

Guardians of Peaceful Elections? Revisiting the Role of International Election Observers in East Africa

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Abstract

Election observation is recognized by the international community as one of the ways to promote the quality of democracy. It is often held that election observation, if conducted impartially and effectively, fends off electoral fraud and violence, leading to peaceful elections. Yet, in some cases, election observation is misused to serve particular interests thereby casting doubt about its credibility. Since the inauguration of the Third Wave of democratisation, almost all elections in Africa are conducted before the presence of observers though with different outcome. This article examines the role of international election observers in order to understand their contribution to peaceful elections. Using Kenya and Uganda from East Africa, the article argues that sometimes international election observers fail to deter fraud and violence in elections mainly due to their mode of operation and political interests.

Keywords: Election observation, Electoral Violence, Electoral fraud, Kenya, Uganda

Introduction

Election observation is now an international norm (Hyde, 2011; Rouissias and Ruz-Rufino, 2013). Observation is conducted to increase public confidence in elections, strengthen institutions, ensuring quality elections and their adherence to international standards (Hyde, 2007; Kelley, 2012; Dexcker, 2012; 2014). Most importantly, election observers expose wrongdoings of electoral actors. Recommendations contained in observers' reports are disseminated to both national and international community and can also be used to improve the quality of future elections (Kelley, 2009a). As elections are increasingly becoming a test of democracy and also as a preferred channel of democratization (Lindberg, 2006), the international community has sought election observation as one of the ways to promote democracy (Kelley, 2012). Unlike in the past, elections are no longer the matter of domestic affairs.

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Various inter-governmental and non-governmental agencies and organizations dispatch mission teams to observe elections and issue reports afterwards. Inviting International Election Observers (IEOs) is increasingly becoming a test of the nation's approval to the international community (Hyde, 2007; 2011). It is on this ground that few elections in Africa are conducted without the presence of international observers.

However, most regimes simply invite IEOs to assert their commitment to democracy and having their elections legitimized (Smidit, 2016). By this virtue, incumbents accept observers even when they are aware that elections are not going to be free from state-sponsored fraud and violence (Beauliau and Hyde, 2009; Kelley, 2012; Cheesman, Lynch and Willis, 2016). The enthusiasm towards IEOs has stirred the understanding that they have significant influence over elections and their processes. Specifically, there is a notion that IEOs fend off electoral malpractices, hence leading to democratic and peaceful elections (Laakso, 2007; EU, 2008; Dexcker, 2012). Nevertheless, a scrutiny of elections in a number of semi-authoritarian states reveals that IEOs have minus influence on deterring electoral fraud and violence (Kelley, 2012; Cheesman, Lynch and Willis, 2016). Yet little has been offered to explain this failure.

The thrust of this article is to interrogate the role of IEOs in ensuring democratic and peaceful elections. The analysis focuses on IEOs as they are said to hold more leverage than domestic election observers. I argue that although states, overwhelmingly, invite the international community to observe their elections, it does not mean they are going to be caught for violation of democratic elections. The paper posits that this failure is due to observer's mode of operation and political interests. Kenya and Uganda are used as cases for this study. The article contributes to the literature on election observation specifically its influence over electoral fraud and violence. Different from other studies, this article uncovers the underlying factors which hinder IEOs from deterring fraud and violence in elections.

Electoral Fraud and Violence in Africa

From late 1980's countries across Africa were forced to change their political systems and adopt competitive multiparty politics (Huntington, 1991; Diamond, 1996). Competitive elections became the only legitimate channel for the regime to ascend into power and their quality became a litmus test of democracy (Lindberg, 2006). Faced with the pressure of international isolation, many regimes in Africa adopted these reforms half-heartedly (Collier, 2009;

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Whitehead, 2011; Collier and Vicente, 2012). Incumbents in African regimes are chiefly concerned with staying in power with little regard to the principles of democratic elections (Lynch and Crawford, 2011). As a result, most elections in Africa are blended with authoritarianism, fraud and violence (Schedler, 2002; Levitsky and Way, 2002; Straus and Taylor, 2009; Adolfo *et al.*, 2012). Largely, elections are held for the incumbent to procure legitimacy from both domestic and international communities and fend off international diplomatic and economic pressure (Norris, 2012).

Yet, electoral fraud as an election strategy is not safe as it may lead to violent elections (Höglund, 2009; Straus and Taylor, 2009; Norris, 2012; Henry, 2015). Often, the opposition and its supporters opt for violence as a reaction against electoral fraud. Violence can be in the form of riots, protests or armed conflict against the incumbent and its supporters. Similarly, incumbents' election manipulation can take a form of violent intimidation such as state-sponsored killings, torture, destruction of properties and forceful displacements (Fortman, 1999; Wilkson, 2004). Nevertheless, the chances of electoral fraud to turn into violence depend on the strength of both incumbent and opposition. Collier and Vicente (2012) argue that strong incumbents are the major culprits of electoral fraud as a strategy to increase their shares of votes in elections while avoiding intimidation. On the contrary, weak incumbents often employ violence and intimidation to mitigate chances of electoral defeat, especially when the risks of losing elections are high. In the same vein, a weak and fragmented opposition is more likely to use violence to raise its stakes in elections (Collier and Vicente, 2012). Thus, all non-democratic strategies used alongside election embody violence. Violence can occur in pre-election, election or post-election period. It is against that backdrop that containing and mitigating electoral fraud is vital, to ensure peaceful elections (Höglund, 2009).

Studies have established that election observers serve as deterrence to electoral fraud and are arguably linked to decreased violence in various stages of election (Carothers, 1997; Hyde, 2007; 2011; Asunka *et al.*, 2015). A similar position is also held by International Agencies, who have dispatched their missions to observe elections across the world. In its *Handbook for European Union Election Observation*, the EU maintains that: "Election observation can contribute to strengthening democratic institutions, build public confidence in electoral processes and help deter fraud, intimidation and violence" (EU, 2008, i). To vindicate this position, the polling on "Election Day" is often cited as the most peaceful period of the electoral processes because of massive presence of

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international election observers (Laakso, 2007). Since observers are expected to expose those who violate principles of democratic elections, the fear of being exposed lead electoral actors to refrain from engaging in acts of fraud and violence (Smidit, 2016). It has been proven that incumbents and challengers avoid being associated with violation of principles of free and fair elections, even when they are the primary culprits (Asunka, *et al.*, 2015). This is often a case in developing states where holding credible election is one of the qualifications for foreign assistance (Brown, 2005). Hence, when faced with the danger of being documented as perpetrators of violence by the observers, actors' choice of employing violence as a means of electoral score becomes constrained.

International observers, as opposed to domestic observers, are considered to have more leverage in preventing fraud and violence (George and Kimber, 2011; Dexcker, 2012). Unlike their local counterparts, IEO missions are directly and indirectly connected to states and international organizations which are key for economic and diplomatic relations with a monitored state. Besides, deployment of observers reveals that the monitored country and its elections are of great interest to the international community (Kelley, 2012). As such observers' mission reports can serve as a credible source in international policy-making towards the monitored country (Hyde, 2007). As most states in Africa are dependent on political and economic support from the international community, negative election reports can be detrimental on their part (Donno, 2010). Having noted the gross violation of principles of democratic elections, the international community can respond by severing diplomatic ties, reduction of trade aid flows and suspension of trade partnerships (Hyde, 2007; 2011; Kelley, 2012; Smidit, 2016). Governments are affected by these measures as they may hinder their political support at home (Marinov, 2005). However, incumbents and even the opposition have been evading condemnation from international observers, despite their involvement in electoral fraud and violence.

Nevertheless, observer's constraint on fraud and violence is different among incumbent and opposition. The incumbent is more often deterred from using violence during the election than the opposition (Dexcker, 2012). According to Smidt (2016: 224) "governments bear command responsibility and their agents of violence – police and military forces – wear identifying insignia and carry particular weapons. Leadership is less clear when it comes to opposition-sponsored violence." Therefore, it is very easy for the opposition to deny its involvement in electoral violence. Moreover, since in pseudo-democratic states

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it is the incumbent which is more likely to violate electoral principles, the opposition receives sympathy from observers (Kelley, 2010). Thus, acts of violence from the opposition are often neglected or treated simply as retaliation against the incumbent, justified in the name of democracy (Dexcker, 2012). On the contrary, incumbents' moves are closely monitored and reported (Smidt, 2016).

Notwithstanding their deterrent power, observers' exposure of electoral fraud and cheating may lead to unintended consequences. On the one hand, reports of fraud, committed by the incumbent, can be a source of violence as they may draw violent reactions – such as riots, protests and civil wars – from the opposition (Dexcker, 2012). The opposition uses IEO missions' reports on fraud as a justification for violence, to force the international community to respond in their favour. Moreover, the reports can be used to force nullification of election or inclusion into power-sharing arrangements (Mapuva, 2011). Furthermore, studies have empirically established that international election observers influence opposition boycott of elections (Beaulieu and Hyde, 2009; Rouissias and Ruz-Rufino, 2013). On the other hand, when the incumbent has been exposed for committing gross violation of principles of democratic elections, it may opt for violence as a way to hold its grip on power and shaping any feature agreement (Hafner-Burton, Hyde and Jablonski, 2014). Smidt correctly provides an account as to why incumbents behave in such a manner by arguing that:

Using blatant fraud in front of international observers already discredits governments. Consequently, governments have not much more to lose from using force after elections. Thus, after highly fraudulent elections, observers are less likely to deter government-sponsored violence (Smidt, 2016:250).

When there is a threat to its grip on power, the incumbent employs security apparatus as well as allied militias to suppress the mobilization by the opposition to challenge its legitimacy over the office. Here, events in Kenya and Ivory Cost post-election violence of 2008 and 2010 respectively can be cited as examples. As opposition supporters flocked into the streets to protest presidential results, they were met with heavy crackdown from security forces and militias allied to the government. For the incumbent, the survival in power becomes an overriding goal over its image and legitimacy. It is this logic that the international community and scholars prefer intensive observation

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during the pre-election period to ensure that incidents of electoral fraud are minimized, to avoid future escalation of violence (Kelley, 2010; 2012; Hyde, 2011). However, the effectiveness of election observation as deterrence to fraud and violence is contested (Lynge-Mangueira, 2012).

Why International Observers fail to deter Electoral Fraud and Violence?

In responding to this question, this paper advances two explanations. Firstly, the mode of operation used by observers has a bearing on the effectiveness and outcome of the observation process. It should be emphasized that IEO's depend on their parent states, agencies or organizations to act on their reports. As such their ability to detect, cover, understand, and expose the wrongdoings by electoral actors in all stages of elections is vital. Poor organizational and institutional capacity by observers compromises effective observation and thus leading to their failure to capture electoral malpractices (Geisler, 1999). Secondly, it is political interests. Here, political interests entails how the incentives of observers and those expected to act on their reports are shaped by political stakes involved in taking a certain course of action. Certain decisions may be politically counterproductive, although aimed to protect democracy. Issues involved here include implications on political stability, diplomatic ties as well as security and military cooperation (Kohrnet, 2004). Political interests may impede international observation in two ways: by affecting observers themselves and their principals. Observers' missions weigh political consequences before reporting on violation of principles of democratic elections (Bjornlund 2004). On the other hand, even when there are reports of gross violation of democratic principles, political interests influence the willingness of the international community to penalize those implicated (Obi, 2008). The following sections provide detailed explanation of these factors.

Mode of Operation

The mode of operation of observers is very significant in leading to their effectiveness. It determines the ability of their missions and accuracy of their findings (Lynge-Mangueira, 2012). Specifically, the focus here is on observers' institutional capacity necessary for them to detect, observe, understand and report electoral irregularities. IEOs, unlike domestic observers, are lacking strong awareness of the political context of the monitored country (Kelley, 2012). As a result, they fail to detect a wide range of fouls strategically employed by incumbents to avoid exposure (Simpser, 2008). For instance, in countries with chieftaincy systems, electoral actors use local chiefs to intimidate voters psychologically from early stages of elections (Mbapndah, 2015). Yet,

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observers may fail to understand, capture and report the reality despite occurring on their watch. Moreover, international observers' missions comprise teams of a small number of individuals distributed in few, selected, areas in the country leaving others uncovered entirely (Geisler, 1999). As a result "observers base conclusions on startlingly cursory fact-finding efforts, as observers offer public assessments even before ballots are counted based on the personal observations of a few outsiders who make brief visits to a handful of polling places" (Bjornlund 2004: 305). This gives the incumbent an opening to shift fraud and intimidation into unmonitored areas, to influence the election (Hyde, 2007). Furthermore, international observers' missions commence their activities late especially in the mid-of election. Most often, they arrive like two to three weeks before voting, and their focus has been on polling day (van Cranenburgh 2000). Other stages of election such as voters' registration and electoral campaigns are not well monitored. As a result, observers fail to accurately capture incidents of manipulation in other stages as they are not present during their occurrence. According to van Cranenburgh "it is precisely in the preparation of elections that many opportunities for irregularities and abuse occur" (van Cranenburgh 2000: 29). Again, the incumbent is presented with another golden opportunity to commit fraud and violence, to increase their shares of votes and/or to minimize chances of electoral defeat (Bjornlund 2004) while behaving well in front of international eyes on the polling day (Dexcker, 2014). It is worth noting that, 95 percent of violent elections in Africa are experienced during pre-election period (Kelley, 2012). These factors contribute to their failure of IEO's in deterring fraud and violence during elections.

Political interests

Relations between the international community and monitored state as well as the political context of a monitored state, to a large extent, can jeopardise the work of international observers (Laakso, 2002). The international community fears that strong and comprehensive observation may disrupt diplomatic ties or lead to instability, due to its far-reaching consequences (Kelley, 2012). Unstable states evade strong reporting and/or action to avoid triggering instability. As a result, reports of fraud and violence, from observers, are downplayed to preserve warm ties and stability of the monitored country (Bjornlund 2004). For instance, states that have collaborated with the USA on the War on Terror have managed to avoid pressure despite widespread state sponsored electoral fraud and intimidation. Consequently, international observers develop a partisan position to reflect the political views of their principals (Jason, 1999). Thus, they are not impartial. Moreover, political interests lead observers to take sides

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among electoral candidates or political parties which subsequently affect their observation activities, reports and recommendations. In Nigeria for instance, it was apparent that observers ““had generally decided beforehand that they were willing to accept, and indeed preferred an Obasanjo outcome to the Abubakar transition’ (Kew 1999: 33). Due to this bias, electoral malpractices committed by the incumbent were deliberately neglected.

The fear of damaging diplomatic relations has been more evident in inter-governmental bodies’ election observation missions, particularly from Africa and Asia. These missions have been soft in their approach and often use a very careful language in their reports (Kelley, 2010). In the same vein, when the regional block consists of states with an inedible record on democracy, their election observation missions avoid strong and rigorous observation (Kelley, 2009b). It is thus unexpected that authoritarian states in the same regional block criticise their fellows, as it may lead to the stranded relationship within a block or form a ground to challenge other incumbents in future elections (Fawn, 2006). That has made observation missions from inter-governmental blocks highly preferred, than those from outside (Kelley, 2010). Largely, when election reports by inter-governmental missions are aligned vis-à-vis other international missions as well as the domestic observers, one can openly observe their bias in favour of incumbents. Thus, they shy away from either reporting violation of principles of democratic elections or raising their voices to condemn incidents of fraud and intimidation when they have been observed, to avoid diplomatic rows (Kahura, 2017). Traditionally, incumbents in Africa rarely criticise other incumbents in public. Instead, these missions are famous in clearing incumbents from accusations of irregularities, even when reports by other international observers and local observers indicate the contrary (Kelley, 2010).

International Observers in Kenya and Uganda

Using Uganda and Kenya, this article analyzes how the mode of operation of observers’ missions and political interests, affect the ability of IEO’s in deterring fraud and violence. I focus on Kenya and Uganda because their transitions to democracy and post-single party elections have received wide international attention. Similarly, both states are strategic partners to the international community, particularly the West, in the war on terror and peace in the Eastern and the Horn of Africa. Kenya re-established multi-party politics in 1991. Uganda, on the other hand, abandoned its self-baptized “Movement System” and established a multiparty system in 2005. Since then both countries have

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held a number of multi-party elections which were heavily monitored by IEO missions. Yet, these elections were marred by fraud and violence.

Kenya

Kenya is renowned for ethnic politics. Politicians, at both local and national levels, engage in divisive politics to muster political support from their groups as well as pitying those from other tribes (Kagwanja, 2003; Anderson and Lochely, 2008). Equally, voters' electoral participation and support is highly determined by ethnic lines (Omolo, 2002; Laakso, 2007). In the same vein, elections are used as a window of opportunity to change existing arrangements of ethnic access to resources, particularly land (Mueller, 2008; 2011). This nature of politics attracts electoral fraud and violence. Kenya's elections receive huge attention from the international community as a big number of IEO missions have been deployed. Yet, their presence has played a minus role in ensuring democratic and peaceful elections. In fact, there has been increased fraud, intimidation and violence in elections, over time (Gutiérrez-Romero and Dercon, 2012; Gutiérrez-Romero and LeBas, 2016).

The first multi-party elections of 1992 had fatal incidents of violence and intensive fraud (Laakso, 2007; Buchard, 2015). The incumbent party, Kenya African National Union (KANU), under Daniel Arap Moi – who was a sitting president and presidential candidate – employed fraud and violence, to secure electoral victory. These included disfranchisement, election rigging, ethnic purging and intimidation of voters (Brown, 2004; Sulley, 2013). At the core of these heinous strategies, there was tribal mobilization whereby youth from Kalenjin tribe vowed to support Moi – their kinsman, and hence ensure his victory at any cost (Mutahi, 2005). The report on 1992 election's pre-election violence asserted the following:

The Kalenjin community was accused of attacking the Luo community. Victims of the fighting reported that the attacks were politically motivated and that their attackers had vowed to drive non-Kalenjins and opponents of KANU from the Rift Valley Province. Luo leaders, whose community was the first to be affected by the clashes, concluded that the violence was the direct result of the majimbo rally held at Kapsabet a month earlier. After the violence erupted, leaflets were distributed in the area warning Luos and other non-Kalenjins to leave the area by December 12, 1991, or "face the consequences." The

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leaflets were signed by a group calling itself the Nandi Warriors [Human Rights Watch (HRW, 1993:25)].

Violence was strategically targeting non-Kalenjiins regarded as sympathizers of the opposition. The Kikuyu and Luhya became the prime victims of KANU sponsored violence, as they were accused to support the opposition (Kagwanja, 2003). The timing of violence indicated that KANU was determined to finish the business in the pre-election period to minimize chances of electoral defeat while avoiding the eyes of international observers, who were to arrive close to the polling day. The opposition claimed that ethnic clashes were from KANU government's fear of losing the election leading it to "instigating the violence to destabilize and intimidate areas with opposition support" (Weekly Review, 1992:18). KANU's violence was met with retaliation. Non-Kalenjiins replicated hate message and violence, in areas where Kalenjins were minorities (HRW, 1993). The events went parallel with violent political campaigns such as Youth for KANU in 1992 (YK92) and Operation Moi Must Win (OMW), rolled out to intimidate opposition supporters. In total, the violence killed over 1,500 people and 300,000 residents were forcibly displaced (Barkan and Ng'ethe, 1998). The violence affected voters' electoral participation and choices as:

By the time the election was held on December 29, 1992, thousands of Kenyans were unable to cast their ballot as a result of the displacement and destruction caused by the ethnic clashes. Many eligible voters had lost property titles or identification that would have enabled them to register to vote. Others were unable to return to their home areas to vote (HRW, 1993:35).

Yet, events leading to the above situation, largely, went unnoticed by international observers, despite their significant implication on the election. IEO missions commended the electoral processes based on what they saw on the polling day. The Inter-Parliamentary Union (IPU) observation mission, for instance, noted that "the polling day was peaceful and massive" (IPU, 1992). Similarly, the Commonwealth Observation Mission concluded their report that "despite the fact that the whole electoral process cannot be given an unqualified rating as free and fair, the evolution of the process to polling day and the subsequent count was increasingly positive to a degree that we believe that the results in many instances directly reflect, however imperfectly, the will of the people" (Commonwealth, 1993: x). The failure to capture and report reality on the ground prompted criticisms such that the 1992 election

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observation to Kenya by IEO's was termed "election tourism." Thus, suggesting that foreign observers "were in the country to have a good time rather than to monitor an election" (Kahura, 2017). Accordingly, positive endorsement of the election, despite its serious flaws, played part in release of US\$85 million of Aid on April 1993 by the World Bank. The aid had been withheld following reports of state-sponsored violence and violation of human rights in the wake of the election. In the same vein, the West maintained warm ties with Moi, as if nothing had happened. According to Cheesman, Lynch and Wills (2016), such silence was from worries that "speaking out would trigger civil war and regional instability."

Similarly, the 1997 election, despite having a heavy presence of international observers experienced heightened fraud, violence and intimidation. As Moi was vying for his second term under multi-party politics and he faced strong opposition, the stakes were high. To curb the opposition pressure, Moi established an informal, but powerful, militia known as *Jeshi la Mzee* [Old Man's Army] (Laakso, 2007). Like in 1992 election, *Jeshi la Mzee* comprised Kalenjin youth, tasked to wage ethnic campaign against non-supporters and attracting more youth from Kalenjin community to join the militia. On other parts of the country, mobilization of ethnic vigilantes became a widely employed strategy. In August 1997, in the Coastal region, 'Digo Warriors' financed by political candidates – perpetuated violence which killed 100 and displaced 100,000 upcountry people (Kagwanja, 2003). Although violence in this election was not dire as in 1992 elections, by March 1998 it was estimated that 200 people had died in election-related incidents (Article 19, 1998). Majority of these victims were from the opposition (Burchard, 2015). Moi won the election and despite serious reports of state-sponsored violence, the international community increased diplomatic and economic ties as well as support to his regime. This was thus opposed to a held view that negative international observers' reports may negatively affect monitored state ties with the international community. The subsequent elections of 2002 were also violent. Unlike in the past elections, the Kalenjin had no desire to unleash violence as Moi was not running again due to the constitutional two-term limit. It was rather Uhuru Kenyata – a Kikuyu – running as a KANU candidate. Moreover, the opposition had united under 15 parties coalition of National Alliance Rainbow Coalition (NARC), making it more powerful than KANU. Incidents of violence were reported particularly in the Coast. The opposition formed youth militia to harass and intimidate candidates and supporters from the ruling party (Mueller, 2011). Nevertheless, unlike past elections, the 2002 elections were relatively peaceful.

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The presidential election of 2007, the fourth since the return of multiparty politics, was very competitive in Kenya's history. It featured two powerful candidates, the incumbent Mwai Kibaki of Party of National Unity (PNU) and Raila Odinga of Orange Democratic Movement (ODM). While the 2002 election gave hope of progress in peaceful elections, violence in 2007 shocked the international community. Unlike past elections, this election was marred by widespread and deadly post-election violence. The genesis of post-election violence was opposition allegations of massive fraud and stealing of presidential elections. Yet, signs of violence had emerged during the pre-election period, especially during campaigns. Hate speech was openly used by vernacular language radio stations calling for eviction and displacement of certain ethnic groups. In the Rift Valley, where violence was intense, politicians through "1 against 41" slogan (meaning The Kikuyu against remaining 41 country's ethnic groups) mobilized their supporters against Kikuyu (Burchard, 2015). Similarly, the opposition was crying foul throughout the election by indicating that the government was going to rig the election in Kibaki's favour. As a result, preparation for violence was vivid, especially in the Rift Valley, Central and Nyanza regions. However, these hot grounds for violence were not captured or taken seriously, as they should have been, by the international community. Thus, had observation missions arrived early, deployed a large number of observers, and placed the quest for democratic elections standards over diplomatic and economic interests, to a certain extent both the incumbent and the opposition would have minimized the level and preparedness of using violence in the post-election period.

Typically, the polling day was relatively peaceful. Indeed most observers applauded Kenyans for democratic and peaceful election. When the results started to be announced, early results indicated Raila was ahead of Kibaki while several members of Kibaki's government had lost their parliamentary seats. Yet, the process of releasing presidential results became very slow with time. Accusations of vote rigging increased after a delay of announcing results for three days. On December 30 Mwai Kibaki was announced the winner and was immediately sworn, in a closed ceremony in just an hour later. Kibaki had garnered 4.58 million votes against 4.35 million votes for Odinga and 800,000 votes for Kalonzo Musyoka. Surprisingly, two days later, Samuel Kivuitu, chairman of Kenya's electoral commission, told the press that he was not sure who had won the election. Following these events, the violence erupted as Odinga supporters, particularly in Nairobi, Rift Valley, Nyanza and Mombasa, took to the streets protesting election results. Just like in the past elections, the

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violence took ethnic lines. Since Odinga was supported by Kalenjins, Luo, Coastal people and Luhya, violence targeted those perceived to have voted to Kibaki, particularly Kikuyus. In rural areas non-Kikuyu used the violence as an opportunity to evict the Kikuyu from their land. Similarly, politicians used violence to change electoral population by chasing outsiders from their land, thus flushing hostile vote (Buchard, 2015). Security apparatus reacted to protests, especially in urban areas, with excessive force such as extra-judicial killings. Violence was tamed when a power-sharing deal between Kibaki and Odinga, negotiated under the watch of the international community, was signed. It was estimated that more than 1500 deaths occurred and 600,000 were displaced by violence.

The fact that international community was quick to strike power-sharing deal rather than pursuing re-election or vote re-count, contradicted the professed view that observation of election is for ensuring adherence to standards of democratic elections. Besides, although the international community played a crucial role in persuading Kibaki and Raila to reach a deal, it could have prevented fraud and escalation of violence through ensuring heavy presence and involvement of observers and the international community in the pre-election period. On the contrary, some observers were accused of picking sides among presidential contenders and hence playing an indirect role in the failure to stop the post-election violence. For instance, the International Republic Institute (IRI), withheld exit polls after succumbing to the pressure from American government officials. The decision was made in favour of Kibaki as respective polls indicated Raila leading the election (Mehler *et. al.*, 2009). Had the IRI released these results, Kibaki would have been deprived of the legitimacy and he would have accepted the power-sharing deal as early as he did. Raila Odinga wrote that “my supporters believe that had IRI released those polls, they would have made a huge difference and saved the lives.” The USA and the international community weighed political consequences of the election over its democratic processes. It “opted for stability over democracy even while championing the global spread of democratic elections as a sure sign of freedom’s advance” (Robinson, 2011: 56). Furthermore, as the Kibaki’s government supported counterterrorism operations, the administration in the USA was in favour of his victory. On contrary, they were sceptical with Odinga regarding his history and his enthusiasm to support their operations (The New York Times, 2009). To be sure, despite reports of serious ballot-counting fraud, the USA quickly endorsed Kibaki’s victory and called Kenyans to respect the results contrary to what it had done in elections of other states such as Ivory

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Coast and Zimbabwe. Moreover, reports from inter-governmental regional observation missions, such as AU, IGAD and EAC refrained from reporting the fraudulent acts and rigging of elections by Kibaki and PNU.

The 2013 elections were the fifth under multipartism. These, were praised as a success by the international community following reports from their observation missions. Buchard, however, noted that although “[2013 election] heralded as a triumph of democracy and declared as resounding success of democracy by many observers including the International Foundation of Electoral Systems (IFES), were violent. At least 300 Kenyans died prior to the election and as a result of politicking and campaigning” (Buchard, 2015:2). Apart from violence, there were also accusations of fraud and manipulation against the Jubilee coalition. Jubilee was accused of coordinating with the government to manipulate the voting system in its favour (Olang, 2013). Yet, the observation missions played down these accusations despite their weight. Western powers neglected opposition concerns and lashed to endorse the election to avoid disrupting the fight against Al Shabaab in Somalia, which its success depended on stability in Kenya. Thus, as to whether the election was democratic or not was of little concern.

The 2017 election was the sixth election in Kenya after the reintroduction of multiparty politics. The main contestants were the incumbent president Uhuru Kenyatta and Raila Odinga. Pre-election and election periods were relatively peaceful. However, acts of systematic electoral fraud were alarming. The declaration of election results by the electoral commission was contrary to the provision of the law and regulations of election. For instance, final election results were announced whilst thousands of election results documents were missing. The commission based on the electronic data it provided without full paper verification or breakdowns of each constituency (Rana, 2017). Despite these flaws, Uhuru Kenyatta was declared the winner by the commission. However, the opposition rejected the results as Raila Odinga claimed that state apparatuses colluded with the electoral commission to rig the election in favour of Kenyatta. His claims were backed by reports of domestic election observers such as Kenya Human Rights Commission (KHRC) and the Africa Centre for Open Government (AfriCOG) which issued reports of massive anomalies with regard to electoral results. Notwithstanding these serious claims from the opposition and domestic observers, various IEO missions applauded the elections as free and fair and dismissed claims of rigging either as nonexistent or insignificant. The “international monitors from the African Union, the United States and

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Europe said they witnessed no foul play; former United States secretary of state John Kerry, co-leader of the Carter Center's mission of election observers, praised Kenya's election commission for its transparency and diligence" (New York Times, 13 August 2017).

Post-election violence erupted as opposition supporters protested the results announced by the electoral commission. According to the Human Rights Watch (2017) the police response to the protests led to the deaths of at least 33 people. However, the opposition opted to challenge the election results in the Supreme Court. On 1 September 2017 the court invalidated and nullified the presidential election results. It cited serious malpractices whereby the election commission did not manage the election in accordance to the provision of the election law and the constitution. Whereas the ruling vindicated the outcry of the opposition as well as majority domestic observers, it opened debate over the role and credibility of IEO missions. On the one hand, the mismatch between the court and international observers on the findings of the court on election and electoral process emphasized the failure of the IEOs on capturing election irregularities and hence to deter them despite the power, expertise and resources they possess. On the other hand, it shows the influence of political interests over democratic elections. Kahura (2017) maintains that "the August election in Kenya was a classic case of how international election observers undermined their reputations and credibility by whitewashing or ignoring electoral malpractices in the name of stability and to protect their own national interests." As such, the role of international observers has to be critically examined.

Uganda

Uganda is known for a history of internal strife and civil wars. Post-independence governments were plagued by coups and instability. However, of recent, it has been enjoying stability since Yoweri Kaguta Museveni came into power in 1986. Yet, the country's political system remains stifled under Museveni and the National Resistance Movement (NRM), his ruling party (Rubongoya, 2007). Similarly, the military, the Uganda People Defence Force (UPDF), has been having an upper hand in the politics of the country. Its grip on politics is more evident during elections as it has, in several times, come into aid for NRM and Museveni's victory (Tangri and Mwenda, 2003; Heiberg, 2010). When Museveni came to power, party politics were abolished on the ground that it promoted sectarianism. Following a referendum on 23 July 2005, multipartism was re-established. Since then Ugandans have gone to polls for

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general elections three times in 2006, 2011 and 2016. Despite the heavy presence of IEOs in these elections they have also been characterised by electoral fraud and violence.

Starting with the 2006 general elections, available evidences indicate that they were marred by state sponsored violence, intimidation and electoral fraud (HRW, 2006; Rubongoya, 2007). Most of these incidents took place during the pre-election period before the arrival of international observers. The Forum for Democratic Change (FDC) party officials, candidates and supporters were the major victims of these incidents (HRW, 2006). First, the FDC presidential flag bearer was detained on charges of treason and rape. He was tried in both the civil court and court martial. When he appeared in court, protests erupted in Kampala and security forces used excessive force to disperse protestors leading to the death of one opposition supporter and leaving many others injured. There were convictions that his trials were aimed at intimidating the opposition during the campaign as the Human Rights Watch Report noted:

The entire proceedings against Besigye severely impinged on the ability of the opposition to conduct its campaign on anything like a level playing field. In a six-week flurry of activity, legal charges, counter-charges, appeals, and dramatic court decisions were extensively reported. Besigye has spent almost as many days in court as on the campaign trail (HRW, 2006).

The opposition diverted the attention, time and resources from campaigns to these trials. It seemed that the government was intending to prevent Besigye behind bars during the entire campaign period. For instance, when it was apparent that the court was going to release Besigye on bail, the UPDF persecutor brought terrorism charges against him. Some foreign powers responded on detention of Besigye, by cutting some Aid to Ugandan government. Yet, this did not deter the government in its deed towards the opposition. In fact, only Britain and Scandinavia states took these measures by directing the aid to the projects carried out by the UN in northern part of the country.

State's suppression of the opposition did not end with Besigye's trials. As a strategy to engineer NRM cadres and Museveni's victory, the police frequently arrested several FDC candidates, officials, MPs and councillors and charged them with criminal offences. Among those arrested include Ronald Okumu and

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Olanya Otim who were tried for murder. Their trials were, however, dismissed in the High Court. The judge held that “the evidence tendered by the prosecution shows clearly that it is a crude and amateur attempt at creative work” (Daily Monitor, 15 January 2015). He further noted that “the prosecution witnesses were, “men of shoddy character, self-confessed criminals and outright thugs” (New Vision, 10 January 2006). It was then apparent that most of the criminal charges brought by the police against persons from the opposition were politically motivated, just as Besigye’s case. Moreover, officials from UPDF were also liable for breaking military code of conduct by interfering in electoral politics. Military officials were seen campaigning and some in military uniforms (Tangri and Mwenda, 2013). This was, however, contrary to Ugandan Electoral law which prohibits army involvement in electoral politics. Similarly, paramilitaries aligned with both NRM and UPDF intimidated opposition supporters in several occasions. According to domestic election observers, such incidents were widespread and to a certain extent, they may have impeded opposition supporters’ participation in electoral processes (DEMGGroup, 2006). For instance, the NRM spokesman confirmed that several NRM supporters involved in a deadly clash with FDC supporters on 2 February 2006 were off duty Local Defense Units – a part of Uganda military (Daily Monitor, 9 February 2006). In another incident, the Arrow Boys, a militia owned by NRM and commanded by Mike Mukula – a State Minister for Health, were reportedly to have been involved in several accounts of violence. The incidents took place in Soroti, Iganga and East Moyo County (HRW, 2006). Surprisingly, the Arrow Boys were among 4,000 personnel trained as “Special Constables” to assist with Election Day supervision.

Likewise, as other elections observed by the international community, the polling day was peaceful. Most international missions applauded voters for turning out in numbers. They, however, noted serious irregularities which included: vote stuffing, multiple registrations, and massive disfranchisement (HRW, 2006b). For instance, the DEMGGroup noted that 1500,000 eligible voters were denied the right to vote. They further projected that the total number of such cases, across the country, could reach over 400,000 voters. Also, the European Union mission noted several cases of voters who were denied voting, despite having valid voter cards. The United States only called for an investigation of these irregularities. Notwithstanding this, the international community did not push for further condemnation against serious electoral flaws committed by the government. It seemed that political and economic interest outweighed plea for the observance of democracy. Among the reason

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for such position was the matter of political stability in Uganda. On this account, Tangri and Mwenda assert that:

Considerations of serious political instability erupting in Uganda as a result of the flawed elections probably influenced donors to accept the validity of the election results. Indeed, the prospect of violent clashes was averted when Besigye, under strong pressure from Britain and the United States, decided to appeal to the Supreme Court rather than call his supporters on to the streets (Tangri and Mwenda, 2010: 45).

In the same vein, apart from instability, security and economic interest were also in play as “for the US and the UK, Museveni is a key leader and important partner in combating terrorism and Islamic extremism in the region. The UK also sees Museveni as welcoming foreign investment and British business interests” (Tangri and Mwenda, 2010:46). Political and economic interests outweighed the plea for democracy and democratic elections in favour of Museveni stay in office.

In 2011 Uganda held its second multi-party election. The presidential election had eight contestants, but major contestants were the incumbent Museveni of NRM and Besigye of FDC. The media and observers noted that the election was marred by incidents of violence, intimidation and fraud which for the most part were perpetrated by the state and its security agencies. The police frequently detained opposition candidates, party officials and supporters as well as several NGO activists (EU, 2011; Commonwealth, 2011). The touching case was the arrest and subsequent imprisonment of three Democratic Party (DP) officials on charges of terrorism. One of the persons imprisoned was Ms. Annet Namwanga, who was responsible for arranging financial resources from abroad. She was accused of raising funds to overthrow the government. The police arrested and detained her incommunicado for 16 days. After DP lawyers secured her release, the police brought new charges of terrorism against her and she was rearrested. It was now apparent that security forces were conducting their duties in a partisan way.

The opposition was also dragged into using violence to tame intimidation and electoral fraud carried by the incumbent and its agencies. For instance, FDC vowed supporters “to protect its votes” on Election Day to avoid what happened in 2006. Party officials, in campaigns, maintained that this time, they were not going to the court to resolve election results disputes, in case of

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electoral fraud. Instead, they reiterated that “this time we are not going to court. Our court is the people” (Commonwealth, 2011). Moreover, political parties formed vigilante groups of youth party activists. They included: Kikankane, Blue Cobra, Red Brigade, Black Mamba, Bamboo Youth Brigade, Kibooko Squad, 3K Brigade, Mwoyo Gwagwanga, and Black Brigade. These groups were tasked with protecting votes, mobilization and sometimes intimidating opposing candidates and voters. Similarly, acts of vote buying and bribery of voters, mostly, involving NRM candidates and officials were common. For instance:

EU EOM observers in Mbale directly observed two NRM rallies where money was given to supporters (notes of US\$ 1,000 together with a specimen ballot paper with a tick marked for the incumbent president). In Kapchorwa observers witnessed the delivery of 2 combine harvesters valued at US\$ 1 billion during the rally of the NRM MP candidate. In Masaka the NM summoned meetings of the NRM Entrepreneurs League at regional level where every district was represented by five entrepreneurs, each receiving US\$ 50,000 for mobilization of the voters in their district (EU, 2011:13).

Despite these irregularities, the polling day was peaceful and orderly. Nevertheless, there were serious irregularities carried out deliberately to rig the election. They include underage voters, presence of heavily armed military soldiers at polling stations, who often intimidated voters, ballot stuffing, allowing in questionable spoiled votes for President Museveni whilst excluding similar ones for Besigye, intimidation by security agencies in several areas of Gulu district, but especially at those polling stations that were in proximity to Army barracks, and in some polling stations over 25 per cent of voters names missing in the register. Most of these events took place in opposition strongholds (Commonwealth, 2011; EU, 2011). Yet, the international community maintained silence over the events. It should be noted that Museveni had been a strong ally of the West. He has been touted as a successful Africa leader in pushing for development and unswerving commitment to economic reforms (Tangri and Mwenda, 2013). Furthermore, Museveni’s commitment in fighting against terrorism took a new turn in 2007 when he sent his troops to Somalia to fight against Al Shabaab. With these decorations, “Museveni is far from the worst leader in Africa’s sea of dictators” (Tangri and Mwenda, 2010:46). Therefore the West could not bear the cost of criticizing their active partner in economic and security agenda.

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The 2016 election featured three prominent candidates. They included: Yoweri Museveni, the incumbent and NRM flag bearer, Kiiza Besigye, from FDC – contesting for the fourth time, and Amama Mbabazi, a former Prime Minister. Unlike past multiparty elections, the election had serious incidents of intimidation and fraud intended to favour the incumbent (Cheesman, Lynch and Wills, 2016). The gravity of these acts reminded the world how elections can be used just as tools to legitimize the incumbent rather than an exercise of democracy. A group of unemployed young men, known as Crime Preventers, were deployed to control crowds, arrest suspects, guard ballot boxes and gather intelligence. However, the group was accused of being partisan as its members were often seen campaigning for NRM (Gettleman, 17 February 2016). In several instances, Crime Preventers intimidated the opposition supporters and candidates. Yet, most of these incidents happened in the pre-election period where international observers had not arrived. Moreover, the police frequently detained opposition candidates and party officials and those they saw as opponents to Museveni. On 15 February Besigye was arrested by the police on his way to campaign meeting at Makerere University. In the process, several Besigye supporters were injured as police fired tear gas to disperse the crowds. However, his arrest was seen as politically motivated as security forces just drove Besigye and released him afterwards without charging him as the law requires. Besigye was arrested for the second time on 18 February, on the Election Day. On 19 February the police surrounded and raided the FDC headquarters and arrested Besigye, FDC president Mugisha Muntu, FDC chairman Wasswa Biggwa and Ingrid Turinawe – an activist (The East African, 19 February 2016). Also, on 21 February 2016 Besigye and Mbabazi – the two presidential candidates – were placed under house arrest. Moreover, it was said that Gen. Katumba Wamala was placed under surveillance after Museveni failed to perform well at the polls at the army barracks (Kron, 21 February 2016).

The media, as well as both local and international observers, noted serious incidents of election rigging. The Chairperson of Commonwealth observation mission, Olusegun Obasanjo, noted that “Uganda has fallen well short of meeting many of the key democratic benchmarks for the conduct of credible elections” (Commonwealth, 2016). Even the AU observation mission, which has been less vocal and careful in its previous observation reports, could not hide its findings on irregularities observed on the polling day, taking their gravity. Its report noted: the opening time in 89 percent of the, observed, polling stations was not observed; in 33 percent of observed polling stations the Presiding

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Officer did not demonstrate to the people present that the ballot boxes were empty as prescribed in the Electoral Act; and in 39% of the polling stations, opening procedures pertaining to sealing of ballot boxes were not followed (AU, 2016). Similarly, the EU observation mission reported that a number of votes it counted did not match to the official results in 20 percent of observed polling stations (EU, 2016). Voters too complained about election rigging. For instance, one voter, through a twitter post, noted that: “Mr. Besigye had 1,256 votes compared with 628 votes for Mr. Museveni at his polling site when the results were tallied Thursday. But the commission had said Mr. Museveni garnered 827 votes and Mr. Besigye 260” (New York Times, 21 February 2016). Due to reports of massive electoral fraud the Commonwealth concluded its report with the following strong words:

The Group has strong concerns that many of the administrative and operational processes undertaken during the electoral cycle were flawed to the extent that the election results cannot be said to fully ascertain the true will of the people of Uganda. Such concerns also extend to the restrictions placed on the free movement of key opposition members and their supporters at all stages of the elections (Commonwealth, 2016:42).

As people flocked the social media with more evidence of electoral irregularities, the government on 18 February 2016 blocked social media platforms of Twitter, WhatsApp and Facebook. In the same vein, the opposition attempt to present the evidence of vote rigging was vulgarly curtailed by the police when they raided the FDC headquarters and arresting its officials. As a result, the opposition could not present its case in the court.

Despite documenting serious flaws in their reports, international observers shied away from having a strong stance that elections were not free and fair. The EU mission, for instance, directed the “audience to read the report and draw their own conclusions” (Cheesman, Lynch and Wills, 2016). The AU mission, whom this paper has shown to have observed serious irregularities, simply concluded its report by contending that; “the AUEOM congratulates the people of Uganda for turning up in large numbers to perform their civic duty” (AU, 2016:10). Thus it endorsed voters turn out, but not the election, indicating that voters’ enthusiasm for election was the key test for a democratic election. This is a departure from really issues pertaining election observations. AU’s stance depicts how international observers distance themselves from their

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reports as a way to avoid political implications. Moreover, the West remained mute while democracy was raped in Uganda by their ally. It is against this backdrop that Museveni and NRM have neither been deterred by international observers nor by their parent countries and organizations from electoral fraud and violence. To sum up on Uganda, it is worth highlighting Cheesman, Lynch and Wills (2016) account to why the West turned a blind eye to such sham elections. They contend that “Western representatives in Uganda are...concerned about what would happen if they called for the results to be recounted or the election to be re-run. Would the country implode under pressure? Could a Besigye presidency be relied upon to deliver stability and to be enthusiastic about sending Ugandans to fight in foreign country?” Against this backdrop, it is thus, quite unthinkable, that the West can ill-afford to lose Museveni even when he transgresses democracy.

Conclusion

This article was set to discuss why international election observers sometimes fail to deter electoral fraud and violence. Its central argument is that observers’ mode of operation as well as political interests, erode their effectiveness in deterring electoral fraud and violence. Focusing on Kenya and Uganda the paper has uncovered that, to a large extent, international observers have failed to detect, understand and report incidents of electoral fraud and violence hence leading electoral actors to act without being caught. On the other hand, when these incidents have been uncovered, observers and their principals have weighed on political consequences in regard to diplomatic, military and security ties with monitored governments. Consequently, elections in these states have been characterised by continuous electoral fraud and violence, despite increasing presence of international election observers’ missions.

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