

Strengthening Democratic Structures and Processes in Africa: A Commentary on the Role of the European Union

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Sumário

A década de 90 marca a introdução da condicionalidade política nas políticas de desenvolvimento da UE, em resultado de um consenso internacional relativamente à má governação como causa do falhanço das reformas económicas, o qual conduziu à interligação entre direitos humanos, democracia e desenvolvimento. A assinatura do Acordo de Cotonou em 2000 representa a formalização das preocupações com a governação e os direitos humanos na agenda europeia, o reforço da intervenção da UE nestas questões em parceria com os Estados e organizações regionais africanas, e ainda a inclusão de diversas questões políticas no diálogo entre os dois continentes (migração, prevenção e resolução de conflitos, etc). No entanto, a análise da realidade revela falhas importantes: por um lado, é ainda insipiente a coordenação entre os programas de desenvolvimento da UE e dos Estados Membros, quer ao nível da estratégia, quer da actuação no terreno; por outro lado, subsiste a ideia de que o desenvolvimento *per se* contribui para uma melhor protecção dos direitos humanos e princípios democráticos, não sendo estes devidamente incorporados nas políticas de desenvolvimento prosseguidas.

Segundo os autores, os programas da UE relativos à promoção da democracia em África encontram-se imbuídos da experiência europeia com os processos de democratização na Europa do Sul e de Leste, descurando conseqüentemente diferenças importantes, como por exemplo o facto de a posição e participação da sociedade civil em África ser consideravelmente mais precária, a existência de uma dívida externa incomportável em países de baixo rendimento, ou ainda as marcas deixadas por conflitos violentos em diversos países africanos. Desta forma, as condições impulsionadoras de uma transição democrática sustentável são, em geral, pouco favoráveis nos países africanos. Isto para além de que a promoção da democracia por parte de actores externos como a UE exige que os “países-alvo” estejam convencidos da necessidade e utilidade dessa mudança.

Neste contexto, a aposta em incentivos e medidas positivas – como o cancelamento da dívida, a melhoria dos termos de comércio, ou o reforço das estruturas estatais democráticas – torna-se certamente mais produtiva do que a imposição unilateral de sanções sem critérios objectivos, ou a aplicação de programas de curto-prazo de apoio à governação, que não produzem resultados sustentáveis ao nível dos processos sociais de mudança.

As acções de cooperação e apoio à governação em África deverão passar por três níveis fundamentais: (i) no plano da sociedade civil, através do reforço da independência dos órgãos de informação; (ii) ao nível do Estado, por acções de apoio aos órgãos legislativos e judiciais; (iii) ao nível continental, pelo processo de “revisão pelos pares” (*peer review*), cujo potencial de exercer uma influência positiva na conduta de vários Estados africanos deve ser aproveitado e maximizado.

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A new grammar of terrorism has infested the discourse on democratic governance in the West and we are already seeing a return to the politics of accommodation with authoritarian regimes that support the ‘war against terrorism’. It is in this context that the European Union’s (EU) commitment to promotion of governance and human rights must be seen and understood as a project under serious scrutiny and challenge. Even before the attacks on the United States on 11 September 2001, the EU’s promotion of such ‘ethical’ objectives as good governance, human rights and democratic principles frequently had to give way if it was seen to be harmful to the material or security interests of one or more of its member states. Since then, evidence for double standards abounds – although the EU repeatedly professes that the root causes of terrorism must be tackled by the spread of the rule of law, democracy, respect for human rights and good governance.

The themes provided in the conference briefing notes on ‘Governance and Human Rights’ highlight the challenges and obstacles to an ambitious policy agenda that seeks to transform fundamentally political structures within the African state system. At its core, what is being asked here is how the EU’s values with respect to democracy and human rights can be meaningfully integrated and adopted by Africans. The EU’s focus on democratising structures of governance and enhancing supportive processes reflects its own experience and preferences for achieving ‘peace through law’. However, the uneven record of African states in sustaining democratic principles, coupled with Europe’s own failure to provide consistent leadership in this area, is strongly suggestive of the need for a re-examination of basic aims and strategies. This chapter will provide a brief overview of EU-African relations with respect to governance and human rights issues and follow that with commentary on specific concerns raised in the course of implementation of this agenda.

A brief overview of EU-Africa relations

First it should be pointed out that the European Union has a history of engagement in governance and human rights issues in the African context, initially through its multilateral development programme for African, Caribbean and Pacific (ACP) countries but, since the 1993 Maastricht Treaty, increasingly through its commitment to realising a common foreign and security policy (CFSP). Indeed, the new multiracial democracy of South Africa was one of the first areas of activity for the new CFSP.²

The relationship with Africa was built upon the legacy of colonialism, in the first instance through two Yaoundé conventions, concluded in 1963 and 1969: these conventions grouped together the primarily French former colonies in Africa, even though some member states (Germany and the Netherlands) had called for a geographically wider network of development cooperation centred on the poorest countries.³ When the UK joined the European Community, several of its former colonies were included in the network, under a new contractual framework known as the Lomé conventions. The original 1975 Lomé convention was revised every five years, until it was replaced by the Cotonou convention in 2000. There are now 77 ACP partners.

² In December 1993, one of the first CFSP ‘Joint Actions’ (a new type of decision introduced by the Maastricht Treaty) aimed to support the transition to a multiracial democracy in South Africa.

³ On this history, see in particular Enzo Grilli, *The European Community and the Developing Countries* (Cambridge: Cambridge University Press, 1993), pp.335-6.

Development assistance was initially focused on classic ‘water pumps and roads’ projects and, especially in the case of Francophone Africa, selective support for the administrative structures of governance through direct financial disbursements as well as indirect support through linkage with the French franc. The first two Lomé conventions (1975-80 and 1980-5) did not refer at all to human rights or democracy, partly because the ACP countries opposed any attempt to provide aid with political conditions attached, and partly because the Community’s development aid was supposed to be non-political thus underscoring the fact that its relations with the Third World were to be free of the vestiges of colonialism and distinct from that of the superpowers. The atrocities in Idi Amin’s Uganda finally prompted the Community to agree that measures would be taken if an ACP systemically violated fundamental human rights, and the Lomé III convention (1985-90) contained a joint declaration reiterating that human dignity is an essential objective of development. But beyond cases of atrocities, considerations of human rights and democracy were largely excluded from relations with the ACP countries.

Gradually, as the international climate changed, the EU’s Africa policy moved more closely towards acknowledging the problems posed by the ‘democratic deficit’ in African states, and the EU developed a wider range of policy instruments to try to deal with those problems. The European Parliament had been pushing hard for a stronger Community external human rights policy since the early 1980s, and from the late 1980s, the member states too began to change their stance. The collapse of communism in Central and Eastern Europe helped: the Community had strong interests in fostering economic *and* political reforms in its eastern neighbours – above all to ensure European security and stability – and was willing to use carrots and sticks quite extensively to do so. This set a precedent for relations with other third countries.

In 1990-1, member states began to introduce political conditionality into their development policies. Francois Mitterrand called for the introduction of the democratic imperative in French policy at the Franco-African summit in La Baule in June 1990;⁴ other member states (the UK in June 1990 and Germany in October 1991) also declared that considerations of democracy and human rights would guide aid allocation. The shift in Europe mirrored a wider shift: findings by the World Bank in November 1989 that the failure of reforms in sub-Saharan Africa was due partly to bad governance contributed to the growth of a consensus that linked human rights, democracy and good governance with development.⁵ In 1995, the revised Lomé IV convention included the now-standard ‘human rights clause’: article 5 of the convention stated that democratic principles, human rights and the rule of law were ‘essential elements’ of the EU-ACP partnership, and article 366a allowed the EU to take appropriate steps if the essential elements were violated. The introduction of political conditionality thus reflects, to some extent, ‘ideational diffusion’: the Community was following the international consensus on aid conditionality.⁶ But the human rights clause is certainly an innovative feature of the EU’s external policies (no other international actor includes such a clause in its external agreements).

⁴ Patrick Manning, *Francophone Sub-Saharan Africa, 1880-1995* (Cambridge University Press, 1998), pp. 202-3.

⁵ World Bank, *From Crisis to Sustainable Growth: a long term perspective*, (Washington, DC: IBRD 1989), p. 1.

⁶ Ole Elgström, ‘Lomé and post-Lomé: asymmetric negotiations and the impact of norms’, *European Foreign Affairs Review*, vol. 5, no. 2, 2000, p. 184.

The clause permitted the EU to put issues such as respect for human rights and democratic principles at the forefront of the EU-ACP political dialogue. Dialogue between both sides had long been a feature of the EU-ACP relationship, but now it was shifting from predominantly economic development issues to much wider political concerns. Richard Youngs notes that ‘discursive socialisation’ has been touted by EU policy-makers as a significant contribution to the spread of democracy and human rights.⁷ However, the ACP countries have tended to view dialogue as just another way for the EU to exercise pressure and conditionality.⁸

The signing of the Cotonou agreement in 2000 marked both a formalisation of governance and human rights concerns on the EU’s development agenda and a deepening of this process of engagement on these issues with African partner states and regional organisations. Mechanisms for invoking the human rights clause were strengthened, which was to be preceded by intensive consultations with the ACP country concerned (according to article 96). Consultations would be managed by the EU Council presidency and should the offending country be found to be in violation of these norms then actions such as the imposition of sanctions would be undertaken by the Council (and implemented by member states). The consultation mechanism was a partial response to ACP complaints that the EU was unilaterally imposing its values on third countries.

The notion of ‘good governance’ was also developed: Lomé IV had included good governance as an objective (but not an essential element) of development cooperation, and the EU pressed the ACP countries to include it as an ‘essential element’ in the Cotonou convention. They resisted, and instead a commitment to good governance is included as a ‘fundamental’ element: violations of it were defined strictly as serious corruption, for which cooperation could be suspended.

At the same time, other political issues were included in the Cotonou agreement, including migration policy and conflict prevention. Throughout the 1990s, conflict prevention had become a bigger and bigger concern for EU policy in Africa, and the Cotonou convention lists conflict prevention as an area for cooperation and dialogue.⁹ Conflict prevention was explicitly linked to the overall democracy, human rights and development agenda. This large agenda has been replicated in the Europe-Africa Dialogue, first launched in Cairo in April 2000.

Dialogue and conditionality are accompanied by aid. Objectives such as the promotion of human rights and democracy are supposed to be ‘mainstreamed’ into the EU’s development policy, but so far this has been patchily done, as the prevailing assumption is still that development itself contributes to better protection of human rights and democratic principles. Furthermore, the EU has repeatedly promised that ‘good performers’ will receive more aid,¹⁰ though until very recently, there were no

⁷ Richard Youngs, ‘European Union democracy promotion strategies: ten years on’, *European Foreign Affairs Review*, vol. 6, no. 3, 2001, pp. 359-60.

⁸ Elgstöm, ‘Lomé and post-Lomé’, p. 191, and Richard Youngs, *Democracy Promotion: The Case of European Union Strategy*, Centre for European Policy Studies Working Document no. 167 (Brussels, 2001), pp. 41-6.

⁹ See the numerous EU documents on this subject, including: Council of the European Union, ‘Common position of 2 June 1997 concerning conflict prevention and resolution in Africa (97/356/CFSP)’, in OJ L 153, 11 June 1997, and ‘Common position of 14 May 2001 concerning conflict prevention, management and resolution in Africa (2001/374/CFSP)’, in OJ L 132, 15 May 2001; and European Commission, ‘Communication on conflict prevention’, COM (2001) 211 final, 11 April 2001.

¹⁰ See, for example, Council of the European Union, ‘Common position of 25 May 1998 concerning human rights, democratic principles, the rule of law and good governance in Africa (98/350/CFSP)’, in OJ L 158, 2 June 1998.

mechanisms to ensure that this would take place (the Cotonou convention provides more flexibility in this regard). In addition, the ACP countries receive some aid for democracy via the European Initiative for Democracy and Human Rights, which has a budget of approximately euro 92 million a year. The ACP countries have received between 21 and 24 per cent of EIDHR funding since 1996.¹¹

The key sources of European Union policy towards Africa are the Commission and the Council Secretariat, though it is often at the level of the Council's elaborated structures of working groups, specialised councils and the political committee that issues are given thorough consideration. Particular member states with strong interests in development policy generally (such as Sweden or the Netherlands) or those with strong interests in particular developing countries (notably former colonies) can play leading roles in policy-making. This is complemented – and sometimes contradicted – by bilateral donor relations with a given African country or the continent as a whole by EU member states. The development cooperation programmes of the EU and its member states are supposed to be coordinated (as the Maastricht Treaty stated), but there is little coordination either at the level of grand strategy or on the ground in particular cases. Here again, the bureaucratic structures of national governments are sources of policy, from the foreign ministries and executive offices to the overseas development assistance programmes and trade ministries, which themselves can be seen to be in competition.¹² Further complicating the situation is the role of semi-state and non-state actors with a self-styled mandate on governance and human rights issues, for example the various political party foundations (such as Fredrich Ebert Stiftung) and independent charities or development organisations (such as Oxfam) with their own constituencies. This cacophony of voices can be seen as a strength, reflecting the variety and depth of interests within European society at all levels in governance and human rights, and allows for 'multi-level governance' to flourish. However, this somewhat inchoate 'let a hundred flowers bloom' approach obviates against the cherished commitment of Europeanists to realise a coherent and strategic continental vision, an impulse that has received renewed importance with the recent fissures over Iraq both within the European Union and the Atlantic alliance. As Martin Holland has recently pointed out, it is not patently obvious that the EU should formulate and implement development policy, and there have been persistent pressures to 'nationalise' it fully.¹³ So far, however, the pressures for a truly global role for the EU – and thus an extensive development policy – have been stronger.

Issues and concerns

Putting aside the sheer complexity of EU engagement in democracy promotion, as outlined above, we offer some cautionary comments on the European Union's support for good governance and democracy in Africa.

- *Trading in false analogies:*

¹¹ European Commission, 'Report on the implementation of measures intended to promote observance of human rights and democratic principles in external relations for 1996-1999', COM (2000) 726 final, 14 November 2000, p. 8, and 'Report on the implementation of the European initiative for democracy and human rights in 2000, SEC (2001) 801, 22 May 2001.

¹² The classic case with respect to Africa being, of course, French foreign policy which has had its sources in a statutory office in the Elysee Palace, the Ministry of Foreign Affairs, the Ministry of Co-operation and the Treasury.

¹³ See Martin Holland, *The European Union and the Third World* (Basingstoke: Palgrave, 2002).

One cannot help but think that operating at least at some subterranean level is the EU's experience of democratic promotion in southern and, especially, central and eastern Europe. Of course, this was intimately related to the enlargement process – though the dynamics surrounding the Spanish and Portuguese democratic transition were different than those of central and eastern Europe. Nevertheless, the EU's experience in this regard demonstrates most assuredly that transformation of authoritarian state structures is possible and even sustainable. Accordingly, despite differences in time and space with southern, central and eastern Europe, the programmes for democratic promotion in Africa are imbued with the outline and expectations of this experience.

These differences, however, matter. For example, the position of civil society within Africa is significantly more precarious than its counterpart in central and eastern Europe ever has been. This is partly a function of development, that is to say (with a few notable exceptions), the absence of an income strata with resources to support civil society and the weakness of accompanying support structures such as an independent media. The EU pays considerable attention to the strengthening of civil society in its development and political aid programmes – notably by providing aid to NGOs and media organisations, but also by providing development aid through southern NGOs¹⁴ – but more NGOs does not necessarily mean more democracy, particularly in contexts in which absorption capacity is a serious concern, and in which organisations may be easily 'captured' by the state.

Debt is another issue that differentiates the process of democratic transition in Africa from that in Europe. Although some countries, like Poland, did embark on transformation heavily burdened by external debt, there is a major difference between the implications of indebtedness for 'middle-income' countries as opposed to 'low-income' ones, and the EU has been very slow to realise this. And indeed, the overall favourable (albeit dilatory) western response to restructuring and forgiving the debts of the democratising central and east European countries is striking compared to the response to the African debt problem.¹⁵ Many democratising African countries were immediately forced to address the question of foreign held debt of titanic proportions. It does not take too much imagination to realise that this adverse situation has had a drastic affect upon the ability of new governments to use budgetary resources to fundamentally change the conditions of the very people who so optimistically voted them into office.

Most of central and eastern Europe was also conflict-free, although the huge exception to this rule, south-eastern Europe, also caused the EU the greatest difficulties. As is well-noted, it is difficult if not impossible to try to promote democracy in war-torn countries, but the EU's conflict management capabilities are still in a stage of development. We shall see whether the recent military intervention in the Democratic Republic of Congo heralds a greater willingness by the EU to engage in basic stabilisation tasks (as well as to follow up intervention with a longer-term involvement in promoting political and economic transformation). But certainly the EU cannot – nor are all the member states so willing – intervene in those parts of

¹⁴ See Gordon Crawford, *Foreign Aid and Political Reform: A Comparative Analysis of Democracy Assistance and Political Conditionality* (Basingstoke: Palgrave, 2001), pp. 129-30.

¹⁵ One democratising country in central and eastern Europe, Romania, even inherited a budget surplus from its autarkic authoritarian past. The EU does not have competence over external debt, however, and is not owed vast sums of money by borrowers (partly because it does not loan large amounts of money to non-EU states): it is an issue for the member states, which have dealt with this in fora such as the 'Paris Club'.

Africa suffering the consequences of violent conflict. The EU has tried to support ‘African solutions for African problems’, but certainly much more could be done in the area of strengthening local capacities for conflict prevention and resolution.

The EU’s strategy of democracy promotion in central and eastern Europe worked best where the ‘targets’ were already convinced that a democratic transformation was necessary and desirable. The apparently successful use of EU membership conditionality, in particular, has, however, led the EU to try to use the same tools elsewhere in Europe – where conditions favouring a democratic transition are much less favourable. Post-war south-eastern Europe is proving to be much less susceptible to the EU’s democratic message, although it continues to hope that the promise of eventual enlargement will be enough to foster a democratic transition, and it may well do so. But the most powerful instrument in the EU’s arsenal of foreign policy instruments is not and never will be on offer to African countries – which brings us to the issue of ends and means.

- *Ends and means:*

The ends of democratic promotion need to be clarified. To pick up on the theme of false analogies outlined above, the widely heralded successes in democratic promotion in central and eastern Europe owe much to the shared understanding between donor and recipient as to rules of the process (explicit criteria for accession to the EU), who the arbitrator was (Brussels) and the ultimate aim of the process (membership in the EU). The same cannot be said of democratic promotion in Africa. The rules of the process are selectively applied, changeable and subject to a range of narrow parochial interpretations amongst European states (Zimbabwe being but one particularly egregious example). The arbitrator has no fixed address, sometimes residing in Brussels, sometimes at 1818 H street in Washington and sometimes in the transit lounge of a major airport. As to the ultimate aim of the process, beyond the platitudes of democracy as a value in and of itself, there is nothing to compare to the prestige and financial rewards that accompany EU membership. The EU may promise that investment will increase, but experience has shown that the incentives of increased foreign investment that were once held out by donors to those states that embraced democratic practice are mere chimeras.¹⁶

Concurrently, the means utilised to realise the EU’s ambitions, an array of financial incentives and disincentives, needs to be re-examined. In the absence of sustained political commitment within the EU in support of sanctions against Zimbabwe, for example, talk of imposing political conditionality seems to be inappropriate and delusionary. It would be better to focus on improving the link between positive incentives – debt cancellation,¹⁷ more aid, better trading terms – and performance rather than the half-hearted and uneven employment of sanctions, targeted or otherwise. Equally, the introduction of funds or programmes in support of governance – and their hasty withdrawal when the project cycle ends – gives these programmes the appearance of a ‘rapid reaction force’ for governance rather than a serious and sustained commitment to a deliberative and deeply social process. They may be able to induce temporary stability but once gone the situation returns to the status quo. This undermines the long-term sustainability of democracy. Such

¹⁶ See, for example, the findings on FDI flows towards South Africa. Brendan Vicker, ‘Foreign Direct Investment (FDI) Regime in South Africa’, *Occasional Paper*, Institute for Global Dialogue/Centre for International Trade, Economics and the Environment (CUTS), November 2001.

¹⁷ Admittedly, this would entail a much greater willingness by the member states to allow the EU to be a fora for discussing and dealing with the debt issue.

programmes need to be redesigned to reflect a recognition of the need for a longer-term commitment to the project.

- *Fostering legitimacy:*

A key feature of the EU's engagement with Africa in the sphere of governance is the conference of legitimacy upon structures and processes. In terms of structures, EU can play a key role in recognising the institutions which exercise oversight of democratic process, such as electoral commissions and judiciaries. More broadly, the EU can withhold legitimacy from those governments which have failed to follow accepted democratic practice. In terms of process this can be seen in the monitoring of elections, the training of parliamentarians in legislative procedural matters and building capacity amongst members of the judiciary. The EU should also take note of the damage that external funding can produce in terms of local legitimacy of civil society actors.

Finally, the EU needs to take care that its own actions are better legitimised. Partly this means it must seek to reduce the double standards that often bedevil its human rights and democracy policies ('friends' suffer from negative measures much less than countries of little economic or political significance to member states). Partly this means that it must ensure that its own 'domestic' house is in order: dialogue, for example, cannot be a one-way street and the EU must be much more open to listening and discussing issues such as the treatment of migrants (whether legal or not) inside the EU and racism within the EU, as well as the rise of the far right or lack of media freedom in its own member states. And partly this means that the EU should work much more closely with international and regional organisations that can help legitimise its work, such as the UN or the African Union. Given that 'democracy' and 'good governance' are contested (and contestable) terms – and that there is precious little in international law to back claims that countries have obligations with respect to democracy and governance – it is all the more important for the EU to try to garner wide support for its policies.

An agenda for action

In light of these cautionary comments and the history of EU engagement with Africa, where should the focus of action in governance lie? Areas of co-operation and support should be focused on three levels including, at the level of civil society, an independent media; at the level of the state, parliaments and judiciary; and at the continental level, the Peer Review process. Support, where forthcoming, should be given in terms of NEPAD programming methodologies, so that it should form part of a long-term sustained commitment on the part of the EU to a given programme area.

- Support for an independent media is a crucial bulwark of democracy and breathes life into institutions that might otherwise drift into complacency and co-optation. Furthermore, a judge or an MP without access to an independent press is less likely to communicate with society, a vital aspect of the democratic process that enables society to support those who challenge state conventions.
- Support for the most representative institution of the state, the legislative branch, is crucial as it serves as the link between the electoral process and public goods and services that constitute government for the population. This means that the EU must overcome its traditional reticence to be involved in 'institution-building', and thus achieve a better balance between support for democratic institutions and support for civil society.

- Support for an independent judiciary as the proverbial guardians of the constitution and rule of law.
- Support for the Peer Review process which has the potential to exercise positive influence over the conduct (or rather misconduct) of African states. As its exact shape remains an open question and the EU could, at the instigation of like-minded African leaders, help it to realise its best outcome. In this regard humility on the part of the EU should be the order of the day; after all, Transparency International rates Botswana as being less corrupt than two members of the EU (Italy and Greece) and three candidates for enlargement (Czech Republic, Hungary and Poland).¹⁸ Perhaps, this is also the time to consider righting the asymmetry that is characteristic of the relationship and create a Peer Review process that allows both Africans and Europeans to comment upon how each other's state has lived up to their respective commitments (debt relief comes to mind).

It would be naïve to think that the EU would embark on governance programmes without a sense of how good governance relates to its own interests. Broadening the family of democratic states is of benefit to Europe, both as an expression of its values and as a means for improving the lives of African people. At the same time, some of the suggestions proposed by the NEPAD and AU point the direction towards improving what has been at times a haphazard approach. Though no substitute for persistent and deeply felt African commitment at all levels of society to governance issues, European Union support in conjunction with key African partners could nevertheless serve as a catalyst for sustainable democratisation on the continent.

¹⁸ Transparency International, 'Corruption Perceptions Index 2003'. Previous surveys have rated Botswana higher than Belgium.
www.transparency.org/pressreleases_archive/2003/2003.10.07.cpi.en.html