation may be premature.

social and economic rights have to be made the pivot of the new culture of rights if citizens are to be able to enjoy the dividends of democracy. In the absence of any serious efforts to empower and liberate the vast majority of citizens from poverty, disease and ignorance, human rights will remain formalistic and incapable of endearing democracy to ordinary peoples.

In the case of elections, on which the stability and survival of democracy ultimately hinges, a number of reforms are recommended. First, control of electoral commissions should reside with the legislature and / or judiciary rather than with the executive. South Africa's participatory and transparent process of appointing commissioners, which has worked well so far, provides a useful model for constituting commissions. Secondly, the capacity of the commissions to conduct free and fair elections needs to be enhanced. To reduce the desperation and high stakes engendered by winner-takes-all politics, the first-past-the-post electoral system should, wherever possible, be replaced by the proportional representation system, which guarantees more opportunities for power sharing and bargaining among competing parties.

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