

The EU and Institution Building in East Africa: Towards a Better Understanding

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Executive Summary

- > The majority of the Eastern African Community (EAC) countries, which gained independence in the 1960s, have experienced intrastate and interstate conflicts, based on ethnic clashes and disparities in economic wealth and political power.
- > As a consequence, state institutions across the entire East and Central African region are underdeveloped.
- > To tackle the challenge of weak institutions, the European Union (EU), together with international partners, is involved in institution-building initiatives in the East and Central Africa region.
- > Despite a variety of initiatives, the EU faces multiple challenges on the ground, mostly related to a lack of understanding of local institutional and cultural dynamics. These challenges have undermined the effectiveness of its activities.
- > To make its engagement more effective in the future, and in line with the spirit of the EU's Global Strategy, the EU should prioritise projects incorporating regional solutions, focus on service delivery and capacity-building programmes while more actively supporting civil society in the region.

The European Union (EU) is involved in institution building in many parts of the world through various capacity-building programmes, development assistance and trainings. These EU efforts pay special attention to East and Central Africa. In each of the countries constituting the East African Community (EAC) – Burundi, Kenya, Rwanda, South Sudan, Tanzania, and Uganda – the EU spends more than 100 million euros annually for development programmes. Additionally, several of these countries are

beneficiaries of actions under the EU Emergency Trust Fund for Africa and the Instrument Contributing to Stability and Peace, among other initiatives. The majority of these projects aims at building resilience of the partner countries with a focus on functioning state and regional institutions. This policy brief introduces the problems requiring institution building in the East and Central African region and the main challenges encountered, before discussing current EU institution-building efforts and their limitations. It concludes by addressing the question how EU institution-building initiatives can be designed and implemented more effectively in and with the African partners.

Functioning state institutions and institution building

There are numerous definitions of state institutions and indicators of what makes states functioning, fragile or failed. Most of them agree on the importance of state institutions' ability to provide basic political goods: security, legal codes and procedures to settle disputes as well as the right to participate in a state's politics. Altogether, the following institutions can be identified as essential for a functioning state: security sector institutions (such as a police force), judiciary sector institutions (e.g. courts), and governance structures and an electoral system. A fourth set of important institutions, especially for developing countries, are international and regional institutions. They can help strengthen the position of the countries on the international arena and are crucial in overcoming the challenges of small and fragmented economies while playing an important role in assuring regional security.

Against this backdrop, institution building can be understood as the actions undertaken by the state in creating, rebuilding or improving the work of this set of domestic, regional and international institutions. In so doing, attention to the following aspects is often considered as most crucial: first, the institutions' ability regarding the provi-

sion of services and/or protection of citizen's rights; second, the improvement of the institutions' predictability, transparency and legitimacy; and third, citizens' trust in the institutions.

Challenges in the East African region

The EAC countries, which gained independence in the 1960s (with the exception of South Sudan, which only became independent in 2011), have experienced intrastate and interstate conflicts ever since, with their most brutal escalation being the genocide in Rwanda in 1994. These tensions were rooted in ethnic clashes and disparities in economic wealth and political power, enabled by the absence of functioning national and regional institutions managing ethnic diversity (Khadiagala 2017).

Until the present day, these countries still suffer – albeit to differing degrees – from weak capacities when it comes to policy formulation and implementation. All of them rank high on the Fragile State Index 2018, with South Sudan ranked first and the rest – with the exception of Tanzania – among the first 35. In some countries, especially Burundi and Uganda, armed groups are still active. Moreover, decades of colonial rule and often turbulent post-colonial transitions, with civil wars and civilians abused by state security, caused a profound lack of trust in state institutions.

To deal with this lack of capacities, all EAC countries, with the assistance of international partners, have made sustained efforts in state reconstruction and post-conflict peacebuilding. A significant and steady decline in the number of armed conflicts can be observed in the region over the last two decades, making this period the most peaceful of the post-independence era. The countries in the region have undergone Security Sector Reform (SSR) and are regularly holding general elections. They have also become significant players in regional and international arenas, being members of regional institutions like the EAC, the Economic Community of Central African States (ECCAS) or the Common Market for Eastern and Southern Africa (COMESA), which proves these countries' ongoing efforts to foster regional integration, especially in economic and political terms.

Nevertheless, the multiple challenges in the region are still vivid. The SSRs in many African countries are disaggregated and not coordinated, and the quality and fairness of elections are internationally questioned, like in the case of Burundi's presidential elections in 2015 or Kenyan elections in 2017. Moreover, the regional institutions have competing mandates and suffer from weak institutionalisation. There is thus no doubt that institution-building processes in the EAC countries must continue, based on a

careful assessment of how international partners could best be involved in it.

EU institution-building efforts in East Africa

Institution building according to the EU

For the EU, especially in an East and Central African context, assistance in institution building is always linked with norms and values. In all strategic documents, democracy, rule of law, human rights and good governance are mentioned as essential elements for working state institutions:

- “[T]he EU will assist (...) to build robust and accountable political structures, including civil and civic institutions, allowing the people (...) to express their legitimate political aspirations and ensure that their basic human rights and freedoms are respected” (Council of the EU 2015).
- “The promotion of democratic governance remains at the core of our partnership. We will enhance our cooperation on democratic governance issues on both continents such as the fight against corruption and money laundering, strengthening the role of public sector institutions, including accountability and transparency, the rule of law and the governance of natural resources, including measures to curb their illegal exploitation” (Council of the EU 2014).

This provides a clear picture of the EU's understanding of effective institutions, which is mirrored in the main types of EU engagement in these processes.

Practically, there are three main ways in which the EU is involved in institution-building processes in African countries: first, through development and capacity-building programmes that are strictly focused on providing funding and/or training for this purpose; second, by employing conditionality in international agreements; and third, via inter-institutional cooperation on issues such as trade.

Capacity-building and development assistance

The EU's main instrument providing development aid to African countries since 1959 – financed through direct contributions of the EU Member States – is the European Development Fund (EDF). Under the 11th EDF for the period 2014-2020, there are programmes worth 30.5 billion euros.

In the framework of the EDF, specific Regional Indicative Programmes (RIP) for East Africa, Southern Africa and the Indian Ocean region (EA-SA-IO) exist, targeting economic and political integration. Through the RIP, the EU provides financial support for the EAC, COMESA and the Intergovernmental Authority on Development (IGAD). Programmes related to political matters include financials

support for strengthening the regional organisations' mechanisms, fora and units such as an IGAD Mediation Support Unit, an Electoral Support Unit in the EAC Secretariat or the EAC Electoral Management Bodies. Moreover, the EU finances National Indicative Programmes (NIPs) focused on bilateral cooperation and the EU's Pan-African Programme, covering – among others – political dialogue and pan-African governance.

Another programme is the European Instrument for Democracy and Human Rights (EIDHR), which promotes human rights and democracy through supporting civil society but also sending EU Election Observation Missions (EOMs) and Election Experts Missions (EEM) to the region. In recent years, the EU deployed EOMs to Burundi (2015), Uganda (2016) and Kenya (2017), providing analyses on the impartiality, freedom and fairness of the election processes. The impact of these observer missions in the current form are limited, however, for two main reasons: first, EU observers have to be invited by the partner country, and even if they are, the host country authorities can try to hinder their work; second, it is uncertain to what extent the countries' authorities actually take into account the analyses and recommendations produced by observers.

Yet another set of programmes for security sector capacity building is run through the Common Security and Defence Policy (CSDP) missions. CSDP training missions have their mandates focusing on providing military advice to the countries' armed forces, trainings on International Humanitarian Law, protection of civilians and Human Rights to all kinds of state security forces as well as political and strategic level military advice and mentoring to state authorities and their defence institutions. Recent training missions in the region, like the EUTM Somalia, proved to be successful, playing a major role in the rebuilding of the country's defence institutions, including military forces.

Conditionality

Conditionality can be an incentive for the partner countries to create or reform their national institutions according to the norms promoted by the EU.

Conditionality is included in most of the international agreements between the EU and African partners. In the amendment of the 1995 Lomé IV Convention, good governance, democracy, human rights and rule of law are mentioned as 'essential elements' for cooperation. Articles 96 and 97 of the 2000 Cotonou Agreement also mention human rights, democratic principles, the rule of law, good governance and fighting corruption as 'essential elements', and provide the legal basis for breaking the agreement if the partner countries do not respect these values. The EU imposed sanctions, in the form of the suspension

of aid, on over 30 ACP countries since the 1990s, including Kenya, Burundi and Sudan on the basis of violating human rights, rule of law and democracy. However, since the sanctions are not implemented consistently and the EU has a different level of leverage over different states, conditionality as an incentive for more democratic institutions, proved not to be very effective.

Inter-institutional cooperation

The third way through which the EU promotes institution building relates to its inter-institutional cooperation with national or regional African institutions. In-depth cooperation on topics of relevance to both parties, like trade or recently migration and security, is meant to influence the structure of the regional institutions. For instance, EU-African trade cooperation strengthens the regional institutions on the African continent, since the EU deals with partner countries as regional groups rather than bilaterally. However, the integrating impact of EU trade agreements with African regional organisations can again be limited, particularly due to economic differences between the countries within these organisations. A case in point concerning EAC is the signing of the Economic Partnership Agreement (EPA) with the EU. Since Burundi, Tanzania, Uganda and Rwanda are Least Developed Countries (LDCs), they are able to export duty-free and quota-free to the EU even without signing the EPA. Kenya, by contrast, as the only non-LDC, could lose the free access to the EU market without the EPA. Such differences make it difficult for EAC members to define a common line. As a result, not all of them have so far signed and ratified the EPA.

Another example of the EU-African cooperation shaping regional institutions is the EU support for African security initiatives: without the EU's financial support for the AU's African Peace and Security Architecture (APSA), it would be impossible for the AU to maintain its Liaison Offices as well as the staff of the Peace and Security Department. Hence, this type of cooperation influences the institutionalisation of the AU.

Challenges

The various ways in which the EU is involved in institution building in East and Central African countries create three sets of challenges for both parties.

Lack of understanding of institutional and local dynamics

In the African context, political and development actors face 'institutional multiplicity' (Olowu & Chanie 2016) given the existence of different rule systems, which can be (i) adopted by the state (statutory law), (ii) based on customary traditions, (iii) adopted by civil society groups and communities, or (iv) established by non-state and non-

civic centres of power (warlords, bosses, criminal gangs, etc.) (Hesselbein et al. 2006). Corruption among state police officials also remains among the biggest challenges.

EU officials thus encounter numerous difficulties in working with their counterparts from national and regional institutions, who are often faced with internal power struggles or difficult security situations in intra-state areas where non-state groups have more control than state forces. For those reasons, EU programmes focused on developing formal state institutions are sometimes not as effective as they should be.

From the African partners' perspective, one of the major institutional challenges concerns the lack of know-how in applying for EU programmes and funding. The representatives of local NGOs are signalling the need for training on the application process in order to understand the exact criteria for obtaining funds, pointing out the advantage of foreign-led organisations.

Different understanding of values

The values that are at the core of the EU-Africa partnerships are often not understood in the exact same way by the two parties. Good governance or democracy may have different meanings in an African context, and there is a need for more emphasis and recognition of this in EU policies. Better understanding requires sound research on how these values are actually understood and perceived by citizens and policy-makers of the partner countries. However, such research is currently often still lacking.

The lack of mutual understanding of cultural norms, like the perception of time or different negotiation styles, also proves to be a challenge for inter-institutional cooperation. The importance of local and traditional groups as well as the influence of religious organisations on institution-building initiatives is systematically underestimated in the context of external institution-building efforts, as pointed out by African NGO workers.

Lack of trust in state institutions

Lack of trust in state institutions is one of the key challenges for both African countries and their international partners. In countries like Kenya or Rwanda, the memory of past practices favouring certain ethnic groups' access to goods and services is still vivid. A 2016 Afrobarometer survey shows that Africans place more trust in informal institutions, mostly religious and traditional ones (72% and 61% respectively), than in the official executive state agencies (54%) (Bratton & Gyimah-Boadi 2016).

Additionally, police brutality – an issue in all of the EAC countries – undermines citizens' trust in the police and

fosters a perception of corruption, leading to opinions that the police 'will not do anything' or collaborates with wrong-doers. According to Afrobarometer data on Kenya, Tanzania and Uganda, the majority of crime victims do not trust the police in reporting a crime, turning instead to traditional leaders or 'street committees'. Also in the rural parts of Uganda and Rwanda, citizens have their own street security groups considered as their 'official' security forces.

Conclusion

Against the backdrop of the challenges encountered by the EU in building institutions in Eastern Africa, three sets of measures should be envisaged: a stronger focus of EU-financed projects, a stronger context-awareness of the EU, and more effective support for the civil society.

Priority should be given to projects focusing on service delivery and capacity-building, before shifting towards reforming state institutions. EU programmes focused on institution building should be carefully planned on a case-by-case basis, recognising the fact that focusing first on grass-roots initiatives can be more effective in long-term state-building processes, since "international efforts to reconstruct the state in countries emerging from conflict in Africa tend to underestimate the resilience of political structures that are already in place and the agency of local actors, new institutions are never grafted onto a blank state" (Curtis 2013). Therefore, regional solutions should be taken into deeper consideration by international donors and gather more financial and technical support. Good examples for this are provided by the Rwandan *Imihigo* initiative and the *Muyenga model* in Uganda. *Imihigo* is a tool of modern public service launched by the Rwandan government in 2006. It is rooted in the pre-colonial period when local leaders would publicly promise achieving certain goals for their community and face a humiliation if they failed to deliver. *Imihigo* has been adapted to current political realities, making regional administrations accountable for implementing development programmes and other local level initiatives. Mayors, governors and some ministries sign the *imihigos* with goals and plans for their communities, to be later assessed by a team of evaluators. The *Muyenga model* is a state initiative of community policing in Uganda, based on the inclusion of the police in local patrols and community watch teams.

Deeper involvement of local staff, more focus on cultural sensitivity and careful recruitment of well-trained EU staff, familiar with the local context, and external experts working in the field is needed. To accomplish this, more bottom-up research on the cultural and mutual understanding issues by both parties should be conducted. Moreover,

specific trainings for EU officials, to foster understanding of local dynamics in the country of appointment or during projects evaluations or inter-institutional cooperation should be developed.

The lack of trust should be tackled by stronger support of civil society and grass roots movements. The limited influence of civil society on political processes and on the regional institution building in East and Central Africa proves to be a major issue. Despite the fact that civil society is mentioned in regional documents, like the AU SSR Policy Framework or the EAC Treaty, the criteria for granting observer status to civil society groups in regional organisations are more limiting than enabling. According to a survey by the Life and Peace Institute with representatives of East African civil society groups, the regional organisations

like the AU or IGAD are perceived as ‘unapproachable’ and ‘intimidating’ (Cussen & Tadesse Shiferaw 2014). Both local and EU programmes and dialogues should focus more on supporting the civil society sector, including initiatives encouraging informal actors to be part of formal state structures, e.g. incorporating vigilant and community watch groups in security forces.

Better mutual understanding of institutional dynamics and prioritisation of local ownership of the implemented programmes is crucial in order to ensure the main objective of the Joint Africa-EU Strategy – to move beyond a donor/recipient relationship and towards long-term cooperation.

Further Reading

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The findings are based on interviews the author conducted with EU officials and African NGO workers from Kenya and Rwanda in 2017-2018, as well as comments and discussions during the aforementioned conference.

