

# **PARTY SUPREMACY AND THE STATE CONSTITUTION IN AFRICA'S ONE-PARTY STATES: THE EAST AFRICAN EXPERIENCE**

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## **INTRODUCTION**

The objective of this paper is to examine the historical basis of one-party politics in Africa, the ascendancy of the party to a position of supremacy over all organs of state and the effect this has had on the state constitution. Of particular interest to this discussion is the question of popular democratic participation by the people in their government both in constitutional terms and, more importantly, in practical terms.

A discussion on the State constitution in Africa inevitably calls for a close examination of the one-party system which has greatly influenced constitutional changes in Africa over the last two decades. An examination of the working of one-party States in turn draws one to the historical foundation of one-party politics which is rooted in the colonial era. But the examination of party politics in the colonial era is not so much an exercise in burden shifting, it is an attempt to uncover the historical basis of the one-party system which is essential to the understanding of Africa's present day constitutional reality.

Africa did not have political parties before colonialism. Indeed, the political parties which emerged in the late nineteen fifties were the direct result of the imposition of colonial rule on the people of Africa, in that they came into being with the dominant purpose of opposing colonialism and campaigning for national independence. Although it is true that in each country more than one party did emerge, the various parties, while differing in strategy, were solidly agreed on the question of fighting for national independence.

It is also generally true that most political parties of the 1950's and 1960's had no agenda or program for their country after independence. They did not look beyond the removal of colonial rule to the various strategies for self rule and internal development. There was not much fore planning or discussion on the more contentious social, political and economic issues pertinent to newly independent nations. Many issues which could have been the basis of internal debate within a party, or matters of dispute among the parties so as to clearly demarcate the parties and their following, were overridden by the fight against colonialism which preoccupied and united all the parties. Such was the intensity of agreement and unity on the question of independence that as Africa approached self rule in the sixties, the various parties formed solid alliances and in many instances amalgamated into a single political force. As a result, while most of Africa had multi-party arrangements on the eve of independence the political reality in most countries reflected one party with an overwhelming following among the people and enjoying the support of many of the smaller parties or amalgamated with them. In many countries this created the belief that with independence the multi-party system would be superfluous and could only succeed in creating divisions in the new countries at a time when the nation's resources and everyone's effort should be directed to the development of the new nation.

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At independence the new African nations were suddenly confronted with the challenges of self rule. With colonialism out of the way, questions like the strategy for economic development, provision of health, education, defense, and the conduct of external relations came to the fore and assumed paramountcy. Disagreement and division over these issues was no longer a remote possibility, it was imminent. But one has to recall that this was also the time when the political parties which had won independence were still basking in the glory of success, and among the people celebration was not over. If in those early days mistakes were made, they were either conveniently ignored or put down to a learning experience. This was the time, too, when an effective opposition was lacking because of the sequence of events related above. If any organised opposition was to emerge, it would require time to organise itself and attract support within the nation. In many countries this was never to be as the ruling political parties moved fast to consolidate their grip on state power and establish a monopoly over political activity.

### **THE EMERGENCY OF THE ONE-PARTY STATE:**

The three, nay four, East African States (Kenya, Uganda, Tanzania and 'Zanzibar') exemplify the constitutional developments which have taken place in Africa over the last twenty-five years. The discussion here will show how these developments have fostered a fundamental change in political activity and the conduct of government.

When independence was given to the four East African states between 1961 and 1964, the political arrangement left behind by the British colonial master was very much the same in all the territories. Each of the four countries inherited a multi-party political system. Below the transition from the multi-party arrangement to the one-party state in East Africa is documented.

#### **KENYA:**

Kenya had two major political parties, the Kenya African National Union (KANU) and the Kenya African Democratic Union KADU.<sup>1</sup> Of the two, KANU enjoyed an overwhelming following, especially among the three largest tribal communities in Kenya, the Kikuyu, the Kamba and the Luo. But it has to be stressed that during the years of the independence struggle KANU had succeeded in establishing a truly national party image cutting across traditional tribal and other sectarian interests. The other party KADU, which was thoroughly beaten in the 1961 elections for the first independent government, drew its following from among the minority tribes which were brought together by a common fear of being swallowed by the bigger tribes. A third political party named African Peoples Party did emerge in 1963 on the eve of the independence elections. But the APP represented more the frustration of a disgruntled tribal leader (a former KANU official) who felt that he and his people were not being fairly treated in the larger KANU. When the parties went to the polls in the second general elections in 1963 their electoral results were as follows; KANU 83 seats, KADU 33 seats and the APP 8 seats.

After the elections KANU, which formed the first government for independent Kenya, moved fast to neutralise the opposition using its newly acquired state power. Leaders of KADU and the APP were given portfolios in the KANU state cabinet or other senior positions in government upon the condition that they quit their parties to join KANU. With this accomplished the opposition parties simply receded into oblivion and were subsequently deregistered.

The only threat of a new and effective opposition emerging came from within KANU. In 1966, two years after Kenya's independence, KANU's Vice Chairman and also the country's Vice President resigned his posts in a dispute over party policy. He formed an

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1. H. Bienen, *Kenya: The Politics of Participation and Control*, (Princeton, 1974) pp.67-130.

opposition party, the KPU, which though national in character drew much of its support from the Luo tribe, the second largest tribe in Kenya. After a series of victories in by-elections held in KPU strongholds, KANU used its state power to ban KPU and detain its leaders. Those willing were co-opted back into KANU. This set the stage for KANU to go into the 1969 general election (the first since independence) as the only political party fielding candidates for the National Assembly.

Since then KANU, the ruling party in Kenya, has gone to four general elections as the only political party participating. It has used its state powers of detention, imprisonment on trumped up charges, and at times outright intimidation by the police and the General Services Unit to forestall the emergence of an organised opposition.

However it was not until 1982 that KANU took the formal step to make Kenya a one-party state. The country's constitution was amended declaring KANU the sole political party in Kenya.<sup>2</sup> The person to be credited with the move is no other than Daniel Arap Moi, former president of KADU and now current Chairman of KANU and President of Kenya. Ironically, as president of KADU, Moi had fought hard to ensure that safeguards were built into Kenya's independence constitution to ensure the protection of the minority communities and their political organisations. It is curious that his absorption into KANU and subsequent accession to the presidency after President Kenyatta's death changed his view.

#### UGANDA:

Another East African country, Uganda, had no less than six political parties during the struggle for that country's independence from British rule between 1952 and 1962.<sup>3</sup> Of these the three with the most following were the Uganda Peoples Congress (UPC) (formerly Uganda National Congress), the Kabaka Yekka Party and the Democratic Party. In the course of the struggle for Independence the UPC formed a shrewd alliance with the Kabaka Yekka Party (the latter being essentially a tribal party committed to the preservation of the monarchical system in Uganda and the special status enjoyed by the Baganda Kingdom within the Uganda confederacy). At the general elections held on the eve of Uganda's independence in 1962 the UPC-Kabaka Yekka Alliance won a landslide victory and formed the first independent government.

From there on the UPC worked hard to strengthen the authority of the central government and undermine the autonomy of the tribal kingdoms. This led to a breakup of the UPC-Kabaka Yekka alliance because the latter advocated more autonomy for the tribal Kingdoms particularly the Baganda Kingdom which was the base of the party. The UPC government's response was to undermine the political clout of the Kabaka Yekka Party by absorbing some of its outspoken leaders in the UPC and offering them lucrative positions in the central government. Those who could not be bought were forced into submission by detention and other forms of harassment. In the meantime the UPC government forced through parliament a new constitution creating a republic and giving absolute executive power to an executive president. This was all but an attempt to abolish the autonomous tribal kingdoms. When the Baganda (by far the largest and most organised kingdom) threatened to secede from the new republic, the central government sent in the military. The Kabaka's palace was stormed with tanks and artillery. The Kabaka, who was then Head of State and respected King of the Baganda people, just managed to escape and flee into exile in Britain

2. Art. 2A of the Constitution of the Republic of Kenya (as amended).

3. J.J. Jorgensen, *Uganda: A Modern History*, Cromm Helm, London, 1981 pp.193-205 See also T.V. Sathyramurthy, *The Political Development of Uganda 1990-1986*, Gower Aldershot, pp.374-400.

By the end of 1966 the UPC government had become extremely authoritarian. It postponed to 1971 the first general elections originally scheduled for 1967 thus enabling the UPC to continue in government for ten years without facing an election. During that period too, many opposition leaders were intimidated into silence, others were detained, and many more went into self exile in neighbouring countries and overseas. For all intents and purposes the UPC had turned Uganda into a one-party state. This set the stage for the military to intervene. In 1971 General Iddi Amin overthrew the government, suspended the constitution and imposed a military dictatorship.

The military remained in power in Uganda until 1979 when the Amin regime was overthrown by the forces of a combined coalition of exiled groups. However, since then Uganda has had five successive governments.

At the constitutional level, the events of the last ten years in Uganda have left constitutional scholars puzzled and somewhat confused. There are those who believe that Uganda's legitimate constitution remains the 1962 document which the UPC regime attempted to change in 1966. It is argued that that change was not successful because it resulted in a state of emergency and the use of force to overthrow the Kabaka then constitutional head of state. But other observers maintain that the constitution of Uganda is that of 1966 because Uganda was governed on the basis of that constitution for the five years preceding the military coup.

In *Uganda v. Commissioner of Prisons exp Matovu*,<sup>4</sup> a case referred from the High Court of Uganda to the East African Court of Appeal, the validity of the 1966 Constitution was considered. The Court felt that the events which transpired in 1966, ie the forcible removal of the Kabaka as Head of State, the declaration of a Republic and the installation of Obote as Executive President of Uganda, were events which, according to the Kelsenian grundnorm theory, amounted to a revolution. The 1966 Constitution, the product of this revolution and, in so far as it established a new legal order by which Uganda was efficaciously governed thereafter, was a valid constitution.<sup>5</sup> In any case, when Amin's military intervened in 1971 it was the 1966 Constitution which was suspended, not any other. It is tempting to ask if the court's view would have been the same had they known then that Uganda would go through six military coups in the years to follow.

But all this must be history now as everyone of the five successive governments since Amin's removal has governed on the basis of a different constitutional arrangement. Even then none of the recent governments has succeeded in establishing unquestioned authority over the whole nation which makes futile any discussion on Uganda's present day constitutional order.

## **TANZANIA MAINLAND AND ZANZIBAR:**

Of the four East African countries it is without a doubt Tanzania mainland and Zanzibar which have experienced the most dynamic constitutional development particularly with regard to party politics and the shaping of the state constitution. Since the recent political history of the two countries has been so closely interlinked<sup>6</sup> it is best to discuss them together.

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4. (1966) East Africa L.R. 514.

5. See (fn 4) at 537 and 539.

6. Zanzibar and Tanganyika (the latter alternatively referred to as Tanzania mainland) were united on 26th April 1964 to form the United Republic of Tanzania with each part of the union retaining a certain measure of internal autonomy.

Tanzania mainland and Zanzibar had very active party politics in the runner-up to independence. But perhaps Zanzibar was the most turbulent especially in the years 1955 to 1963, the year that island attained self rule. This relatively short period saw the emergence in Zanzibar of four political parties all fighting the British colonial state in a bid to win independence for Zanzibar.<sup>7</sup>

The first on the scene was the Zanzibar Nationalist Party (ZNP) founded in 1955, a predominantly Arab party but with strong territorial and nationalist appeal. Its founding was followed by the Afro Shiraz Party (ASP) in 1957. In contrast to the ZNP, the ASP enjoyed overwhelming support among the non-Arab Zanzibaris. Upon its formation the ASP took exception to the predominance of Arab-settler interests on the island, a position tacitly approved by the ZNP. Although both parties wanted self rule for Zanzibar, they differed on the timing. The ZNP wanted immediate independence from the British. The ASP campaigned for an appropriate time table to be developed so that when self rule was finally granted the role of governing the island would fall to indigenous Zanzibaris and not the Arab settlers. In the elections held by the British colonial government to fill six elective seats in the newly created Legislative Council, the ASP won 5 seats, the other seat was taken by the ZNP. However, ASP's electoral fortunes turned sour when in 1959 an acrimonious leadership crisis split the party leading to the founding of the Zanzibar and Pemba Peoples Party (ZPPP) which took away much of ASP's Shiraz membership.

In January 1961 the British, anxious to satisfy the nationalist demand for self government, held the first general elections in which the ASP won 10 seats defeating the ZNP by one seat. The ZPPP got three seats. In the party courting that followed, two of the ZPPP's representatives crossed to the ZNP while the other was wooed by the ASP leaving the two major parties deadlocked at 11 seats a piece with neither commanding the majority necessary to form the first self government.

The stalemate in 1961 led to another election to be called in June 1961. In the meantime party alliances shifted with the ZPPP making a pre-election commitment to support the ZNP. In the June elections party polling did not change much with each of the two major political parties securing 10 seats. However by going into coalition with the ZPPP the ZNP was able to form the first responsible government.

After the June elections the independence movement gathered momentum. The Legislative Council membership was expanded from 23 to 31. December 1963 was set as the date for Zanzibar to emerge as an independent nation. General elections were to be held in July in the runner-up to independence. But just before the elections, the ZNP General Secretary resigned over the party's leanings to Arab sectional interests and formed the Umma Party, the fourth in Zanzibar. He immediately went to work in alliance with the ASP where his organisational skills proved indispensable. On the other hand his departure from the ZNP may well have cost that party a clear electoral victory. In the general elections that year, the ASP won 13 seats, the ZNP 12 seats, and the ZPPP 6 seats. This result gave the ZNP/ZPPP coalition a majority of the 31 seats in the Legislation Council. However an important fact to note is that in terms of popular vote more voters had voted for the ASP than the two coalition parties put together. The ASP had polled 87,088 votes as against the 73,559 votes polled by the ZNP/ZPPP coalition. These statistics are significant because they have been used to lend legitimacy to later events which came to change the course of Zanzibar's constitutional position.

On 12 December, 1963 Zanzibar became an independent nation. The ZNP/ZPPP coalition with its predominant Arab membership formed the first independent

<sup>7</sup> S.G. Anyany, *A History of Zanzibar: A Study in Constitutional Development 1934-64*, (East African Literature Bureau, Nairobi, 1970), pp.47-54.

government. Within four weeks of Zanzibar's independence the coalition government was overthrown in a bloody revolution masterminded by the ASP and Umma Party on the night of 12 January 1964. Immediately after, Umma Party was absorbed into ASP. On 30 January the same year the Revolutionary Council which ruled the island after the revolution, declared Zanzibar a one-party state with ASP as the sole political party. That sealed the fate of freedom of organisation in Zanzibar

In the meantime on mainland Tanzania, a classical and most elaborate transformation from multi-party politics to a one-party state was also taking place. The dominant political party (the Tanganyika African National Union (TANU), created in 1954) was able to gather overwhelming national support within a period of five years against two of its rivals, the European sponsored United Tanganyika Party (UTP) and the African National Congress (ANC). In the 1959 elections to the Legislative Assembly, 71 constituencies were contested by all the parties. TANU's unequalled popularity was underlined in the fact that 58 of its candidates were elected unopposed, while 12 in the remaining seats won by big majorities. Only one seat was lost to the UTP.<sup>8</sup>

When the country was granted responsible government in September 1960 TANU's political supremacy was unchallenged. Its overwhelming electoral victories were repeated in the 1962 Presidential elections under the new Republican Constitution leaving the opposition parties hovering on the brink of extinction.

But the challenges of nationhood in the newly independent country brought discontent within the ranks of TANU and opposition to government policies started to emerge in the National Assembly. The voices of dissent may have prompted a rethink of party policy on opposition and the state of the Constitution

In January 1963, one month after mainland Tanzania attained the status of a republic with an executive President, the ruling party TANU at its annual conference, resolved to make Tanzania a one-party state. The idea had originated from the party chairman also President of the new republic who believed that one party identified with the whole nation was a better basis for democracy because members have a wider freedom to discuss issues without being shackled to party positions. This historic decision by TANU has been the foundation upon which all major changes in the Tanzanian constitution have been predicated. In the following section these changes and the far reaching implications they have had on the structure and functioning of the various organs of government are discussed.

## **THE ONE-PARTY SYSTEM AND ITS EFFECT ON THE STATE CONSTITUTION:**

Following the party decision to make Tanzania mainland a one-party state, a Presidential Commission of Inquiry was appointed to inquire into the establishment of a democratic one-party state. Although the commission was called an "inquiry commission" the label was misleading. The terms of reference given to the commission left no doubt that the work of the commission was not to inquire into the merits of the decision. Its job was to examine and recommend on a state structure best suited for implementing the party decision. In instructing the commission the country's President made it quite plain that the task of the Commission (was) to recommend what form the one-party state should take. And to ensure that the Commission's function was not misunderstood he further stated,

<sup>8</sup> C Pratt, *The Critical Phase in Tanzania 1945-1968* (Cambridge 1976) pp34-59. See also, W Tordoff *Government and Politics in Tanzania* (Longmans, Nairobi 1967), pp1-29

In order to avoid misunderstanding, I think I should emphasise that *it is not the task of the Commission to consider whether (Tanzania mainland) should be One-Party State. That decision has already been taken.* Their task is to say what kind of One-Party State we should have.<sup>9</sup>

As a result, in reaching its recommendations the Commission did not call for representations from other parties. Indeed if the idea was to establish a democratic one-party state it is unfortunate that there seems to have been no democracy involved in its founding.

Following the recommendations of the Presidential (Commission, an Interim Constitution was adopted in 1965 which proclaimed TANU as the sole political party in Tanzania and provided that all political activity in the country was to be conducted under the auspices of TANU.<sup>10</sup>

### **PARTY SUPREMACY AND THE CONSTITUTION OF THE STATE:**

The discussion above has shown how the countries of East Africa have come to be one-party states. The move did prompt radical changes in the State constitution of each country in order that the various organs of State could be re-aligned to facilitate the emergence of the party as the supreme policy making body and for its exercise of total control over government activity. However nowhere in East Africa have the changes been so radical and thorough-going as they have been in Tanzania. For this reason a deeper focus in the examination of constitutional change in East Africa will be on that country.

### **PARLIAMENT AND THE PARTY IN TANZANIA:**

As the one-party constitution became operational, the first thing that came under assault was the doctrine of parliamentary supremacy which is the foundation of multi-party democracy and the Westminster model, and which East Africa had inherited on independence. In Tanzania the independence constitution of 1960<sup>11</sup> had enshrined parliamentary supremacy by making government responsible to a freely elected parliament representative of the people.<sup>12</sup> In constitutional terms that provision gave parliament power not only to question but also to reject unpopular policy initiatives by the government.

When Tanzania attained the status of a republic in 1962, it adopted a new constitution<sup>13</sup> providing for an executive President. The cabinet was the principal instrument for policy making. Although there was no direct provision in the constitution making the government accountable to parliament, the preamble to the constitution stated that the constitution was enacted in the spirit that government would be responsible to a freely elected parliament representative of the people. As a result parliament continued to scrutinise government policy and supervise the conduct of government business by

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9. Report of the Presidential Commission on the Establishment of a Democratic One-Party State, Government Printer, Dar es Salaam, 1965, emphasis added.

10. Art 26, Interim Constitution of the United Republic of Tanzania (adopted in 1965).

11. Tanganyika Constitution (Order in Council, Great Britain Statutory Instrument 2274/61).

12. Art 3, Tanganyika Independence Constitution.

13. The Constitution of Tanganyika, Constituent Assembly Act 1/1962.

posing questions and censoring unpopular action. It has been said of Parliament in Tanzania that the years between 1961 and 1968 were very lively.<sup>14</sup>

The introduction of the one-party state and the enactment of the Interim Constitution in 1965 changed all that. The cabinet was stripped of policy making powers, its role was now merely to advise the President on the implementation of policies made by the party. The principal policy making body within the party was the National Executive Committee (NEC). The government was no longer responsible to parliament, but to the party. The role of parliament was restricted. It could only question government ministers on the implementation of policy, the policies once decided by the party could not be subject to debate in parliament.

In a government circular to parliamentarians<sup>15</sup> the role of MPs was prescribed in the following terms:-

- they could not criticise government policies in principle, they could only debate the practical detail relating to implementation;
- they could not criticise policy decisions of the party's National Executive Committee (NEC);
- they could not speak contemptuously of party principles or ideology;
- they could not question the authority of the party over parliament.

The interim constitution also made membership to the party an essential requirement for being a member of parliament.<sup>16</sup> Previously, the only requirement for election to parliament were Tanzanian citizenship and attainment of 21 years of age.

As to be expected there was some opposition to the downgrading of the status of parliament. The record of parliamentary debates for the years 1965 to 1968 are a living testimony of the battle for supremacy waged between parliament and the party. But the fact that membership of parliament was dependent on membership of the party gave decisive advantage to the party. The party could now use its disciplinary machinery to remove from parliament any recalcitrant parliamentarian who refused to accept party supremacy. Indeed this power was invoked in 1968 when nine parliamentarians known to be outspoken against the government and what they perceived as unwarranted interference from the party were stripped of their party membership and immediately lost their positions in parliament. Three of them were subsequently arrested and detained under a national security law enacted in 1962. One was driven to live in exile in the United States. This dramatic event was enough to cow parliament into silent submission.

Later constitutional developments have only moved to consolidate party supremacy over government and other organs of State. In 1977 Tanzania adopted a permanent constitution which took its cue largely from the Interim Constitution of 1965. The new constitution has already gone through some major amendments but its principal feature remains the pre-eminence of the party. Whereas in 1965 only the conduct of political activity was put under the exclusive monopoly of the party, the 1977 Constitution went

14. C. Pratt, *op.cit.* pp.201-215 fn 8; For similar views see R. Martin, *Personal Freedom and the Law in Tanzania*, (East African Publishing House, Nairobi, 1974), p.46

15. See Martin, *Ibid.* p.5.

16. Art. 57



one step further. It provided as well that all activity of State was to be conducted under the auspices of the party.<sup>17</sup>

If parliament in Tanzania had retained any measure of autonomy during these constitutional changes this was certainly lost in 1979 when a change to the Party Constitution made parliament, in its legislative function, a committee of the Party National Conference whose function is to ensure the implementation of party policy in all activities carried out by the government. The State constitution was amended to incorporate a similar provision.<sup>18</sup> This means that parliament is no longer a sovereign law making body, it is simply a committee of the party whose function is to legitimate party decisions.

At the outset it may seem that parliament in Tanzania was cowed into subservience rather too readily. But a closer study reveals that the absolute authority wielded by the party (and government to some extent) over the composition of parliament and upon its life are at the heart of the matter.

When membership of parliament was made co-extensive to party membership, an elaborate electoral and pre-selection procedure was introduced. An aspiring candidate for parliament who satisfies the party membership criterion must obtain 25 endorsement signatures of persons who qualify to register as voters before submitting his candidature papers to the electoral office. A list of aspirants is drawn for each district and submitted to the District Party Conference composed of representative members from grassroots party branches. The District Party Conference casts preferential votes on the names of all aspirants on the list, the primary consideration being the candidate's demonstrated ability to follow and promote party policies. The list of aspirants together with the preferential votes cast is then submitted to the National Executive Committee of the party which selects two candidates to stand for election in the constituency. In making the final selection NEC is not bound to act in accordance with the preferential votes cast on the aspirants at the district level. At times aspirants who received overwhelming support at the grassroots preferential polling have been passed over, and instead persons whose preferential polling was not as high were given NEC's endorsement and returned as candidates.

Admittedly this practice is not widespread but the fact that it can and does happen has been a source of concern. Unfortunately too, there is no mechanism for challenging any irregularities or unfairness in the party pre-selection procedure. Ironically once a person's candidature has been endorsed by NEC any electoral irregularities occurring thereafter can be challenged by a petition to the High Court. But the pre-selection process itself, so crucial to parliamentary candidacy, is a matter exclusively for the party committees whose proceedings are always confidential. This leaves aggrieved aspirants with nothing to go on.

It is acknowledged that this pre-selection procedure acts as an effective filter to prevent persons perceived by the party as trouble-makers from entering parliament. But party pre-selection also ensures that sitting parliamentarians will be mostly restrained in their criticism of government if at all they wish to retain their seats or seek re-election at the next elections.

Kenya has adopted a similar pre-selection procedure for candidates fielded by KANU. It will be recalled that Kenya had operated as a de-factor One-party State from 1969 to 1982 when the state constitution was amended to make that country a de-jure One-Party State. Although Kenya uses the party pre-endorsement procedure, the primary influences

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17 Art. 3, CCM Constitution 1983.

18 Art. 54, Constitution of the United Republic of Tanzania 1977 (as amended).

tend to be patronage to influential personalities and the personal affluence of an aspirant. But the authority wielded by the party is just as absolute. The Kenyan parliament has been systematically sapped of its original dynamism as many of the crucial national issues are settled within party committees. This has left parliamentary sessions with little more to discuss. An examination of parliamentary debates in Kenya reveals a sad preoccupation with personality clashes and other political trivia. Much of the parliamentarians' time too is taken up in professing loyalty to the President who is also chairman of the party.

To cite just one example, in September 1987 the President and Chairman indicated that there was need to re-examine the constitutional provision which allows an aspiring candidate to parliament who polls most of the preferential votes in the pre-selection process to be returned unopposed in the general election. He felt that it was rather unfair to the electorate, some of whom are not party members, to be denied an opposing candidate because of a party arrangement. The idea as mooted raised a fundamental constitutional question. This prompted a lively debate within parliament but as time wore on the discussion degenerated into a matter of loyalty to the President. It was argued that those who supported the change were disloyal because they doubted the wisdom of the party committees (some chaired by the President) in selecting candidates. What is even more disturbing is that after the debate had gone on for about a fortnight and got to a stage where some 48 parliamentarians signed a petition supporting the change, the President appeared on National Television to declare that he had had second thoughts about the matter and that he was no longer in favour. That statement closed the debate not only for the parliamentarians but also the media which had carried it on the front page of all national papers. The issue, fundamental as it is, was dead because the President and Chairman of the party said so!

#### **GOVERNMENT ACCOUNTABILITY:**

The constitutional problem which emerged with the inception of the one-party system in Africa is one of control and accountability of government. Under the Westminster model where the party with a majority in parliament forms a government headed by a Prime Minister, the government and the cabinet ministers in their separate portfolios and collectively are accountable to parliament for their conduct in office. Where the government fails to secure parliament's majority backing on a major policy initiative it can be forced to resign. Individual ministers can be censured for unwarranted conduct. The presence of an opposition in parliament, the vigilance of a free press, and the fear of electoral defeat combine to ensure that the government will act reasonably and for the good of the nation.

In the one-party state, all these elements are lacking. The press is either owned and controlled by the State or is closely circumscribed. The government is not accountable to parliament, it is accountable to the party which is the supreme policy making body. But experience has shown that the party in Africa's one-party system is not well suited for this function because its supremacy derives largely from the participation of the party in government. This has occurred mainly through a fusion of personnel. Party functionaries also assume important offices in government. Often the Chairman and Vice-Chairman of the party are also President and Vice-President of the government. Most of the cabinet ministers tend to be sitting members of the highest organs of the party, the Central Committee and the National Executive Committee. In Tanzania especially it reached an extent that even the executive officers of public corporations sought and became party branch chairmen at their respective places of work. The entrenchment of this practice erodes any measure of accountability of government to the party. Involvement in government by the party ensures that its directives will be implemented. But government bureaucrats, who are party officials, tend to use the supremacy of the party as a cloak of immunity from scrutiny and accountability of government at all levels.

This development is particularly worrying when seen in the light of the fact that the last 25 years in Africa have witnessed a rapid concentration of state power in the President and the granting of wide discretionary powers to government ministers. The constitution and other laws make the presidency an all powerful institution. The President has power to appoint personnel virtually to all important government and public institutions. He has power to appoint and dismiss the cabinet and all senior civil servants. He appoints heads of government institutions and public corporations. The President can dissolve parliament at pleasure, and the national security legislation gives him power to detain people without trial and issue deportation or resettlement orders against persons he considers undesirable.

From a human rights point of view it is the excesses experienced in the exercise of these powers which have become a major source of concern. The lack of effective institutional safeguards has compromised government accountability, promoted abuse of power and greatly undermined people's democratic rights. Popular elections no longer pose a serious threat to the government so as to influence its conduct. The election of the President, a sole candidate presented by the party, is very much a matter of course. An incumbent seeking re-election and being the party chairman will most certainly be endorsed by the party and is unlikely to be rejected by the electorate in a referendum type of election which gives the voters only a yes or no choice on the candidate. Therefore while some members of government may suffer electoral defeat the overall impact of elections does not pose any serious threat to the government.

#### **POPULAR PARTICIPATION AND DEMOCRACY IN THE ONE-PARTY STATE:**

Nearly every African state which has become a one-party state maintains that the one-party arrangement is a better basis for democracy. The party is identified with the whole nation allowing for freer expression of different views on various national issues without the constraint of supporting given party positions which is said to be the case in the multi-party system. Africa's experience in the last 25 years provides an adequate empirical basis for assessing the validity of this assertion.

Popular democratic participation in Africa's one-party states has to be viewed at two levels. The first is active democratic participation within the party itself, and the second is the participation of the people outside the party.

##### **(a) *Popular Participation with the Party.***

From a structural point of view the parties in East Africa appear to have done everything possible to ensure that organs of the party are within easy reach of all members. Tanzania provides a classical example of this structural arrangement.

The party's organisational structure starts with the cell as the nucleus party organ at the grassroots level. Party cells are formed in residential areas as well as work places. In the residential areas, every ten households constitute a party cell. At work places, an employing institution with at least 9 employees would constitute a party cell. The party cell links with the party branch also to be found in residential and work places where there are fifty or more party members. The branches link up at the District party headquarters and the districts are co-ordinated by the Regional Party headquarters.<sup>19</sup> There is a hierarchical delegate representation from the cell, the branch, the district and the region to the Party National Conference which is the highest party organ and the repository of policy making powers.

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19. There are 102 administrative districts and 25 Regions in Tanzania.

However the National Conference meets only once every five years which means that the party executive committees to be found at the cell, branch, district, regional and national level are the ones which transact party business. Of particular importance is the Central Committee (an inner caucus which initiates all major party decisions), and the National Executive Committee which is the supreme executive organ of the party and acts for the National Conference. These two organs have no rigid meeting schedule, they meet any time when there is need. On the average they meet about ten to twelve times a year.

But the major weakness of the National Conference as a control organ lies more in its size, It is a body composed of over three thousand delegates from the branches most of whom the experience of coming to the nation's capital city for the meeting is itself an awesome experience. A body that big is unlikely to conduct an in-depth discussion on any national issue. With time, National Party Conferences have degenerated into a public relations affair for the government and core group of party functionaries leading to huge sums of money being spent to keep delegates happy.

Incidentally too, the five-year conference is also occasion for endorsing the name of the Presidential candidate and electing the Party Chairman which events overshadow all other business.

Within the national party Committees there is a curious consensus on all major issues which arise. The lack of dissent is suspicious given the volatile nature of politics among African countries. It does appear that criticism of party policy and its peers is not widely tolerated.

Recently some outspoken Zanzibari members of the NEC demanded that the question of the status and autonomy of Zanzibar within the United Republic of Tanzania be reopened and discussed seriously. The Central Committee and NEC reacted by accusing them of carrying out a misinformation campaign and undermining the Union among the people of Zanzibar. The incident culminated in the expulsion from the party of the five people who spearheaded the discussion. Significantly among those expelled was the Zanzibar Chief Minister (a member of NEC and Secretary to one of the powerful secretariats of the party). Others included a junior minister in the Union Cabinet, some two ministers of Zanzibar's internal government, and a member of parliament. As a consequence of the expulsion they automatically lost their party and government positions.

A similar intolerance to dissent has been experienced within the party in Kenya. When Oginga Odinga, then Vice President of Kenya and Vice Chairman of the party differed with the President (also Chairman) on party policy, he was forced to resign his positions and had to form his own political party. Kenya was then still a multi-party state. But the new party was immediately banned and Oginga was placed under detention. A few years later his party membership was restored but his attempt to contest the Presidency was frustrated by the refusal of the Party's Executive Committee to endorse his candidature. When he proposed to stand as an independent he was expelled from the party and detained once again.

The practice of using the party disciplinary machinery to purge dissenters and silence criticism appears to be widespread among Africa's one-party States and those aspiring to that status. In October 1987 in Zimbabwe<sup>20</sup> the former defense minister and a key figure in Mugabe's ZANU Executive Committee Mr. Edgar Tekere was expelled from the party. His only crime was that he was foolish enough to state in public that the party had deviated from the basic policies upon which it had conducted the struggle for national independence.

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20. Zimbabwe is not a one-party state but Mugabe's government has signalled intention to make Zimbabwe a one-party state in the near future.

Admittedly, the power to expel a member for one reason or another is inherent in all political parties. What makes the practice a matter of concern in Africa's one-party States is that expulsion means exclusion from involvement in all legitimate political activity. In these countries political activity outside the party is by law not allowed and is often regarded as treasonable activity.

The failure to tolerate criticism from within the party at all levels, and more so at higher party levels where criticism is more likely to be effective, greatly undermines democracy in the one-party States. The practice inhibits initiative and prevents dynamism among the party membership.

**(b) *Popular Participation outside the Party.***

At the outset it does seem odd to speak of participation outside the party in a one-party system. The expression of dissent in Africa takes mainly two forms. The first form, and sadly the most prevalent, is apathy. In countries where the party is openly presented as an immensely popular political institution, a widespread apathy towards politics is very hurtful to the political ego of those in power. In political terms apathy represents dissent of some sort. It is an expression of total lack of confidence in the prevailing political system. Present African leaders would love to recapture the political enthusiasm and dynamic party participation of the days of the nationalist struggle.

Apathy is evidenced in low membership numbers for the party. The party in Tanzania, despite its elaborate structure which penetrates deep into residential and work places, has a national membership of just over three million in a country whose population is twenty five million.<sup>21</sup> Recent studies indicate that the number may actually be lower because membership records are not updated to remove person who are dead and those whose membership has lapsed in accordance with party rules.

Party membership could be lower still if the element of compulsion involved in obtaining the party membership card was lacking. People have been driven to obtain cards for reasons which have nothing to do with their support for the party or understanding of its objectives. As many African countries have come to be preoccupied with internal security, the party membership card has become the most readily accepted mode of self identification. Even banks now accept the party card as a means of identifying oneself in banking transactions. For job seekers the party card is something not to be ignored. Unless one has it, employment in most of the menial and unskilled positions is hard to get. For the more educated the party membership card is an asset obtained and kept just in case a lucrative job in government or public corporation requiring party membership becomes available. This kind of membership does not help the party to sustain political dynamism and popular support which would lend credence to the claim that the one-party system is a better basis for democracy.

Another indicator of lack of popular support and participation is the fact that party meetings at the grassroots level are usually very poorly attended. This has led to a practice of holding party meetings at work places during working hours. Unfortunately the arrangement provides excellent opportunity for Tanzania's unmotivated workers many of whom work for the unprofitable public corporations to go on private frolics.

However, the more serious problem for democratic participation concerns those people who are unwilling to abstain, people who want to get involved in active criticism of the party and government outside the party machinery. If African regimes are intolerant to criticism within the party, they are utterly contemptuous of criticism outside the party.

<sup>21</sup> Even considering that some of these will persons under age, the three million figure is by far too small to represent the adult population in the country.

The state's coercive apparatus has been unsparingly used to deal with dissent and prevent public criticism of the party or government. Often, open criticism of the government is regarded as sedition and the government cracks down hard on the persons involved. African countries have developed the most elaborate national security laws which give very wide powers to the government with regard to restraining the liberty of persons suspected to be engaged in activity which endanger the security of the state. Most of these powers are conferred in discretionary terms creating a nightmare for the courts.

### **PROSPECT FOR CHANGE:**

An attempt to project the political future of Africa is essentially conjectural. The factors which tend to influence change are just as unpredictable as the nature and direction of change itself. For the One-party States, a projection of their future is even more problematic. In political terms there is the unresolved controversy as to whether the one-party system is inherently undemocratic.

Nonetheless, there is still room for some optimism over the problem of democracy in Africa. The opposition by the people against undemocratic practices has become more persistent. The voice of dissent has found an unlikely ally in the form of economic recession. The deepening economic crisis in Africa has forced African governments to become more dependent on western aid. Apart from the other factors involved in providing foreign aid, the democratic practices of various regimes and their human rights record have become key factors. With this, the regimes are beginning to respond more positively to criticism of the constitutional and legal arrangements which constrain democratic participation of the people in the governing of their countries and jeopardise effective accountability of government.

Recently, Tanzania has enacted a Bill of Rights which seeks to protect people's basic freedoms and civil rights through the constitution. For Tanzania this is a very significant step because at the time the one-party system was adopted the government rejected outright the idea of having a Bill of Rights in the constitution. The view of the government at the time was that a Bill of Rights in the constitution can promote internal strife particularly for a young nation. Even then, the application of the Bill of Rights has been put off for five years, clearly indicating the deep-rooted mistrust the regime harbours of its people

In Kenya, the government has recently shown a more tolerant attitude to dissent partly because Amnesty International and donor countries have repeatedly expressed dissatisfaction with that regime's human rights record. Political prisoners and person detained without trial are continually being released. There is also talk of rehabilitating some known government critics. But these are mere gestures. A definite constitutional shift may take a long time to come.

The only country in East Africa which for the foreseeable future seems sadly condemned to internal disorder and the rule of the gun is Uganda. There appears to be no end to the fighting which has besieged that country since Amin's coup. The five regimes which have attempted to rule the country over the last nine years have failed to exercise total control over the country and secure the position of the government against armed rebel groups. The present government of Yoweri Museveni has certainly done a better job than previous governments, but only in comparative terms. If some viable constitutional order is to emerge in Uganda major compromises will have to be made.

It is appropriate to conclude this discussion by stressing that a criticism of the one-party system is not necessarily an endorsement of the multi-party system. Africa's political problems are by far too complex to admit such an easy solution. If any lesson is to be learnt from the collapse of Nigeria's multi-party experiment, it is that Africa will have to search hard for an appropriate solution to the problem of democracy in that continent.