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Vol. XXIX, No. 2, 2004**

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Décentralisation, espaces participatifs et l'idée de l'indigénisation de l'État africain: le cas des communes maliennes¹

Clemens Zobel*

Résumé

L'article propose une évaluation du processus de décentralisation au Mali à partir d'une analyse de la création de trois communes rurales et de leur interaction avec l'État. En traitant la politique d'information, le découpage des communes, la mise en place des structures de représentation politique et l'élaboration des plans de développement, il est démontré que l'appropriation du modèle communal a été structurée par les différentes formes d'États que la population a connu depuis la période précoloniale. Ces expériences renvoient à la figure commune d'une «indigénisation» caractérisée par un rapport entre pouvoir central et «indigènes» sous forme de médiation et prédation, assujettissement et stratégies d'évitement. Malgré une adaptation informelle aux modes de représentation locale et l'émergence de nouveaux acteurs politiques, les espaces communaux sont marqués par un déficit de participation. Cette situation est dans une grande mesure due au fait que le travail de construction des espaces participatifs au niveau villageois n'a pas été envisagé. En présentant la réforme sous l'image d'une synthèse avec une culture politique «traditionnelle», tout en suivant une démarche institutionnelle «de haut en bas», les architectes de la réforme n'ont pas pu répondre au défi de créer des espaces d'expérimentation politique qui intégreraient tous les acteurs.

Abstract

This paper attempts an evaluation of the decentralisation process in Mali based on analyses drawn from the creation of three rural communities and their interaction with the state. Through an analysis of the information policy, division of communities, setting up of structures of political representation and drawing up of development plans, the paper demonstrates that the community model

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was influenced by the various state models that the people have experienced since the pre-colonial period. These experiences all relate to a form of 'indigenisation' characterized by a relationship between the central power and 'indigenes', in the form of mediation and predation, and of control and circumventing strategies. Despite informal adaptation to modes of local representation, and emerging new political players, there is lack of participation in the community space. This is due to the fact that creating space for participating at the village level was not considered. Presenting reform as a 'traditional' political culture, while following an institutional 'top-bottom' approach, those advocating for reform were not able to meet the challenge of creating space for political experimentation which would involve all the players.

Introduction

Dans un article consacré aux rapports entre gouvernance, décentralisation et légitimité de la réforme de l'État africain Étienne LeRoy (1997) distingue des modes de remodelage organisationnel opposés qui reflètent respectivement des visions endogènes et exogènes du monde. Une logique «institutionnelle occidentale» renvoie à une situation où l'institution préexiste à ses fonctions. En conformité avec une vision judéo-chrétienne du monde dans laquelle Dieu préexiste à ses créatures, «la légitimité de toute organisation, du monde comme des sociétés, est associée à l'intervention d'une force extérieure, supérieure, omnipotente et omnisciente qui donne sens et cohérence à la formule d'organisation retenue» (LeRoy 1997:158). Au sein d'une logique «fonctionnelle», au contraire, le résultat à atteindre détermine la forme et le degré d'organisation. Suivant une cosmogonie où la société «sort du chaos, non du néant», les principes d'organisation doivent émerger de l'intérieur de la société, et sont issus d'une «recherche progressive et toujours tensionnelle d'un équilibre entre des exigences ou contraintes différentes» (LeRoy 1997:158). L'État «occidental» reste non seulement «indifférent à des traditions qui pensent l'organisation politique dans le cadre de pouvoirs multiples, spécialisés et interdépendants», mais qui est aussi associé à un «'extérieur' toujours menaçant et source d'agression» (LeRoy 1997:158). LeRoy (1997:160) en conclut que «l'indigénisation de l'État africain dans ce domaine de la redistribution des pouvoirs est nécessairement liée à l'adoption d'une logique plus fonctionnelle qu'institutionnelle» qui se traduit par une politique fondée sur «un véritable pluralisme administratif et juridique».

Dans quelle mesure peut-on associer les politiques de décentralisation en Afrique depuis la vague des transitions démocratiques des années 90, et plus spécifiquement celles du Mali, que LeRoy (1997:160) considère

comme «première tentative en matière de pluralisme administratif», à une «indigénisation» de l'État africain? Est-ce que, presque dix ans après les débuts de son élaboration, la réforme malienne a réellement permis l'instauration d'un pluralisme lié à une «logique fonctionnelle»? Quel rôle l'État, qui serait d'emblée le représentant d'une «logique institutionnelle», y a joué?

La présente étude examinera ces questions à partir de l'analyse d'un cas spécifique: la création de trois communes rurales à 50 kilomètres au sud-est de Bamako, la capitale du Mali. Avant d'entrer dans le contexte malien, et afin de pouvoir préciser mes questions et hypothèses de travail, il convient d'abord de mieux cerner le sens des termes «indigénisation», «logique fonctionnelle» et «logique institutionnelle», et d'explicitier leur rapport aux enjeux actuels de la décentralisation dans la sous-région.

LeRoy semble associer la notion «d'indigénisation» avec le rapprochement d'une organisation politique d'origine exogène aux principes d'une culture politique endogène. Cette position est soutenue par l'idée culturaliste d'un grand partage entre traditions politiques occidentales et africaines. Par rapport à cela on peut remarquer que la perspective d'un grand partage risque de passer sous silence les caractéristiques communes des États d'origine européenne et africaine, et que les représentations des différences entre deux traditions sont un produit de leur interaction. La connotation culturaliste du terme «indigénisation» se retrouve dans sa signification historique originelle. Selon Mbembe (Diouf, Fotê, Mbembe 1997:321), la notion est pour la première fois employée par des théologiens catholiques africains pour poser la question de savoir si la révélation chrétienne pourrait s'enraciner dans un autre univers culturel sans le détruire. Dans l'analyse qui suit, l'auteur constate que «l'indigénisation» est à la fois liée à une problématique de servitude, qui est contenue dans le sens du mot «indigène» pendant l'époque coloniale, et au «désir de se libérer de l'emprise d'un autre et se mettre debout pour soi» (Mbembe et al. 1997:322). «L'indigénisation» renvoie ainsi à un rapport historique qui s'inscrit dans une tension entre des modalités d'assujettissement et des efforts d'émancipation. Issue du contexte colonial, cette tension se prolonge au sein de l'État postcolonial.

Je démontrerai que la problématique de l'affirmation d'une culture politique endogène à travers une réforme associée à des institutions d'une origine occidentale joue un rôle central dans les représentations de la décentralisation véhiculées par une partie des élites politiques maliennes. En même temps, ces représentations idéalisantes ne correspondent pas aux réalités politiques vécues sur le terrain. Ici la figure «d'indigénisation»

se déploie soit sous la forme d'une intégration informelle des principes de fonctionnement des institutions politiques lignagères dans les structures formelles, soit dans le registre d'un assujettissement dont on cherche en même temps à se soustraire. Dans cette perspective, les représentations de l'État précolonial, colonial et postcolonial se confondent dans l'image d'un État médiateur et prédateur. Reste à savoir comment la décentralisation pourrait être liée «aux procédures par lesquelles les assujettis deviennent des sujets, ou, si l'on veut, des citoyens» (Diouf, Memel Foté, Mbembe 1997:324).

Sur un plan à la fois théorique et pratique, une réponse possible a été récemment présentée par un ouvrage collectif concernant les modalités d'une gouvernance participative ancrée «en profondeur» (Fung et Wright 2003). En matière de politiques de décentralisation, et à l'instar de toute une littérature critique (Kasfir 1993, Samoff 1990, Slater 1990), les auteurs se démarquent d'une approche linéaire. Celui-ci représente un processus prescrit et apolitique qui s'appuie sur des solutions rationnelles d'un ordre technique et gestionnaire (Thomas Isaac et Heller 2003:82). Une telle politique finit par préserver les inégalités existantes, ou de les transposer à l'échelle locale. Ils prônent au contraire une démarche participative et expérimentale par laquelle les décisions en termes de problèmes concrets ne sont pas du seul ressort des spécialistes, mais sont issues de processus délibératifs impliquant le plus grand nombre d'acteurs concernés. Cette option est exemplifiée par quatre études de cas où la mise en place des assemblées publiques et un transfert concomitant des pouvoirs, des savoirs et des techniques jouent un rôle fondamental.² Les auteurs soulignent l'importance des liens entre unités locales et organismes centraux jouant un rôle de supervision, de coordination, de régulation et de redistribution (Fung et Wright 2003:21). Dans ce processus les institutions étatiques elles-mêmes se trouvent graduellement transformées par les dynamiques à la base, donc par une «logique fonctionnelle» (Fung et Wright 2003:22).

La création des espaces politiques participatifs³ et leur articulation avec des instances de tutelle pourraient ainsi être considérées comme enjeux cruciaux d'une décentralisation émancipatrice qui se démarquerait des politiques précédentes.⁴ Ces enjeux se situent dans le cadre d'une crise de la souveraineté de l'État dont les implications sont particulières pour une grande partie du continent africain. Or en Afrique le renforcement généralisé des liens entre acteurs locaux et transnationaux au détriment de l'État s'ajoute au fait que, en dépit de son caractère fortement centraliste et autoritaire, l'État postcolonial n'a jamais réussi à établir un appareil institutionnel performant qui se serait distingué de sa société (Chabal et

Daloz 1999:26). Au niveau local, cette souveraineté à limitation non voulue a rendu possible, comme le constate LeRoy, la présence continue d'une multitude de pouvoirs nés à différents moments historiques. Dans cette situation, aucune institution locale ne peut fournir un cadre global qui intégrerait toutes les autres et qui pourrait avoir la fonction d'une interface entre différentes organisations et systèmes normatifs. Les résultats en sont des inégalités, un manque de sécurité et une absence de transparence dans un contexte où des procédures sont définies *ad hoc* à partir de règles variables (Bierschenk et Olivier de Sardan 1998:30-37, Jacob 1998:123). Autrement dit, dans la pratique, «la logique institutionnelle» a en réalité été peu efficace, et le jeu d'une adaptation «fonctionnelle» selon les situations a été à lui seul insuffisant pour garantir une justice sociale. De cette analyse découle la principale qualité politique que la commune, en tant qu'espace participatif de base d'un système de gouvernance décentralisé devrait posséder : le fait de fournir un cadre représentatif qui aurait à la fois la souplesse et la légitimité nécessaires pour intégrer tous les acteurs présents dans son domaine. Deux questions se posent alors: dans quelle mesure la planification et la mise en oeuvre de la réforme malienne ont favorisé cet objectif? Est-ce que dans la pratique les communes concernées ont pu évoluer vers un tel modèle?

Pour traiter ces questions, je ferai d'abord une esquisse du cadre général, du déroulement, des interprétations et des appréciations de la réforme sur le plan national. L'analyse des communes rurales choisies commencera par une discussion de la campagne d'information et des dynamiques qui ont guidé leur formation. J'aborderai ensuite leurs structures de représentation politique et terminerai par un examen du processus d'élaboration des plans de développement. Avant de commencer l'exposé, je donnerai quelques indications méthodologiques.

La construction de l'enquête

Les trois communes étudiées se situent dans les Monts mandingues, une zone caractérisée par des hauts plateaux et vallées qui sont pour la plupart difficilement accessibles de la principale axe routière située dans la haute vallée du Niger. Malgré son relatif isolement, la région jouit d'une certaine notoriété, due au fait qu'elle est associée au premier habitat des Mandinka, fondateurs de l'empire du Mali. Le choix des villages des Monts mandingues dans lesquels j'ai effectué une série d'enquêtes depuis 1994⁵ a été à la fois motivé par le fait que j'entretenais des relations avec des ressortissants à la capitale, et que la région n'avait pas encore été l'objet d'études approfondies. Visant au départ la connaissance du système

politique lignager, de sa genèse et de ses relations avec des associations socio-religieuses dans le cadre d'une thèse doctorale⁶, mon approche a été à la fois focalisée sur une étude des pratiques politiques, socio-économiques et religieuses, et sur une collecte des traditions orales transmises par les notables de ces villages. À partir de 1998 mon champ de travail s'est élargi pour englober l'impact de la décentralisation dans la région. Grâce à l'aide indispensable de mon hôte qui a été en même temps mon assistant de recherche, j'ai pu d'abord étudier son village natal Saguele, et ses trois villages voisins. Regroupés dans une chefferie appelée Kenieba Konko, ces villages ont fourni l'unité de comparaison avec d'autres communautés dans la région. Après les élections municipales de 1999, je me suis entretenu avec les conseillers municipaux et le personnel administratif des trois nouvelles communes. Dans la capitale mes recherches ont été complétées par un dépouillement des documents administratifs coloniaux dans les archives nationales, des entretiens avec des membres de la Mission de décentralisation (MDD) et des collaborateurs des ONG impliqués dans la région, ainsi que des rencontres avec des ressortissants faisant partie des associations de développement villageois.

La décentralisation malienne: un culturalisme conflictuel

Dans un pays où plus des deux tiers de la population vivent dans les zones rurales, la décentralisation est conçue comme l'élément clef du processus de démocratisation qui a été entamé en 1991 après trois décennies de régimes à parti unique.⁷ Élaborée depuis 1993 par la MDD, un organisme créé à cet effet, la réforme implique le remplacement d'une administration centralisée basée sur des régions, cercles, et arrondissements par des collectivités territoriales constituées par des cercles, des régions et des communes. Tandis que les anciennes institutions ont été gouvernées par des agents nommés par l'État, les dernières sont dirigées à tous les niveaux par des conseils élus*. Dans un souci de participation populaire, la commune représente l'élément essentiel et dispose de ses propres moyens financiers, domaniaux et humains. Son caractère «enraciné» dans les réalités locales se traduit par le fait que le choix des délimitations a largement été laissé à la discrétion des populations concernées.

La décentralisation a été préconisée par les grands bailleurs de fonds internationaux dans un souci de bonne gouvernance et de réduction des dépenses publiques. Elle a ainsi reçu l'appui technique des organismes de coopération tels que la Coopération française et le GTZ allemand. En même temps, les élites politiques maliennes se sont efforcées de donner

une légitimation historique à la réforme. Dans cette optique, la décentralisation ferait partie d'un effort intellectuel de créer «une symbiose dynamique entre les besoins de l'État moderne et les traditions qui restent toujours la règle et la référence» (Tall 1994:8). En ce sens, la décentralisation renouerait avec l'organisation décentralisée des grands empires médiévaux, notamment celui du Mali ancien, ainsi qu'avec le fonctionnement des associations villageoises (*ton*). D'une manière significative, cette argumentation reprend les idées avancées par certains protagonistes du socialisme malien des indépendances (Zobel 2001:135), mais aussi la pensée des administrateurs-ethnographes coloniaux comme Maurice Delafosse (Amselle 2002:31, 1997:50). Libéré du centralisme despotique de l'État (les structures féodales chez les socialistes, les États guerriers chez Delafosse), la participation des populations au développement communal serait essentiellement garantie par la force des «solidarités communautaires». En reflet de ce raisonnement, la réforme a été traduite en langue bamana par la formule du «retour du commandement à la maison» (*mara ka segin so*). Nous retrouvons ici la problématique de «l'indigénisation de l'État» en tant que question d'affirmation culturelle.

Ce discours a été le sujet de critiques qui constatent que, malgré ses apparences populaires, la décentralisation serait essentiellement une réforme prédéfinie par les élites politico-administratives et non le résultat des revendications de la base, donc l'expression d'une «logique institutionnelle». Ainsi pour Coulibaly (1993:12), un conseiller présidentiel, le caractère vertical d'une décision administrative de transférer des pouvoirs et des compétences au niveau local ne peut pas être modifié par la multiplication des connexions horizontales de dialogue et de participation (1993:12). Pour le chercheur Beridogo (2002:5) on voit derrière le mythe de la réconciliation avec le passé la nécessité «de trouver une réponse aux crises sociales qui secouaient le Mali, notamment la rébellion touarègue qui sévissait au Nord depuis 1990 et les revendications paysannes consécutives à la révolution de mars 1991». Beridogo (2002:6) constate d'ailleurs que les intellectuels ont été largement exclus du travail de la MDD et rappelle les divergences entre le parti au pouvoir et l'opposition dont certains partis ont préféré un processus plus prudent et graduel partant d'une simple transformation des arrondissements en communes. Une fois l'expérience acquise en matière de décentralisation, d'autres communes pourraient naître de ces entités.

Comme l'ensemble des analyses récentes le démontre,⁹ ces critiques se sont avérées fondées dans la mesure où la formation des communes a été entourée de nombreux conflits autour de ce qui a été souvent perçu

comme un appel à un retour aux chefferies coloniales ou précoloniales. Dans certains cas, ces conflits ont eu une forte incidence sur le fonctionnement ultérieur des communes. Le nombre de 701 communes a considérablement dépassé la quantité originellement prévue et le taux élevé des micro-communes ayant une population inférieure à 10 000 habitants pose le problème de leur survie économique. Dans un contexte de blocages multiples entre l'opposition et le gouvernement, les élections municipales dans les communes rurales ont dû être reportées à plusieurs reprises et n'ont eu lieu qu'en mai 1999. Après leur mise en place, la tâche essentielle des conseils communaux a été d'établir leur autorité en matière de perception des impôts et d'élaborer et de mettre en oeuvre un plan de développement fixant tous les projets devant être réalisés, ainsi que leur mode de financement. Le processus de la création des conseils aux échelons supérieurs n'a enfin été conclu qu'en avril 2002 avec l'installation du Haut conseil des collectivités dont la fonction principale est d'étudier et de définir les grandes orientations en matière de développement local et régional.¹⁰

La politique d'information et la création des communes dans les Monts mandingues

Dans la région étudiée, le découpage territorial a provoqué la division d'un ancien arrondissement en quatre communes.¹¹ La commune de Siby, dont le siège est identique à l'ancien chef-lieu, comporte une vingtaine de villages avec environ 19 200 habitants. Situés dans la haute vallée du Niger au pied des Monts mandingues, ceux-ci sont relativement faciles d'accès à partir de la capitale en comparaison avec les villages localisés sur le haut plateau formé par le massif. Ces villages se sont constitués en deux micro-communes appelées Sobara et Nioumamakana comptant chacune une dizaine de villages, ainsi qu'un nombre considérable d'hameaux avec une population d'environ 5000 habitants chacun. Quelle incidence la politique d'information a-t-elle eu sur le processus de découpage et quelles dynamiques ont caractérisé la formation de chacune de ces unités ?

Depuis 1994 la MDD a travaillé à la création des Groupes d'étude et de mobilisation locaux et régionaux (les GREM et les GLEM) dont la plupart des membres ont été des fonctionnaires. Ces organismes étaient censés être des groupes de discussion, d'information de la population et étaient chargés de la mise en place des commissions de découpage communal. Cependant, leurs moyens financiers n'ont pas été suffisants pour visiter la majorité des villages en dehors des centres administratifs.¹²

Par conséquent leur efficacité semble avoir été variable en fonction de l'engagement personnel des agents administratifs, et en particulier, des chefs d'arrondissement. Dans les villages concernés, personne n'avait entendu parlé de l'existence d'un tel groupe et, selon mes informateurs qui sont des instituteurs, le chef d'arrondissement a été le seul membre du GLEM. Ces derniers ont été convoqués chez lui afin de recevoir des explications sur la réforme et des brochures d'information rédigées en français. Ils ont été priés de transmettre ces renseignements dans le cadre des assemblées villageoises, mais en pratique l'information s'arrêtait chez les chefs de village et leurs conseillers les plus proches.

Comparées aux efforts de l'administration, les activités d'information entreprises par une organisation non-gouvernementale malienne, le Consortium 3A semblent avoir été plus efficaces. Fondée par des jeunes diplômés faisant partie du mouvement démocratique de 1990-91, et soutenue par la coopération suisse, cette organisation a visité les villages de la région et a convoqué leurs représentants aux sessions d'information à Siby et plus tard à Sandama au centre du massif. Lors de ces assemblées, les participants ont traduit, défini et discuté les notions clefs de la réforme dans leur langue maternelle mandinka et ont noté les résultats dans des cahiers fournis par les organisateurs afin de les transmettre à leur retour au village. Pour éviter de confondre la nouvelle organisation politique avec les institutions coloniales ou précoloniales, des notions comme commune, maire et conseil n'ont pas été traduit. Malgré ces efforts qui concernaient les hommes et les femmes de différents âges, pour la majorité de la population les émissions en langue bamana à la radio nationale sont restées la source d'information principale. Il est évident que la MDD a été confrontée à des contraintes financières et logistiques majeures qui ont rendu difficile un contact direct. Cependant, il semble qu'en privilégiant le rôle de l'administration dans les activités d'information plutôt que les ONG dont les programmes n'ont couvert que 40% du territoire malien, la MDD a soutenu un flux d'informations hiérarchique plutôt qu'un processus d'apprentissage dialogique.

Compte tenu de la rareté des informations qui ont atteint la région, pour la majorité les concertations autour du découpage communal ont été la première confrontation avec les contraintes du nouvel ordre. À partir de fin 1995 et dans la première moitié de 1996 des délégations de tous les villages ont été convoquées chez le chef d'arrondissement pour une série de négociations. Ne disposant pas d'informations claires sur les critères pour l'éligibilité d'une commune, ni sur leur mode de fonctionnement, et sous l'influence du mot d'ordre bamana d'un «retour du commandement

à la maison», les propositions avancées par les délégations villageoises ont été caractérisées par une tension entre des revendications basées sur les limites des anciennes chefferies et les ambitions hégémoniques de certains villages. Pour justifier leurs préférences, les paysans ont également mis en avant l'appartenance commune aux associations de développement et le partage de certaines infrastructures. Le résultat a été la fragmentation d'une trentaine de villages en au moins six unités, qui ont été souvent divisées par des conflits intérieurs. On peut ici citer le cas du Kenieba Konko, une chefferie qui avait précédemment réaffirmé son unité à travers un jumelage avec la ville française Thionville. Au même moment, les deux plus grands villages se disputaient le siège de la commune: Nana Kenieba revendiquait le rôle de village le plus ancien et se vantait d'avoir la seule école secondaire de la région, tandis que Saguele mettait en avant sa plus grande population et sa proximité avec la route principale. De même, dans les montagnes, des revendications basées sur l'ancienneté de certains villages¹³ ont été combinées avec l'argument de l'utilisation respective des écoles à Nioumakana et à Sandama.

Ces propositions ne correspondaient pas aux recommandations de la MDD. Tandis que les villageois pensaient qu'il suffisait de disposer d'une école, d'un dispensaire et d'un magasin pour les produits agricoles pour revendiquer la position de chef-lieu d'une commune, ils ont été informés que les communes devaient couvrir au moins quinze kilomètres carrés et avoir un minimum de 3000 à 5000 habitants. Ce chiffre s'écartait considérablement du seuil de 10 000 fixé originalement. Ce n'était que grâce à une série d'interventions de la part du chef de l'arrondissement, que les villages proches de Siby ont accepté de faire partie d'une commune chapeautée par l'ancien siège de l'arrondissement. Au centre des Monts mandingues, au contraire, l'administration n'a pas réussi à réconcilier l'ambition du village Sandama situé au bout de la seule route majeure, de devenir le siège d'une grande commune, avec les revendications d'une fraction de huit villages qui insistait sur son indépendance. Deux communes séparées furent créées, mais certains villages continuaient à aspirer à intégrer des municipalités différentes, après que leurs revendications d'autonomie n'aient pas été prises en compte. Enfin dans la vallée du Niger au Sud-Est de Siby, les autorités administratives ont dû user de toute leur influence pour convaincre le village de Kenieroba d'accepter de partager une commune avec son ancien «ennemi» Bankoumana. Ces tractations difficiles, où la question de la fiabilité économique a été éclipsée par l'enjeu de la souveraineté politique, reflètent une attitude locale répandue en matière de l'attribution des projets de

développement. Le contrôle de ressources est utilisé pour affirmer la prééminence politique, tandis que la question de leur nécessité ou de leur entretien devient un enjeu secondaire.

Dans une publication antérieure (Zobel 2001:127-129) j'ai décrit des conditions semblables pour la création des cantons pendant la période coloniale à la fin du 19^e et au début du 20^e siècle. À cette époque l'administration française était obligée d'unifier des entités politiques jugées trop petites pour satisfaire ses critères géopolitiques et économiques. Les villages plus grands ont tiré profit de cette situation en renforçant leur pouvoir, tandis que le problème des « villages indépendants » et la présence de factions lignagères concurrentes nécessitaient des interventions médiatrices récurrentes de l'administration afin de résoudre les conflits.

Dans le passé comme à présent, les rapports entre villages et pouvoirs centraux peuvent être compris comme l'expression d'une dynamique segmentaire. Le processus caractéristique de la « relativité structurale » (Evans-Pritchard 1948:281) s'exprime ici dans un univers politique composé par des villages ou groupes de villages qui ont été fondés dans le cadre de vagues migratoires successives. Au sein de cet espace « composite », les villages peuvent tantôt revendiquer leur autonomie, tantôt s'insérer dans des factions basées sur des appartenances lignagères, des alliances matrimoniales, des relations entre hôtes et invités, ou des réseaux constitués par des associations socio-religieuses. En même temps, la segmentarité renvoie à une situation où un tiers pouvoir—des États, mais aussi des agents magico-religieux tels que des marabouts ou des groupes d'artisans endogames—joue le rôle d'arbitre entre groupes opposés, garantissant ainsi une certaine stabilité politique (Gellner 1981:40-41). De ce fait, la formation de la commune de Siby a été possible grâce à l'arbitrage des représentants de l'État ainsi qu'à la présence d'un pôle extérieur (la ville de Siby), qui est à la fois associé à l'autorité de tutelle et lié à un lignage différent de ceux des chefferies de la région. Par contre, au centre des Monts mandingues une telle alternative n'existait pas, et les factions villageoises ont insisté sur leur autonomie.

Pouvoir et représentation dans l'espace communal

La volonté des factions villageoises de conquérir leur autonomie et l'importance qui a été accordée au choix du chef-lieu témoignent des inquiétudes quant à la nature du pouvoir exercé par le maire et son conseil communal. Or, la matrice dans laquelle la commune a été perçue reflète à la fois les expériences avec l'État et avec le pouvoir lignager depuis l'ère

précoloniale. La relation à l'État implique un rapport hiérarchique entre le centre et la périphérie qui est justifié par la force, rapport qui est à la fois associé au rôle du médiateur et à la figure d'un prédateur. Le pouvoir lignager est au contraire identifié avec une relative faiblesse exprimée notamment par le non-paiement des impôts¹⁴ et avec la participation des représentants villageois dans des conseils d'ânés. Il peut également être mis en rapport avec les pouvoirs prédateurs que certains chefs de canton corrompus avaient exercé au détriment de la population. Par conséquent, les villageois redoutaient le manque d'effectivité et de stabilité d'un pouvoir qui sera exercé par eux-mêmes et non par un agent extérieur puissant. En même temps, se souvenant des abus des chefs de canton coloniaux, la question d'une représentation juste des intérêts villageois auprès du centre communal a été soulevée.

Les interrogations quant à la qualité représentative du pouvoir communal ont été renforcées par le statut et le mode d'élection des conseillers communaux. Les élus sont considérés comme des délégués de la population d'une circonscription et non comme des représentants des villages, qui, du point de vue des populations, constituent les unités politico-économiques les plus pertinentes. De cette façon, les grands villages auraient plus de chances d'avoir plusieurs représentants, tandis que dans les grandes communes il sera impossible d'octroyer des délégués à tous les villages. Ce fait va à l'encontre du principe de la représentation directe de chaque village dans les assemblées lignagères et les associations de développement. Il a été renforcé par un autre trait du système électoral : le conseil communal étant élu à partir des listes des partis politiques ou des alliances indépendantes, le choix d'un candidat après les élections dépend de son rang sur la liste de son parti et, au moins d'un point de vue formel, non de son appartenance à tel ou tel village.

Il n'est guère surprenant que ces deux problèmes ont eu une incidence directe sur la constitution des conseils communaux. Dans la commune de Siby, le conseil communal, ainsi que les positions clefs du bureau communal ont été sélectionnés d'une telle manière qu'une représentation directe de toutes les unités lignagères est garantie. D'ailleurs, une des raisons principales de la victoire de l'opposition a été attribuée au fait que la plupart des candidats de l'ADEMA (Alliance pour la démocratie au Mali), le parti présidentiel qui a été au pouvoir au moment des élections municipales, venaient de Siby, tandis que les listes de l'UDD (Union pour la démocratie et le développement), le parti principal de l'opposition dans la commune, comptaient davantage de candidats venant des autres villages. L'importance de cette adaptation «fonctionnelle» des organes communaux

aux modes de représentation locaux semble confirmée par le fait que pendant l'année 2001 les impôts ont été payés de 80 à 100 % par tous les villages, contre 20 à 50 % les années précédentes. Au contraire, dans la même période, les impôts de plusieurs villages des communes de Sobara et de Nioumamakana restaient impayés, ce qui a poussé les agents communaux à solliciter le soutien des autorités de tutelle.¹⁵ Parmi les mauvais payeurs figuraient essentiellement des villages ou des factions lignagères qui n'avaient pas réussi à avoir de conseillers ou dont les représentants n'avaient pas été intégrés dans les bureaux communaux. Cette situation était d'un côté dû à un refus de certains conseillers de participer aux concertations concernant la mise en place du conseil et la désignation du maire. D'un autre côté, selon les personnes concernées, elle aurait été le résultat du fait que les candidats de certains villages se trouvaient en fin de liste de l'ADEMA, le parti victorieux. Ayant massivement voté pour ce parti, les villageois voyaient le fait que leur candidat n'avait pas été sélectionné pour le conseil comme une trahison. Dans la commune de Nioumamakana on critiquait également le fait que les deux villages les plus grands n'avaient obtenu qu'un conseiller chacun, tandis que d'autres villages en comptaient deux. Les proches du maire ont expliqué cet état de choses par la présence de deux candidats de partis concurrents au sein d'un même village.¹⁶ D'autres la voyaient comme l'effet de la monopolisation du pouvoir par le lignage dominant des Keita¹⁷ de Nioumamakana.

Au-delà du problème de la répartition des conseillers, la question du choix du siège de la commune s'avérait particulièrement délicate dans les montagnes. Car ici non seulement plusieurs factions s'opposent, mais aussi il n'y a aucun lieu qui soit unanimement légitimé par son extériorité ou par son ascendant historique. Associé avec un pouvoir qui lui confère des avantages par rapport aux autres villages, le rôle du siège gagne d'importance par le fait qu'il s'agit d'un lieu permanent. Par opposition, à l'époque pré-coloniale dans la région concernée, le siège de la chefferie pouvait changer en fonction du lieu de résidence du segment du lignage dominant qui avait droit à la succession.¹⁸ Peut-être en reflet de cette expérience historique, certains villageois évoquaient l'hypothèse que les lois sur la décentralisation permettaient un éventuel changement de la capitale de la commune. À Sobara cette difficulté semble avoir été au moins partiellement surmontée par la nomination à Sandama d'un maire originaire de Nafaji, l'autre grand village de la commune. À Nioumamakana un tel compromis n'a pas été trouvé. Ici le maire est originaire de la capitale de

la commune, et membre du lignage de l'ancien chef de canton qui s'oppose aux chefs des villages voisins, Sorokoro et Kolena. Pendant la période coloniale, les Keita de Sorokoro avaient également revendiqué la chefferie du canton. Il n'est ainsi guère surprenant que le choix du maire ait engendré l'absence d'une partie des conseillers aux concertations autour de l'établissement du conseil communal. La partialité ou le manque d'autorité du maire et de son conseil semble aussi être à l'origine du fait qu'un grave litige foncier survenu entre le village Sorokoro et son voisin Nafaji, qui se trouve sur le territoire de la commune de Sobara, n'a pas été porté devant le conseil communal. Les belligérants se sont directement adressés aux autorités de tutelle à Siby et à Kati, la capitale du cercle. De la même façon, dans le Sobara, les villages Bedeya et Tombalen ont insisté de payer leurs impôts au délégué de l'État à Siby et non au receveur de la commune.

Les problèmes de représentativité et de légitimité que les communes des montagnes ont rencontré renvoient à la plupart des facteurs évoqués par Fay et Koné (2002:422) concernant les difficultés des communes les plus démunies: enclavement, pauvreté, faiblesse des structures associatives et sensibilisation tardive des populations. Dans toutes les deux communes des montagnes on peut établir une corrélation entre le degré d'éloignement de certains villages et leur réticence à participer à un projet commun. Par exemple, à Nioumakana, Nioumala, le village le plus grand, est en même temps le plus éloigné et le plus difficile d'accès. Le village après avoir revendiqué à l'origine une commune autonome et obtenu qu'un conseiller, son représentant a boycotté la session inaugurale du conseil communal, et en 2001 ses habitants ont refusé de payer leurs impôts.¹⁹ Selon le maire de Sobara le non-paiement des impôts peut aussi être simplement expliqué par la pauvreté. Dans certains villages, à la fin de la saison sèche on pouvait compter sur le bout des doigts les personnes qui avaient assez à manger.²⁰

L'enclavement, le faible tissu associatif et le manque de conscience de la fonction de la commune se sont traduits par le nombre réduit de partis politiques actifs sur le terrain, en comparaison avec Siby. Cela est également lié au nombre limité de personnes ressources à même d'assumer les fonctions de conseiller ou de maire et, particulièrement à Nioumakana, à un faible taux de participation aux élections municipales.²¹ Repoussé à trois reprises et ayant fait l'objet d'un boycott de la part de plusieurs partis de l'opposition, le scrutin de mai 1999 a cependant rendu possible l'émergence des nouveaux acteurs et, au moins dans la commune de Siby, a déjoué l'hypothèse d'un renforcement de la domination du parti au

pouvoir. Lors de ma visite en 1998, l'ADEMA (Alliance pour la démocratie au Mali) était le seul parti qui avait établi ses listes de candidats et qui possédait des bureaux dans tous les villages (Zobel 2001:132). L'ADEMA a pu maintenir une bonne position dans les communes des montagnes, alors que dans la commune de Siby, l'UDD (Union pour la démocratie et le développement) a réussi à obtenir une majorité relative. Ce succès est dû au fait que ce parti disposait d'un délégué qui est originaire de la région et avait sollicité le soutien des personnes ressources et celui des autorités traditionnelles. Au contraire de l'ADEMA, dont certains représentants locaux étaient accusés d'avoir détourné les «cadeaux» de campagne, il avait non seulement donné des «cadeaux», mais avait aussi distribué des petits dons à certaines initiatives villageoises. Comme ailleurs au Mali, au niveau des villages les choix de vote ont été souvent conditionnés par les appartenances lignagères des candidats locaux, mais certaines personnes ressources pouvaient aussi rallier des supporters dans plusieurs camps. À Saguele par exemple, à cause de ses apports considérables à la construction d'un établissement de second cycle, bien qu'étant un «étranger», le directeur d'école a obtenu les votes de la plupart des femmes et des jeunes contre le candidat de l'ADEMA autochtone soutenu par le lignage du chef de village.

L'UDD a fini par obtenir la position du maire grâce à une coalition avec deux autres partis, dont une liste indépendante. Le siège de conseiller gagné par cette dernière a été une autre surprise de ces élections, compte tenu du fait qu'un an avant mes interlocuteurs avaient jugé qu'une liste indépendante ne disposerait pas de moyens suffisants pour établir une clientèle. Ici le choix judicieux d'une personne ressource, en l'occurrence une femme qui a été très active dans des petits projets villageois, a été à nouveau décisif. Sur le plan de la sélection des représentants politiques, les élections dans les communes des montagnes semblent avoir également permis une prise de pouvoir par des nouveaux acteurs. Comme à Siby, nous trouvons ici à côté des paysans-notables et enseignants-des personnes avec des compétences techniques importantes dans le domaine des projets de développement (un conseiller de Nioumakana travaille pour la coopération allemande), des militants politiques de l'ADEMA de la première heure (le maire de Sobara), ou des jeunes diplômés tels que le maire de Nioumakana. Âgé de 20 ans, ce dernier est actuellement le plus jeune maire du Mali. Son accession à la tête de la commune n'a pourtant pas été acceptée par tous: certains informateurs expliquaient sa sélection par le souhait des notables Keita de disposer d'un représentant qui soit facile à contrôler, et ajoutaient que par manque d'information les

populations n'avaient pas accordé trop d'importance au choix du maire. D'autres, y inclus le maire lui-même, trouvaient que la bonne volonté, la disponibilité, et une éducation scolaire le qualifièrent pour cette position. On peut conclure que la victoire de l'opposition à Siby, la présence d'une femme et d'un étranger, ainsi que des jeunes diplômés dans les conseils, et, dans certains cas, la rupture avec les divisions entre factions lignagères, exprime un premier pas vers la fondation d'une nouvelle culture politique participative. Celle-ci reste cependant soutenue par une logique clientéliste et communautaire.

L'élaboration des plans de développement

L'hypothèse d'un approfondissement de la participation politique au sein des communes et d'un processus d'appropriation «fonctionnelle» des institutions par le bas est cependant relativisée par la façon dont les plans de développement communaux ont été élaborés. Ce travail implique l'établissement d'un budget pour tous les projets qui devraient être menés par la commune pendant les quatre années de son exercice. Afin de le réaliser, des ateliers de formation ont été organisés pour les conseillers et un guide pratique, qui explique le processus à suivre étape par étape, a été élaboré par la MDD avec l'aide de la coopération allemande. Selon ce document les membres du conseil sont tenus d'organiser des journées de concertation au niveau de chaque village afin de recenser tous les besoins du village. Le chef du village, les représentants communautaires et les citoyens devraient y prendre part. Par la suite, le rapport issu de ces réunions devrait être validé au siège de la commune par deux représentants de chaque village. En réalité les journées de concertation n'ont jamais eu lieu. La solution retenue a été la convocation de deux représentants par village qui devraient exprimer les besoins de la population. Au niveau des villages, dans certain cas, le choix des délégués n'a pas été transparent et par conséquent leur représentativité était remise en question. Les points principaux du plan tels que la construction des routes et des salles de classe, et la mise en place des banques de céréales, semblent avoir fait l'objet d'un relatif consensus. Les intérêts de la plupart des villages pouvaient être représentés par leurs conseillers, qui ont d'ailleurs travaillé en session pendant plus de 10 jours pour mettre en place le plan. Mais, pour les villageois, cette façon d'agir a renforcé l'idée que le travail de la mairie ne les concernait pas directement.²² Au même moment, à Nioumakana et au Sobara les conseillers n'avaient pas encore reçu une formation concernant l'élaboration du plan, et les plans de développement n'existaient que sous forme d'aperçus globaux précisant

les principaux besoins et leurs coûts. Dans le cas de Nioumamakana, ce document a été élaboré par un seul conseiller qui travaille pour le programme d'appui à la décentralisation à Bougouni et ne donnait pas d'informations sur la répartition des projets entre les différents villages. Le document de Sobara fournissait des indications sur les villages bénéficiaires, mais restait approximatif et ne correspondait pas au modèle prescrit par la MDD. Comme à Siby aucun processus formel de délibération n'a été mis en place au niveau des villages.

Cette concentration des prises de décision au siège de la commune semble conforter l'idée que la démocratie représentative peut paradoxalement favoriser un désengagement des populations par le biais d'une décharge vers ceux qui «font de la politique» (Jacob 1998:130). Le fait que les relations avec la base se soient jouées à travers une convocation des représentants des villages à la mairie soutient également l'hypothèse d'un rapport hiérarchique entre le centre de la commune et son environnement immédiat; rapport qui reflète un système administratif français caractérisé par une opposition hiérarchique entre un centre et une périphérie à chaque niveau administratif (Abèlés 1990:112), et la relation entre chefs lignagers et populations. Or, aux yeux de mes informateurs il serait impensable qu'un chef se déplace pour assister aux assemblées des villages des branches lignagères cadettes. Plus fondamentalement, la difficulté dans l'organisation des assemblées témoigne de l'absence d'un forum institutionnalisé permettant des échanges entre les différentes associations villageoises et les conseils lignagers. Ce déficit en matière de transparence favorise non seulement le détournement de fonds au niveau villageois, mais risque également d'avoir des conséquences négatives sur le plan communal.

En ce qui concerne l'obtention des moyens nécessaires au financement de leurs projets, les communes sont obligées de s'acquitter de 20% du montant global des investissements afin de recevoir les subventions prévues par l'État. Faute d'avoir pu réunir la somme requise en 2002, la commune de Siby a signé un contrat avec une société privée qui, moyennant des contrats de construction, a accepté d'accorder un crédit à la commune. Confrontées au même problème, les deux autres communes ont été encore à la recherche d'un partenaire. En l'absence de mécanismes de contrôle publics efficaces impliquant par exemple la création des comités d'usagers (Thomas Isaac et Heller 2003:96), la concentration des prises de décisions au niveau du conseil communal en ce qui concerne la collaboration avec des opérateurs privés, comporte le danger de favoriser un nouveau clientélisme sur le plan local.²³

Comme je l'ai déjà suggéré dans l'introduction, dans son état de souveraineté limitée ou sous la forme d'une «indigénisation» au sens d'un assujettissement dont on cherche en même temps à se soustraire, le centralisme favorise un fractionnement de l'espace politique et l'existence d'institutions et de pratiques politico-économiques informelles plus ou moins tolérées. Sur le plan de la municipalité on pourrait citer comme exemples le prélèvement des taxes d'exploitation des ressources naturelles par des associations villageoises qui ne sont pas versées dans les caisses communales, ou une gestion des terres qui reste la prérogative des autorités lignagères. Faute de décisions prises sur le plan national qui traduisent une grande réticence devant les conflits multiples qui pourraient être engendrés par une officialisation des titres, le domaine foncier villageois reste exclu de la gestion communale.²⁴

Conclusion

Quel bilan tirer de l'expérience dans les trois communes des Monts mandingues? On peut d'abord constater—et cela ne surprend guère—que la décentralisation a été caractérisée par une conjonction des deux logiques évoquées au départ. Par rapport à l'élaboration de la réforme et aux actions de sensibilisation entreprises par l'administration sur le terrain, la politique de décentralisation malienne a suivi une «logique institutionnelle» imposée «par le haut». En même temps, la délimitation des communes par les populations concernées et l'adaptation des conseils communaux au besoin de représentation directe des unités lignagères ou villageoises ont témoigné d'une «logique fonctionnelle». L'adaptation de la réforme aux structures participatives lignagères, processus qui exprime «l'indigénisation» au sens que lui donne LeRoy, et l'émergence de nouveaux acteurs politiques (femmes, jeunes diplômés, «étrangers») n'a cependant pas produit un espace politique qui intégrait tous les acteurs dans les processus décisionnels de la commune. L'exemple de l'élaboration des plans de développement suggère un processus de centralisation qui contredit l'idéal participatif prôné par la Mission de décentralisation et le GTZ. Ce processus est marqué par un double déficit concernant à la fois l'intégration des villages dans les organes délibératifs communaux, et l'absence d'un «espace public» villageois²⁵ qui permettrait de prendre des décisions et de choisir des délégués dans la transparence²⁶ (Bierschenk et Olivier de Sardan 1998:42).

L'absence d'espaces de délibération inclusifs au niveau des villages est révélateur du caractère idéalisant des représentations répandues d'une dynamique associative riche, d'un capital social indigène (Lemarchand

1998, Olowu 1998:519), ainsi que de la notion de solidarités communautaires. Dans le contexte actuel, ces idées courent le danger de dissimuler le besoin réel d'expérimentation en matière d'assemblées qui bénéficieraient d'un dispositif d'encadrement et de formation. Une telle démarche a joué un rôle crucial pour la réussite relative des cas de démocratie locale participative étudiés par Fung et Wright. Son absence est considérée comme un facteur décisif dans les échecs des tentatives de décentralisation antérieures (Laurent et Peemans 1998:13, West et Kloeck-Jenson 1999:482).

Le nouveau centralisme peut d'ailleurs être interprété comme l'expression d'une contradiction inhérente au modèle de décentralisation malien où une approche participative se marie avec une organisation héritée de la tradition administrative française. Comme je l'avais évoqué concernant l'importance accordée au siège de la commune, au sein de celle-ci chaque niveau d'organisation collectif (commune, département, région) est déterminé par une opposition hiérarchique entre un centre et une périphérie (Abélès 1990). Dans la perception des acteurs, la tradition centraliste véhiculée par l'État malien et son prédécesseur colonial s'est enchevêtrée avec une longue expérience historique de domination indirecte par des États guerriers (Roberts 1987). Ceux-ci étaient distants par rapport aux enjeux politiques locaux, mais pouvaient de ce fait jouer un rôle de médiateur sanctionné par la force des armes (Fay 1995:38-39). En ce sens, les tractations lors de la formation des communes et les appels aux autorités de tutelle face aux conflits et aux problèmes de recouvrement des impôts expriment un besoin d'arbitrage de la part des représentants de l'État. Sur ce plan les analyses récentes de la décentralisation malienne observent soit une réticence de la part des autorités administratives de tutelle d'intervenir sur le niveau local, soit une relation concurrentielle entre ces dernières et les maires (Fay 2002:11; Beridogo 2002:8).

Nous rencontrons ainsi dans les perceptions et pratiques des acteurs la tâche difficile de transformer un État associé à la violence sous la forme d'un assujettissement auquel on se soumet et se soustrait simultanément—État qui à la suite de la chute du pouvoir militaire est souvent perçu comme un État impuissant—en un État à souveraineté limitée, mais assumée. Ce type d'État disposerait de la légitimité et des moyens nécessaires pour exercer un rôle de médiateur et d'agent de tutelle, tout en laissant une large marge de liberté aux adaptations «fonctionnelles» issues des processus délibératifs au sein des espaces participatifs.

Revenons enfin à la figure de «l'indigénisation» dans sa dimension culturaliste. L'expérience de la décentralisation malienne pourrait

contribuer à vaincre une fixation sur les questions de culture et d'authenticité qui hantent depuis la période coloniale les imaginaires politiques en Afrique (Mbembe 2000). Or les conflits qui ont été engendrés par une identification des communes avec des structures politiques dites «traditionnelles», ainsi que les difficultés liées à la formation des espaces participatifs suggèrent qu'il conviendrait davantage de reconnaître la qualité inédite des nouvelles institutions que de parler de synthèse ou de métissage. À cet égard l'approche des acteurs du Consortium 3A est instructive: tout en faisant un travail de réflexion interculturelle, ses membres ont insisté sur le caractère intraduisible du mot commune.

Notes

1. Cet article représente une version remaniée et substantiellement réécrite d'une communication à paraître sous le titre de «Décentralisation, espaces politiques et représentation dans les Monts mandingues et la haute vallée du Niger», in C. Fay (éd.), Pouvoirs et décentralisations en Europe et en Afrique. Autour de l'expérience malienne, (actes du Colloque international à Bamako, 10-13 novembre, 2002), Paris, Éditions de l'MSH.
2. Les exemples discutés concernent les conseils de voisinage et de gouvernance à Chicago impliqués dans l'élaboration des politiques d'éducation et de sécurité; la planification de la conservation de l'habitat sous la loi américaine portant sur les espèces en danger; le budget participatif de Porto Alegre au Brésil et les réformes Panchayat au Bengale occidentale et à Kerala en Inde qui ont été entamées dans le cadre de la dévolution des pouvoirs budgétaires et administratifs. Il s'agit donc des pays où l'État dispose des moyens bien supérieurs à ceux des pays africains.
3. L'idée de la participation s'inscrit ici dans le sillon de la théorie de la représentation politique rousseauiste pour laquelle la souveraineté est inaliénable. Dans *Le contrat social*, l'auteur stipule que les députés ne sont pas conçus comme des représentants, mais comme des commissaires qui ne peuvent rien conclure définitivement, et que les décisions restent à prendre par l'assemblée du peuple.
4. Par leur nature apolitique les réformes entreprises au cours des années 80 pourraient d'avantage être associées avec la notion de «déconcentration» qui désigne un transfert des institutions administratives du centre vers le niveau local (Mawhood 1993 cité par Tordoff 1994:555). Pour une discussion des tentatives de décentralisation en Afrique subsaharienne depuis les indépendances voir notamment Olowu (1998), Petiteville (1995), Rotchild (1994), et APAD (1998a et 1998b).
5. Mes enquêtes se sont déroulées pendant six mois en 1994/95, deux mois en 1997, un mois en 1998, trois semaines en 2001 et dix jours en 2002. Je tiens à remercier la Wennergren Foundation of Anthropological Research à New

York et le Centre d'études africaines de l'École des Hautes études en sciences sociales à Paris pour des financements des études sur le terrain.

6. «L'appropriation de l'altérité: politique, identité et histoire dans les communautés villageoises des Monts mandingues du Mali», thèse de troisième cycle, École des hautes études en sciences sociales, Paris, Université de Vienne, Autriche, 2000.
7. À cet égard l'ancien président et historien Alpha Oumar Konaré (1996) a été parmi les plus grands défenseurs de la réforme: «Dans la mesure où nous demeurons une nation essentiellement rurale, je crois pouvoir dire que pour le Mali, la dernière grande réforme de cette fin de siècle est la décentralisation qui demeure la plus grande justification politique de la démocratisation».
8. Tandis que les conseillers communaux sont élus directement par les populations, ceux des échelons supérieurs le sont par les votes des conseillers du niveau concerné.
9. Pour un résumé voir Kassibo (1997) et Koné & Fay (2002).
10. Je réserverai une analyse des rapports entre conseils municipaux et niveaux représentatifs supérieurs à une étude ultérieure.
11. Du fait de son éloignement de la zone des montagnes qui se trouvait au centre de mon enquête, la commune Bankoumana située au Sud-Est de Sibo au bord du fleuve Niger n'a pas été étudiée. Elle comporte une population d'environ 20 000 personnes dont 6000 vivent dans le chef-lieu de la commune.
12. Le budget alloué au GREM de Koulikoro pour une région de 1938 villages a été de 2 100 000 CFA (3200 Euros) (14 février 1997, Richard Toé, Mission de décentralisation).
13. Les revendications hégémoniques d'un tel ou tel village ont été souvent délégitimées avec l'observation qu'il s'agissait de l'hameau (*buguda*) d'un autre village plus ancien.
14. Dans la région concernée l'impôt (*nisongò*) était uniquement payé pour obtenir la protection des grands États guerriers. Le trésor (*konsòn*), constitué par des amendes, des cadeaux et le butin des expéditions guerrières, était géré au niveau du village.
15. Des tournées sous escorte de la gendarmerie ont été organisées avec le sous-préfet afin d'expliquer le système aux villageois et d'exercer une pression «symbolique». En termes réels, la seule sanction évoquée a été la non-admission des enfants à l'école.
16. Ici l'idéal du pluralisme s'est manifestement heurté à l'arithmétique électorale.
17. Identifiés au clan de la famille royale fondatrice de l'empire du Mali, les Keita sont le clan dominant des Monts mandingues. Ils sont divisés en plusieurs branches rivales dont les rapports fournissent une matrice pour l'interprétation des rapports de force et des alliances dans la région.
18. La mobilité des centres de pouvoir pourrait être considéré comme l'expression d'une culture politique ancrée dans la longue durée des chefferies du Soudan occidental. Or les archéologues R. McIntosh and T. Togola ont formulé l'existence hypothétique des «capitales péripathétiques». Le déplacement régulier des centres

du pouvoir expliquerait l'absence des monuments qui témoigneraient de la présence des ordres politiques centralisés (Conrad 1994:360).

19. Pour le Sobara on pourrait citer le cas de Bintania Kamalen, un village éloigné à l'extrême Nord-Est de la commune qui a été le siège d'une chefferie indépendante avant l'arrivée des Français. Ce lieu ne dispose d'aucun conseiller et n'a également pas payé des impôts en 2001.
20. Ce fait n'est pas dû à une infertilité des terres. Elle est surtout le résultat d'une politique d'achat agressive des commerçants, dont certains viennent de Bamako, après les récoltes. Ne disposant pas de banques de céréales, quelques mois plus tard les paysans sont obligés de racheter leur mil à des prix très élevés.
21. Dans certains villages une partie de la population aurait refusé de voter parce qu'on ne leur avait pas payé pour voter. Par exemple à Kenieba Kouta (Nioumamakana) seulement une soixantaine sur 700 électeurs aurait voté. À Sobara la participation semble avoir été plus élevée. Selon Jogo Keita, le maire de cette commune, 73 % des électeurs avaient exercé leur droit de vote.
22. Nous retrouvons ici un écho de la vision rousseauiste de la participation politique fondée par l'assemblée souveraine et non par la représentation indirecte.
23. Les lois sur la décentralisation prévoient la possibilité d'une consultation des conseillers villageois lors des sessions du conseil communal. Mais pour l'instant ce dispositif semble rester purement théorique.
24. Entraînant le lotissement de Siby, le goudronnage de la route entre Bamako et la frontière guinéenne est susceptible d'engendrer un changement d'attitudes concernant l'introduction d'un système de titres officiels. Ce processus pourrait être renforcé par l'évolution des pratiques foncières dans les banlieues de Bamako, où un nombre croissant de ressortissants villageois possède des terrains de construction.
25. La notion d'espace public se distingue ici du concept de la sphère publique de Habermas (1978) dans la mesure où il ne s'inscrit pas dans une vision implicitement évolutionniste, où le débat politique public ne serait possible qu'à partir du moment où certaines conditions idéales (accès universel, débat rationnel, non-importance du rang social) sont remplies. Au contraire, il s'agit de dégager les principes et restrictions qui structurent les espaces de délibération politiques existants.
26. On pourrait ajouter que le dédoublement ou fractionnement de l'espace communal est également soutenu par une vision qui associe la vie politique avec une division entre sphères visibles et invisibles. Dans cette perspective, le résultat des processus de décision n'est pas attribué à la tenue d'un débat ouvert, mais aux effets des actions et relations secrètes qui impliquent souvent des forces magico-religieuses (Ferme 1998:15).

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Re-inventing Federalism in Post-Transition Nigeria: Problems and Prospects

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Abstract

This paper grapples with the question of Nigeria's federal practice. It argues that there is a need to re-examine federalism in the country with a view to restructuring the system so that it reflects the ethnological and political realities on the ground. It proposes the de-concentration or decentralisation of the powers of the central government, which increased astronomically during military rule to the disadvantage of the component units—the states. In addressing this subject matter, the paper critically examines the theoretical basis for the notion of federalism, seeking to determine Nigeria's suitability as a federal state in the first instance. A historical overview of the origin of Nigeria's federalism—alongside a discussion of present-day predicaments—is presented in the preliminary analysis. Subsequently, the persisting problems in Nigeria's federalism—like the monopoly of state power, revenue allocation, state creation and federal character—are re-visited with a view to determining the situation in the post-transition democratic environment. Finally, the paper makes a case for the constitutional division of the country into geo-political zones, the rotation of power amongst these zones, and the decentralisation of power away from the centre to the states and local governments.

Résumé

Cet article aborde la question des pratiques fédérales au Nigeria. Il soutient que le type de fédéralisme pratiqué dans ce pays doit être revisité, afin de restructurer le système de sorte qu'il reflète les réalités ethnologiques et politiques sur le terrain. Ce texte propose une déconcentration ou une décentralisation des pouvoirs du gouvernement central, qui se sont accrus de manière phénoménale au cours du règne militaire, à la défaveur de ses composantes que sont les États. Il procède à une étude critique de la base théorique du fédéralisme, en cherchant

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à déterminer si le Nigeria se prête ou non à ce type d'organisation étatique. Un aperçu historique des origines du fédéralisme nigérian, ainsi qu'une description de la situation réelle sont présentés dans l'analyse préliminaire. Ensuite, les problèmes récurrents liés au fédéralisme nigérian, tels que le monopole du pouvoir étatique, la distribution des revenus, la création et la nature fédérale des États, sont ré-examinés, afin de déterminer la situation qui prévaut dans l'environnement démocratique nigérian post-transition. Pour finir, cette contribution évoque la division constitutionnelle du pays en zones géopolitiques, le caractère rotatif du pouvoir entre ces zones, ainsi que la décentralisation du pouvoir du centre vers les États et les gouvernements locaux.

Introduction

Nigeria, the most populous black nation on earth with a population of about 120 million and over 250 distinct language groups, successfully transitioned to democratic governance on May 29, 1999. What are the implications of this event for a progressive practice of federalism in the country? To what extent have the ongoing post-transition reforms impacted on federal practice? Indeed, what are the prospects for a more acceptable federal system in Nigeria? These and other related questions revolving around the pertinent features and issues in the practice of federalism in Nigeria are addressed in this essay with a view not only to understanding but also to charting the way forward for the political survival of the country. I regard this not just as an academic exercise but also as a *desideratum* for those who seriously believe that ways ought to be found for organising differing ethnic, political and social interests in deeply divided societies. A federal system of government often arises from the desire of a people to form a union without necessarily losing their identities. Federalism would, therefore, seem to provide an attractive system of government especially in the context of ethnic pluralism found in many African states.

In terms of the federalism debate in Nigeria, the picture mainly indicates that in spite of Nigeria's unsuitability for the practice of federalism (Awolowo-Dosunmu 1994; Wonotanzokan 1994), federalism is generally accepted by many as necessary for managing the country's ethnic diversity as reflected in the adage 'unity in diversity' (Jinadu 1994; Agbese 1999; Momoh 1999). Indeed, there has been an upsurge in the literature on federalism in Nigeria in recent times (Uwazurike 1997; Ekeh 1997; Suberu and Agbaje 1998; Gana 1999). The views expressed mainly take a composite or specific approach to addressing the myriad of issues surrounding Nigeria's federalism, though most stress the 'integrative needs of the state'. An important aspect of the debate, however, revolves around

the central 'mobilisational orientations' of a federalist ideology in respect of whether this should be 'centralist', 'decentralist' or 'balanced'. The major institutional design problem has been over the division of powers and functions at the various levels of government (federal, state, and local government). It has been a case of how to strike a balance between opposing demands for centralisation or de-centralisation of power (Jinadu 1994:57). There is the problem of how to design the federation in such a way as to prevent an ethnic group or a combination of ethnic groups, or one state or a combination of states, from perpetually dominating and imposing their will on other ethnic groups (Jinadu 1994; Awolowo-Dosunmu 1994). In Nigeria, one cannot discuss federalism outside its implications for the country's ethnic diversity. For instance, federalism was introduced in Nigeria more as an instrument of divide and rule than as a mechanism for promoting unity-in-diversity which it eventually came to represent in the post-colonial era (Awolowo-Dosunmu 1994). Various discussed in the debate have been the impact of prolonged military rule on federalism and the resultant operational defects.

It is generally accepted that so far federalism as a conflict management system has failed to remove the bogey of ethnicity, sectionalism and religion from Nigeria's body politic. With over forty years of trying to navigate through the murky waters of Nigeria's politics, many, including the nationalists, politicians and civil society, have become despondent to the extent that one can hear voices calling for the outright balkanisation of the country. But somehow, the country has survived its many travails, including a fratricidal civil war between 1967 and 1970 in which over a million people, mainly civilians, died.

Further, in Nigeria, the contestation over federalism has fundamentally manifested itself in two principal ways—either as a quest for access and control over political power or as access to federally generated revenue. As observed by Momoh (1999:3), the task of social engineering and reconstruction of the notion of federalism in both form and substance was left in the hands of the military. It was not therefore surprising that the crisis of federalism deepened in the country. For instance, as the federal government created new states, more were demanded from all nooks and crannies of the country. Also, as the revenue allocation principle was restructured in favour of the states, there were more demands for increased revenue from the states and local governments. By and large, the Federal Government in the country has been perceived as being too strong. And since it had largely been controlled by military elements from the northern and western parts of the country, it was considered an obstacle to the fair

and just development of the other component units of the federation. Therefore, it is not out of place to note that the peculiarities, irregularities and tensions that vexed and continue to vex Nigerian federalism stemmed in part from the arbitrary rule of the military (Suberu 1994:68).

However, there is little doubt that the desire to improve on Nigeria's federal practice exerts a magnetic force amongst many Nigerians. In the post-transition situation in which the country finds itself, the primacy of constitutional federalism has become imperative. In the current dispensation, the expectation is that the various vexatious issues like the over-centralisation of powers by the Federal Government, the creation of states, revenue allocation, the creation of Local Government Councils and the question of citizenship, especially as it relates to gender, will be given urgent attention by all stakeholders. In other words, the imperative for a Sovereign National Conference (SNC) or a National Conference is still very much on the national agenda as a possible approach to re-inventing federalism in post-transition Nigeria.

As the debate continues, this article engages with the practical imperatives of federalism in the Nigerian context in advocating 'power-sharing' as an immediate, but short-term response to the problem of over-concentration of power at the federal level, and indeed, recommends this step as crucial for federalism in other deeply divided societies.

The notion of federalism

Federalism in principle implies the construction of a system whereby consensus is reached between current demands of union and the territorial diversity within an emerging society, by the creation of a single political system within which central and provincial governments are assigned coordinated authority in a manner defining both the legal or political limits of equality or subordinate functions (Forje 1981:3). Usually the limits are spelled out within the constitution stipulating what each party can or cannot do. According to Wheare (1964), the desire and capacity for federalism entails a number of prerequisites involving among others 'geographic proximity, hope for economic advantage, wishes for independence, earlier political ties and insecurity and similarities of traditional values'. Generally, federal political systems, unlike unitary systems, are less efficient and are slower in policy making and policy implementation due to broad inputs from local and regional authorities, which are encouraged and usually respected. Ideally, nations decide to federate due to one or a combination of the following three factors—socio-economic, political, or security considerations. In terms of socio-economic factors, it is assumed

that some of the following factors are pertinent, namely the presence of shared values, access to a larger domestic market, access to a seaport, access to higher standards of living and the enhancement of welfare policies. Politically, the considerations include the strengthening of existing relations with the co-federating units and bringing about a stronger voice internationally. Security-wise, it is for the unit in question to be able to protect itself from real or imagined threats to its survival as an entity.

On the other hand, a confederation which is quite frequently confused with a federation, is a loose association of independent and sovereign states which goes beyond the context of alliance by establishing some common political and administrative organs but without setting up central governmental authorities (Kousoules 1979:408). In drawing a clear distinction between confederacies and federations, Deutsch (1980:189), reveals *inter alia* that states often may secede from confederacy if their own governments or voters so desire, whereas such secession is not permitted in a Federal Union.

Federalism and democracy: A theoretical viewpoint

Africa's new rulers after the independence era realised that while the colonial governors appeared 'omnipotent', they had in fact very fragile bases of power. This led the colonial governors to adopt unitary systems of government which emphasised the penetration and control of sub-national units and the centralisation of authority as against a federal system. In the unitary system, sub-national units look to the centre for the powers and resources. Most African leaders subsequently opted for the unitary system of government with federalism perceived as a crisis escalator rather than a crisis damper (Elaigwu 1994:76).

For countries where the ethnic issue has complicated governance, federalism seeks to address this problem through structures designed to dissipate power, influence and resources. Federalism is thus a framework to ameliorate the disruptive tendencies of intra-societal ethnic pluralism. As a form of political organisation, federalism involves the constitutional division of powers between general and constituent governing bodies so that the jurisdiction and decision-making authority of all within their respective spheres of authority are protected. It allows ethnic groups to exercise significant authority within their own territorial jurisdictions while at the same time providing hegemony for national political institutions (Long 1991:192).

Classical theorists of federalism such as Wheare (1964) and Duchacek (1977) equate federal government with democracy. Ivo Duchacek has

argued for instance that ‘democracy and federalism are always found together [and that] federalism is a territorial dimension democracy ...’ (Wonotanzokan 1994:116). From our theoretical viewpoint, considering the issues of equity and the ethnic imperatives that come with it, federalism is understood not as an end in itself but as a means to an end. Conceived as a means, federalism serves the purpose of providing structures for the management of ethnic diversity through ‘power-sharing’ in multinational states. It is from this perspective that this article seeks to re-examine Nigeria’s federalism with a view to improving on its consociational practice, which though largely unwritten, has proven relevant to its survival.

Fundamental to the crisis of federalism in Nigeria has been the way class interests and class ideology have intermingled with other equally intervening variables like militarism, religious bigotry, ethnicity and accumulation to produce what one may term an ideology of domination (Momoh 1999). This concerns most significantly, the minority groups in Nigeria and their position in the federal equation. Regionalisation was perceived to have accentuated minority ethnic consciousness as it grouped various ethnic nationalities within the then existing three regions of North, East and West (Osaghae 1991:139). Each of these three regions had a dominant ethnic group—Hausa-Fulani, Igbo and Yoruba respectively. Consequently all the other Nigerians became ethnic minorities. In the context of modern day Nigeria and politics, ethnic minority politics has basically relegated the minorities to dominated or subordinated groups who oftentimes took solace in engaging in ‘spoiler politics’. Not surprisingly, many of these groups are in the forefront of the calls for a restructuring of the Nigerian federation. Minority agitations over power, representation and control over resources pose fundamental challenges to the ‘nation-state’ project in Nigeria.

A review of Nigeria’s federalism

Like other federations created by Britain, and in the quest for economic and imperial gains in foreign lands, totally dissimilar or diverse peoples—diverse in culture, religion, ethnic and tribal groupings—were brought together under one political umbrella (Nwankwo & Ifejika 1969).

The above extract succinctly captures the major historical and causative factor for the seemingly intractable problems associated with the nation-state project in Nigeria (Olukoshi & Agbu 1995). The evolution of Nigerian federalism can be traced to the beginning of the colonial Nigerian state,

which was wrought through the amalgamation of the separate colonies of Northern and Southern Nigeria in 1914. Severally denounced by politicians and even some of the 'nationalists' as the 'mistake of 1914' or as a 'geographical expression', Nigeria and its travails can indeed correctly be attributed to the imperial machinations of the British colonialists. By the grace of the British government, Northern Nigeria, one of the three regions of pre-independence Nigeria, had a size and population larger than that of all the other regions put together. By this fact, the control of the central government became rather permanently stuck in the hands of the North which was more amenable to British influence than its Southern counterparts (Nwankwo and Ifejika 1969:2).

The British colonial government acted as if it was unaware that Nigeria's most basic problem then was sub-nationalism—a term which denoted group loyalty or group solidarity along ethnic, linguistic and cultural lines. This predisposition to tolerate the problem of sub-nationalism appeared deliberate as Lord Fredrick Lugard, the then Governor-General of Nigeria, tolerated Northern conservatism in his anxiety to adopt the system of *indirect rule*. According to Nwankwo and Ifejika (1969:258), the North was encouraged to look different and to develop along its own lines, and the natural consequence of this policy was that the North did not feel itself to have anything in common with the South. Hence even the common experience of colonial tutelage became an additional factor of divergence rather than a basis for unity. It is particularly interesting that Nigeria's federalism is not supported by either geography or natural factors.

Let us recall that it was in 1954 that the colonial state functionaries and 'nationalists' arrived at the consensus that federalism was the best form of power-sharing for the country. However, according to Gana (1999:1), the choice of the federal formula was informed not so much by the intrinsic qualities of federalism as a mode of exercising authority while simultaneously accommodating irredentist claims to cultural autonomy, as by the realisation, especially within the ranks of the southern segment of the nationalist movement, that it was the best deal they had for wresting independence statehood from the British. In addition, the East and the West obtained their self-governing status in 1957, and the North in 1959. Each could have opted to go its own way at this period without so much opposition, but this did not happen. Even the Mid-West decided to remain as a constituent unit of the Nigerian federation in 1963. It is instructive to note that none of the federating units became parts of a federal Nigeria at this period in time to forfeit their independence.

During this period, there appeared to have been a preference for the Wheare model of federalism by the 'nationalists', which canvassed a co-ordinate division of powers between the central and state governments, in which none is necessarily superior, but have their spheres of influence (Wheare 1964). The demand for 'true federalism' and the Wheare formula was more vociferous in the Eastern and Western regions which incidentally had the highest increases in revenues between 1953 and 1960, recording increases of 214 percent and 247 percent respectively as against 94.4 percent for the North and 74.4 percent for the central government (Dudley 1966:17). The point that one can infer from the above is that the regions wanted to be as independent as was possible. Therefore, national integration could not have been a priority to the successors of the colonial government. In fact, it is a miracle that the Nigerian experiment has lasted as long as it has, because as was observed by Jennings (1954:40) the choice before the parties to the independence contract was not between a good, effective and efficient government and a bad, inefficient one, but between having a government at all or not having one (Gana 1999:14). In the post-independence period, Nigeria could at best be described as constituting a military federalism (Elaigwu 1979:177), which is in fact, a contradiction in terms, as the reality was that federalist intentions were transformed into a unitary command under military rule.

On the position of the various minorities in the Nigerian federation and their impact on the processes of federalism, the Federal Military Government of Nigeria had the following to say in 1967—'the failure of the Nigerian constitution at independence in 1960 to recognize the strong desires of the minorities and other communities for self-determination affected the balance of power at the centre, and that this deep-seated imbalance "plagued" the first Republic throughout its life' (FMG 1967). Subsequently, what is called minority politics has increasingly become a major equation in the federalist calculations in Nigeria. Beginning with the Sir Henry Willinks Commission in 1958, the observation that minority groups should be accorded the same primacy in matters relating to the recognition of group rights, the distribution of state power and development, increasingly became current. This is because it appears that over the years the three major ethnic groups of Hausa-Fulani, Igbo and Yoruba had together exercised control and dominated the dynamics of Nigeria's politics and the direction of growth. In more recent times, oil and the demands of the oil-producing states have been at the heart of the clamour for the restructuring of Nigerian federalism. Some of the perceived injustices, according to the minority groups, include institutionalised social inequality,

denial of access or rights to their citizens of the oil-yielding land which is theirs, from water and other resources derivable from it, economic restitution for the degradation of the eco-system in the Niger-Delta and in short, the control of resources within their territory. Whilst initially the response of the federal government was piecemeal and the situation gradually tended towards ethnic militancy and outright demands for internal self-determination by aggrieved minority groups, the situation has improved significantly under the democratic dispensation. The National Assembly passed a Bill which empowered the Federal government in 2001 to establish a comprehensive development programme for the Niger Delta to be supervised by the Niger Delta Development Commission (NDDC). Since then, the NDDC had executed over 800 projects that directly benefitted the peoples of the Niger-Delta still the agitations for economic restitution continue.

Below is a bird's eye-view of the various phases through which Nigerian federalism could be said to have passed:

Phases in Nigeria's Federal Practice

Phase	Type of Government	Federal Practice	Comment
1954–1966	Colonial/civilian Rule	Strong	Functioned fully despite imperfections
1966–1979	Military	Weak	Over-centralization of Public Policies
1979–1983	Civil Rule	Weak	Imitation of Unitarist tendencies of the military
1983–1998	Military	Very weak	Over-centralization of Public Policies
1999–	Civil Rule	Strong	Slow in adjusting to democratic practice

Source: Updated from Peter P. Ekeh (1997), *Wilberforce Conference on Nigerian Federalism*, New York, Association of Nigerian Scholars for Dialogue.

From the table above, it is clear that apart from the 1954–1966 phase, federal practice in Nigeria has been weak indeed as the actual practice of federal governance has not in any way approximated the expectations from the system. This situation has been the same irrespective of whether there had been civil or military rule. This is not to say, of course, that civil

democratic governance is not a more conducive environment for the practice of federalism. Indeed, with the enthronement of democratic governance in Nigeria since 1999, it is expected that far-reaching adjustments will have to be made in the mode of federal practice in contradistinction to what had hitherto been the case.

It is important to note that, Agbese (1999:11) pointedly remarked that despite the emotional attachment to federalism in Nigeria on the grounds of ethnic and cultural heterogeneity, the constituent units of the federation are not based on ethnic or cultural demarcations. He points out that Nigeria is rather a federation of states, and the states do not necessarily correspond to ethnic and cultural distinctions. Although its federalism is stoutly defended on the basis of its ethnic and cultural heterogeneity, its heterogeneity does not form the basis of its component units. Yet, as noted by Olukoshi and Agbu (1995:97), none of the principal forces at the forefront of the campaign for the reconfiguration of the federation has seriously advocated the complete dismemberment of the country or the dissolution of Nigeria as a country. Nevertheless, insensitivity to the demands of aggrieved groups and the lack of social justice may make this radical step a political option. The reality remains however: that whether Nigeria is a historical accident or a mere geographical expression it is still a political entity and has over the years assumed a character of its own. Dismemberment of the country may not necessarily solve the problem of nation building, as minorities will still be created within the new states. The thrust in this article is to explicate the character and dynamics of nation building in divided societies like Nigeria, and thus be able to offer explanations and possible recommendations. This is by no means an easy task, for as Abubakar Tafawa Balewa, Nigeria's first Republic Prime Minister said to Harold Wilson, the British Prime Minister: 'One thing only I wish for you, that you never have to become Prime Minister of a federal and divided country' (Kirk-Greene 1975). A few days later, the first military coup d'état took place in Nigeria on January 15, 1966 and Balewa fell a victim to it.

Persisting problems in Nigeria's federalism: The national question still unresolved

Major problems still persist in Nigeria's federal practice, and the 'National Question' remains unresolved. To date many Nigerians do not feel quite at home with the 'Nation Project', and are still waiting for the day when they can truly have a sense of belonging to the entity called Nigeria. This fact was clearly manifest when the late multi-millionaire politician,

Moshood Abiola, was set to win what could have been a landmark Presidential election on June 12, 1993, only to have it annulled by the military constituency. Had this not been the case, Abiola's victory would have cut across ethnic, regional, and religious boundaries, which had never happened in the previous elections, and would have positioned the country firmly on the path to real democratic governance. As it were, this 'window of opportunity' was allowed to slip by, once again calling into question the basis for unity in the country (Akinola 1996).

Again, people like the late Major Gideon Orkar and his men were to remind us about the fragility of the Nigerian state when in April 1990 they made a statement through an aborted coup d'état against the Ibrahim Babangida ruling junta. Their objective, they claimed, was not just a coup but a revolution planned and executed for the marginalised, oppressed and enslaved peoples of the middle belt and the south who had for long been oppressed and colonised by a small clique of people. They even went as far as announcing the excision of five supposedly culprit states of Sokoto, Borno, Katsina, Kano and Bauchi from the country, considered to be a grave mistake on their part as far as the timing was concerned (Agbese 1999:18). The announcement jolted would-be supporters from the excised states both within and outside the armed forces and made them enemies rather than compatriots. This notwithstanding, the point had been made. There was something wrong with the structure of the Nigerian federation, so wrong that aggrieved individuals were willing to risk their lives to put it right.

By 1994, the ruling military oligarchy had been sufficiently mortified, especially in view of the opposition from civil society (Agbu 1998), and with the restiveness of the minority groups in the Niger Delta, they were now willing to organise something close to a national conference. But the conference lacked the required legitimacy, with many in the western part of the country from where embattled Abiola hailed refusing to participate in the process. Nonetheless, the conference came up with some important recommendations, with the most important being the recommendation for a 'rotational presidency' which implied a sort of power-sharing through geo-ethnic power balancing (Uwazurike 1997:330). Other recommendations included the restriction of the President to a single five-year term and a multiple Vice-Presidential system in a French-style Presidential/Parliamentary arrangement. Some of these recommendations were later dropped and others enshrined in the aborted 1995 constitution.

In terms of concrete issues, the creation of states has over the years been a major bone of contention and one of the most politicised aspects

of Nigeria's federalism. All too often, each government that came to power invariably decided to leave a legacy by creating additional states. This was also a way through which the various military regimes rewarded loyal officers and men and their civilian supporters by creating public offices for them. This was usually done without rational considerations as to the political and economic implications involved. Hence, from the creation of the mid-West region (later, a state) and a four region structure from 1963 to 1967, the country now has a thirty-six state structure including a Federal Capital Territory (FCT) at Abuja. An explanation for this phenomenal increase in the number of states as constituent units from 12 in 1967, 19 in 1976, 21 in 1987, and 30 by 1996, to the present structure, is that the dominant ethnic groups rightly or wrongly believed that this was a way of gaining access to more of the national appointments, and the fiscal and other resources from the centre. Usually such access depends on the bargaining ability of the elite from a particular ethnic group. Basically, the implication of the above for Nigeria's federalism is that the system is not being practised the way it should be and there is the imperative for some sort of re-structuring of the system in such a way that the states do not have to rely so much on the centre for their survival.

On the federally collected revenue and the revenue allocation formula, again, the trend has been for the elites to try to influence or manipulate the formula in such a way that it benefits them. Note for instance that from the initial use of the principle of derivation in the early to mid-1960s, the more recent practice is the use of the principle of equality of states with land mass and population as more important criteria. Of course this makes for inter-governmental conflict, as land mass, for instance, cannot on its face value be more relevant than derivation. It has been argued that the principle of derivation was unjustifiably de-emphasised because of the shift in revenue generation from the majority groups that are more politically powerful to the minority areas that are comparatively weaker politically (Mbanefoh and Egwaikhide 1998). In fact, according to Quaker-Dokubo (2000), while in March 1969, 50 percent of both off shore and on-shore mining rents and royalties were allocated to the state from which they derived, by March 1979 only 20 percent of on-shore mining rents and royalties were allocated on the basis of derivation. The derivation principle was subsequently expunged from the revenue sharing system in 1979 based on the recommendations of a Technical Committee on Revenue Allocation. As expected, the issue of revenue allocation has provided the primary arena for distributional politics and struggles in the Nigerian federation. In more recent times, this issue has revolved around

the following—the conflict among the federal, state and local governments; tensions among the states and their localities, tensions between the oil-producing states and the federal government on the one hand, and between the federal government and the other states over revenue matters (Suberu and Agbaje 1998:342). Put succinctly, Nigeria's current revenue allocation principles and practices are a recipe for inter-ethnic tension and intergovernmental contention (Suberu 1997:347).

The distributional pressures associated with Nigeria's federalism have also found expression in the politicisation of censuses. All of the post-independence censuses held in 1962/63, 1973 and 1991 have provoked intense controversies similar to that generated over the states creation issue. Again this is so mainly because of the demographic implications of census figures both for electoral advantages and revenue distribution. The Nigerian public has been made to believe that its ability to gain access to good roads, pipe-borne water, schools and other miscellaneous amenities is largely dependent on the outcome of the census figures. It was noted, however, that the 1991 census owing to its astute design and execution generated far less controversy as religious and ethnic questions were excluded from the questionnaire (Suberu 1994:62). This was only comparable to the pre-independence 1952–53 count in not being too controversial. In spite of this, the tribunal set up to investigate complaints arising from the 1991 census still had to contend with a total of 131 petitions involving 27 out of the then 30 states. In fact, no one is really very sure of either the total population figure or its breakdown. The population figure could range from 110 to 130 million people. Again, this is because of the over-politicisation of population issues.

Another very controversial matter in Nigeria's federalism is the citizenship question. Many Nigerians do not feel that they are truly citizens of Nigeria in the sense of having and being able to claim privileges as citizens within the country. Nigerians who reside in a part of the country different from their home states face political, social and economic discrimination in several forms, which ideally should not be the case in the type of federal system in operation. As Nnoli (1995:159) observed, the long residence of a migrant in a community is no guarantee that he or she may ever hold any political office in that community. As a matter of fact, many migrants do not participate in political activities in their places of migration; rather they register to vote in their home states and return to do so during elections, and also during periods of censuses. Although they may pay taxes in their communities of residence, they still experience discrimination in the enjoyment of public amenities, like the enrollment

of their children in state-run schools, employment, housing and even scholarships. This situation was aptly depicted by the case of a married woman who was denied a scholarship solely because her state of birth, Kaduna state, insisted that she had lost her indigeneity by marrying a man from Benue state. Ironically, the husband's state, Benue, also held that she was a native alien and, therefore could not be considered (Nnoli 1995:159). It is therefore clear that the citizenship question is a serious and sensitive matter in any attempt at addressing Nigeria's distorted federalism. As Ayoade (1998:17) has remarked, the denial of status to a woman in her husband's home state is a grave issue that should be central to considerations of citizenship rights in a federal system.

Added to the afore-mentioned issues is the role of religion both as a political instrument and an organising principle to the detriment of the federal enterprise. Given that Nigeria harbours a predominantly Hausa-Fulani Muslim North and predominantly Christian Igbo/Yoruba minorities in the South, the potential for politico-religious conflict is high. This situation is not helped when the government itself consciously gives prominence to one religion as against another. Previous constitutions, and the more recent 1999 Nigerian constitution, incorporated the principle that 'the Government of the Federation or of a State shall not adopt any religion as State Religion' (Section 10). In spite of this expressed provision, the Ibrahim Babangida ruling junta in 1986 secretly enrolled Nigeria into the 45-member Organisation of Islamic Conference (OIC), oblivious of the implications this may have on the country's secularism. As expected, Christian-Muslim antipathies have been heightened since then with all of the aforementioned contentious issues, including electoral politics, now critically viewed or perceived also through a religious prism. The recent resort by a section of northern politicians to fan the embers of conflict and further politicise the issue of the Shari'a legal system by encouraging and allowing some state Governors to officially adopt it as state policy for political ends indicates that these politicians have learnt little from the country's recent history. There is therefore very little doubt that Nigeria's federalism faces very grievous challenges, which have to be addressed collectively in the search for a more acceptable arrangement.

Post-transition politics: Federal character, federalism and the 1999 constitution

Now that Nigeria has a democratic government, how does this impact on the need to resume the march towards 'true federalism'? Does the National Assembly have the political will and the constitutional capacity to engage

in reforms? There is little doubt that the environment for governance and politics has changed significantly for the better in contrast to the authoritarian and dictatorial environment under the preceding military regimes, especially that of Sani Abacha. Though many Nigerians expect immediate and far-reaching changes in the polity, this may not easily be realisable in the near future as many of the problems facing the government have their roots in the past.

The background to the character of the immediate post-transition political environment could be traced to the manner in which the President-elect, Olusegun Obasanjo, became President. The belief was that due to the June 12, 1993 annulment of the Presidential elections which shook the confidence of the rank and file of the people in the country, the dominant and ruling political elite sensing a very serious threat to the survival of the Nigerian state, their principal source of primitive accumulation, decided to assuage the feelings of the Yorubas by allowing for a Yoruba ticket in the Presidential elections of 1999. This was in a way the realisation of the 'Power shift theory'. According to Ibrahim (2001:2), a political pact had been worked out by the political class in which Northern politicians, whose constituencies are a numerical majority in the country, agreed not to contest the Presidency so that a Southerner would emerge as President, and political tension would be calmed down in the country. Hence, the two candidates that emerged as candidates from the Northern dominated party; the Peoples Democratic Party (PDP) and the All Peoples Congress (APP)/Alliance for Democracy (AD) coalition, were both Yorubas, and Obasanjo emerged as winner.

The first two years of the Obasanjo Presidency were not easy, as he had to address a myriad of issues which included rising unemployment, fuel scarcity in an economy whose mainstay is petroleum, entrenched corruption in high and low places, the issue of resource control, religious conflicts, the problem of insecurity and the haziness surrounding the constitutional provisions of the functions and tenure of local governments as contained in Section 7 Sub-section 5, 6(a) and 6(b) and more elaborately in the Fourth Schedule of the constitution. On the issue of resource control for instance, the oil-producing minority states have found the rather deficient response of the Obasanjo administration to their demands offensive, even with the creation of the Niger Delta Development Commission (NDDC). This commission is expected to be the lynch-pin for a comprehensive development programme for the Niger-Delta, with a substantial amount of money budgeted for its activities. On the other hand, the Igbos of the east central area of the country are still complaining of

marginalisation in the power equation and in the distribution of federal amenities, and therefore demanding some sort of redress from the centre. In the North, the current threat to the federal experiment is the introduction of the Shari'a legal system and its potential for conflicts between Christians and Muslims. It appears that the northern political elite, feeling the loss and perquisites that follow from the control of the centre for the first time in a long while, unearthed the Shari'a issue as a trump card for purely political ends, both for the immediate and distant future. In February and in June 2000, there were bloody conflicts between Muslims and Christians in Kaduna, in which many lives were lost and property destroyed. Still rather insensitive to the real and potential conflict that the introduction of this issue has generated, the Executive Governor of Kaduna state announced also the intention of his government to introduce the Shari'a legal system in areas with a large concentration of Muslims in the state. The Federal government simply maintained a studied silence since the Shari'a issue was obviously a political trap. There were also clashes in Jos and in Lagos in September and October 2001. The government subsequently took these disturbances more seriously with the deployment of armed personnel to contain the crises in each instance. Added to all these is the recent phenomenon of ethnic militancy which basically questions the ability of the Nigerian state to protect its citizens. There are now militant groups like the Oodua Peoples Congress (OPC), Arewa Progressive Council (APC), and the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) and many others in the Niger Delta Area, all purportedly prepared to defend the interests of their ethnic groups.

The federal principle shepherded by the Federal Character Commission has been the main response of the Federal government towards addressing the distortions in Nigeria's federal practice. Still retained in Sections 14 (3–4) of the 1999 Constitution, this principle states *inter alia* that

The composition of the Government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in that Government or in any of its agencies.

According to Nnoli (1998:151), historically this means balancing the North and the South—Igbo, Yoruba, Hausa-Fulani, and this trinity as a whole against other minority groups. The emphasis appears to be on the sharing

of benefits and privileges that come with participation in government. It therefore appears that there is the absolute necessity for a fundamental re-visit of the whole issue of 'federal character' with a view to ensuring that the negative effects do not exceed the positive since the strategy appears to be just a palliative. The fundamental problem of Nigeria's federalism still remains the over-centralisation of powers and resources in the national government, and the destructive and divisive struggles for the control of the centre that this centralisation invariably engenders (Ekpū 1994:6). In the interim, while power-sharing arrangements are rational, in the long run, the key challenge for constitutional design in Nigeria is the elaboration of strategies for decentralising or redistributing powers and resources.

The Nigerian constitution, in fact, has been changed at various stages but without yielding satisfactory results. The independence constitution of 1960 and a revised Republican constitution in 1963 to a significant extent captured the aspirations of Nigerians at the time. The people and their representatives carefully worked out these constitutions after a series of conferences involving negotiations and compromises. As was usual, the military's first response on taking over power was to suspend certain portions of the constitution considered to be at variance with their ability to enjoy unchallenged power and authority. Indeed, previous military regimes sponsored four constitutions that would apply to civilians after supervised transitions to civil rule. These were the 1979, 1989, 1995, and the 1999 federal constitutions. Not surprisingly, the 1999 constitution has exhibited glaring shortcomings, which are now creating problems for good governance and federal practice in the post-transition democratic environment. Retrospectively, under military rule, the Federal Government overloaded itself with roles and responsibilities that rendered its performance unsatisfactory (Ekeh 1997:8). Therefore, a reform of governance calls for a reapportionment of new autonomies for the states and local governments. Some of the issues that immediately come to mind include the question of the creation of states, control of the police force, resource control and derivation, and the proper constitutional provisions for the Local Government Councils. Though there have been vehement calls by some state governors for state control of the Nigeria Police, especially in the light of serious security concerns, the issue does not appear to be a priority now. Since Nigeria is adjudged as politically immature at present, putting the control of the Armed Forces or the Police into the hands of biased, intolerant and sometimes illiterate government officials will amount to courting incidences of ethnic cleansing or politicides.

Still new areas of contention between the Federal Government and the states keep emerging. Note for instance, that although judicial matters are in the Concurrent list, the Federal Government in a statement by the Chief Justice of Nigeria in 2000 stated that it would formally take over the payment of all federal and state judicial officers. This decision of course raises serious problems about the country's federalism even in a supposedly democratic environment (*Vanguard* 2000). The problem of the Local Government Councils is particularly explosive with political implications because the ruling party, the Peoples Democratic Party (PDP), is exploiting the lack of constitutional clarity to pass an electoral bill extending the tenure of elected Local Government Chairmen from three to four years. This step eventually led to the Presidential elections being held first before the other elections in 2003. Though the thirty-six states with their States Houses of Assembly rejected this bill and went to court, the Senate and the House of Representatives with a PDP majority in both Houses passed the bill, which was obviously most unpopular (*The Guardian* 2001). In view of the implications of this action for Nigeria's nascent democracy, civil society organisations, including the Human Rights Groups and the Campaign for Democracy, warned all stakeholders in the Nigerian Democratic Project to be wary of the consequences that may arise from this controversial bill. It is now left to President Obasanjo using his discretion to either give assent to the bill or deny the passage as provided for by the 1999 constitution. The point is that Nigeria's federalism is being put to test on a more frequent basis in the new democratic environment and will continue to be put to the test until the necessary changes required for an acceptable federal system are worked out. The calls for a Sovereign National Conference are still loud, coming this time around from the Middle Belt, the Niger Delta, the West, and the East. It is a call that has refused to go away, while the Senate, the principal law-making organ has refused to heed to these calls on the grounds that they are the legal representatives of the people and can therefore be relied upon to make the relevant laws for the governance of the country. But bearing in mind the fact that the 1999 election was one in which Nigerians just wanted to get the military out of power at the expense of electing their true representatives, are these Senators and members of the House of Representatives truly the peoples' voices?

In terms of the review of the 1999 constitution, the government put in motion a review committee which called for memoranda on inputs into the constitution with a view to amending portions that were problematic.

A zonal presentation of the constitution was embarked upon and is expected to provide the basis for its eventual amendment. The result has been made available to the federal government, but is yet to be implemented.

Taking the bull by the horns: Re-inventing federalism in a democracy

What then are the prospects for a realistic federal system in Nigeria? Considering the political and economic dimensions of this problem my position is that it is now time for the politicians and all stakeholders to take the bull by the horns and do what should have been done long ago - something which appears to be taking shape gradually. This is the rational decision of designing some power-sharing arrangement for a period of time, with the possibility of its being renewed subject to the existing circumstances. This I think is absolutely practicable, as it ensures that as many diverse groups as possible within the polity have the opportunity or the belief, even if this is only psychological, of participating actively at the highest levels of government. I know that the idea of 'power-sharing' or some sort of consociationalism has been significantly criticised in the literature (Powell 1982; Jackson and Rosberg 1984; Joseph 1991; Suberu and Agbaje 1998). However, this idea should not be totally disregarded, as it could still be relevant in particular situations. It has been considered undemocratic and restrictive of choice in public leadership. It has been further argued that it is not a guarantee of political stability or bulwark against military intervention, and lastly that it is a formula for sharing power at the elitist level without addressing the yearnings of the masses at the bottom of the society (Akinola 1996:xiv). In addition, it has also been seen as detracting from the putative role of federalism and presidentialism as integrative institutional mechanisms. Some argue that it rather serves as an instrument for reproducing or reinforcing the country's inherent ethnic divisiveness and competitiveness (Suberu 1997:345; Joseph 1991; Madunagu 1993:13). My response to these fears remain the same. We must move from the actual to the ideal. We must exhibit the required courage to devise political systems that suit the demands and ethnological composition of the particular society. To this extent, 'power-sharing' still offers representation to marginalised segments of the society at the strategic and highest levels of decision making. The consociational theories of Lijphart (1977) indeed, perceive this intervention in terms of the 'segmental cleavages' of plural societies and the imperative of 'elite cooperation' drawn from the various segments. It reiterates the necessity for a high degree of autonomy for each of the separate segments, federalism

or provincial devolution as well as the principle of proportionality in legislative, administrative and executive appointments being crucial ingredients for stability. Permit me to remind you of the underlying philosophy of the much admired but also reviled scholar and diplomat, Niccolo Machiavelli, who in conceptualising *The Prince* had this to say:

The gulf between how one should live and how one does live is so wide that a man who neglects what is actually done for what should be done learns the way to self-destruction rather than self-preservation.

There is clearly the need to be more realistic, as recent experiences in political governance not only in Nigeria, but also in many other parts of Africa like Ethiopia and Chad, clearly indicate the need for rational political inventions and independence of thought in designing governmental structures. I believe that the strategy proposed here makes for short-term stability, which is necessary for institution building and development. Without some semblance of stability in our quest for the proper practice of democracy in the post-transition period, very little may actually be achieved in deeply divided societies like Nigeria. So far, Nigeria has been able to have a workable democracy since 1999 because of the conscious decision by the northern politicians to allow a power shift elsewhere. This is what is meant by arguing that the political will must be there for the system to work. Indeed, this type of political will is aptly captured in an Igbo adage, which literally translated goes thus: 'Let the hawk perch, let the eagle perch too, but let the one which prevents others from perching lose its feathers'. However, the desire is for none of the birds to lose its feathers, rather it is for each of the birds to stick faithfully to the agreed perching formula. The survival of Nigeria's federalism and democracy is inevitably, inextricably, tied to the designed and acceptable framework and the dynamics of relations generated between the various stakeholders.

Although the original idea of Nigerian federalism did not derive from the existence of ethnic and cultural pluralism per se, it has since become an article of faith that the country's size and ethnic complexity make federalism imperative (Aborisade and Mundt 1998:117). This is because all things being equal, it allows for political participation and decision making with the different groups empowered to deal with their own problems. Federalism does indeed provide the umbrella for political inclusiveness if practically designed and implemented. It is fairly common knowledge that there is a strong anthropological basis for representation through conscious geo-political inclusiveness. This is in tandem with the

deep-seated African sense of justice and fair play, which is highly suspicious of the logic of majoritarian, zero-sum power divisions (Uwazurike 1997:334). Therefore, the particular complexion which a country's federal system assumes should reflect its diversities, historical experiences and the disposition of its peoples at the particular point in time in such a way that some compromise exists between local particularisms and national objectives (Agbaje 1998:124).

Any constitution designed to address the above must be able to draw from the history and ethnological realities of the country. The British and American models, which Nigeria had copied in the past, failed to take these into consideration. Akinola (1996:13) observed that it was in recognition of the ethnological factors of Nigeria and the experience with the parliamentary system that the defunct National Party of Nigeria (NPN) constructed a model of 'zoning' designed to alternate the geo-ethnic origin of the Party's Presidential, Vice-Presidential and Chairmanship candidates from one election to the other. In spite of the fact that the National Constitutional conference of 1995 lacked legitimacy, it was able to garner support from the cross-section of the delegates on the necessity for 'power rotation'. Consequently this was recommended in the draft constitution of 1995. The point remains that for all its continuing ethnic tensions and violence, and for all its increasing distortions, federalism in Nigeria has been the main factor preventing the recourse to civil war (Diamond and Plattner 1994). Today, federalism in Nigeria can imply either one of the following – negotiated settlement of contentious issues as in the creation of the mid-west state in 1963 (Vickers 2000), or the outright splitting of the country into as many realistic political entities as is possible (Ekinch 1997:12).

I therefore argue that there is the urgent imperative for the institutionalisation of 'zoning' and 'power rotation' in Nigerian federalism. So far, this unwritten practice has ensured some stability in the political environment, thereby allowing for some sort of consolidation. The six geo-political zones as have been suggested by many and consciously or unconsciously adopted by the ruling Party, the People's Democratic Party (PDP), are quite appropriate. These zones are the North-East, North-West, South-East, South-West, North Central and South-South zones. The North Central and the South-South zones largely represent the minority ethnic groups. The presidency in a federal and democratic Nigeria should be rotated amongst these zones following a sequence, which puts into consideration the frequency or number of times a particular geo-political zone had produced the President. This idea of rotational Presidency ensures

that each zone is able to produce the President within a particular period of time and that the representatives of the diverse groups of people are given the opportunity to participate in government, which the normal zero-sum electoral process cannot guarantee. This experiment could last for an initial period of 30 years during which period it would be decided whether it is worth extending or not. Meanwhile, the political dynamics within the various geo-ethnic zones but cognisant of the constitutional stipulations of the revised constitution should be able to throw up the Presidential candidates from within the parties. If politics is the art of the possible, then it will be right to argue that political problems should be approached from the stand of what is, rather than from what ought to be. This arrangement, which is already in practice, though unofficially, guarantees the stability required for institution building and economic development in the short run. This is a device and a solution, which we must not allow received knowledge and intellectual arrogance to becloud. Short of a revolution, a rotational Presidency may be the only solution to the problem of lopsided leadership by any particular segment of the dominant and ruling political classes in Nigeria's chequered political history. On the whole, the above recommendation is feasible if the present strong federalism remains, but where it is loosened and weak, then zoning to the Presidency may not be all that important (Agbese 1999).

Experiences from other countries

Experience in the practice of federalism from other countries around the world shows that it is possible to get clear signposts from which one can design appropriate systems of governance. India, for instance, is a strong federation and officially secular in religious terms, but over the past decades, despite enormous pressures, it has been remarkably successful in accommodating diversity and managing ethnic conflicts through democratic institutions. In India, federalism has provided the avenue, however flawed, for expressions of cultural distinctiveness, while also compartmentalising friction (Hardgrave 1994:72). Problems of ethnic and religious conflicts have been solved when political and group leaders tackled these problems through accommodation, bargaining and the political process rather than through force. To a significant extent what is akin to the federal principle can be found in the affirmative provisions of the Indian constitution in Articles 25–30 and again in Article 330 and 335. In these Articles, special provisions are made for freedom of religion (Articles 25–28), conservation of distinct languages (Article 29), freedom to establish and administer educational institutions of choice (Article 30),

and civil and political rights for so-called scheduled castes and aboriginal tribes (Articles 17, 330, and 335) (Hardgrave 1994:73).

A good example to buttress the fact that a rational and realistic approach to the political configuration or re-configuration of federal governance is most appropriate is Switzerland. This country was for more than five centuries an unstable confederacy until it evolved a system of a collective Presidency in which leadership is rotated annually. Since 1803, when Napoleon through his Act of Mediation intervened to unite the warring cantons, Switzerland has remained not only democratic but also progressive with four major political parties (Akinola 1996). In the case of Canada, another tested federal state, responsible government was achieved in 1848 by an alliance of English and French 'moderate Reformers' who as a result of the practical political, cultural and linguistic problems facing the settlers decided to work out sensible arrangements for governing the territories. These arrangements were with respect to the sharing of power, the role of the churches, landholding, schools and universities, which are today the basis of Canadian life (Forbes 1994:87). Surely, the continued existence of Canada as a single state would not have been possible without the bargaining and compromises with respect to power, and the protection of languages and the minorities. In the American case, the problem which the Americans were confronted with prior to the adoption of the Federal Constitution of 1787 was how to reconcile the fears of the smaller confederate states about the dominance of the larger ones. This issue was resolved by a decision to have two Houses, the Senate and the House of Representatives. Whereas the principle of equality in representation was upheld in the Senate, in the House of Representatives emphasis was placed on population. This is the model that Nigeria has adopted. Although popular, the experience is that it embodies a strong central government, which is to the detriment of many weak states whose weaknesses have intensified with each round of state creation. Hence there is the need for a re-structuring of the federation especially in terms of the devolution of powers from the centre to the component units.

In the Ethiopian case, the federal system has been presented as an attempt to prevent ethnic struggles in the country. In 1991, ethnicity was taken as the sole criteria on which to draw a new administrative map, with the final result being a country divided into nine regional states and two cities with special status: Addis-Ababa and Dire-Dawa (Serra-Horguelin 1999). Self-determination, including 'the right to secession' is the most striking feature of the 1991 constitution and this has raised fears

amongst observers as to the ability of the new system to survive (Gudina 1994). The new constitutions framed between 1993 and 1994 introduced new concepts in the Ethiopian political system like federation, devolution and the rights of ethnic minorities. Land and national resources according to the constitution belong exclusively to 'the state and people of Ethiopia' (Article 40.3 and 89.5). The states are allowed to administer the resources within their jurisdiction under the supervision of the Federal Government. The general principle is that the member states receive all the powers that have not been given expressly to the Federal Government. The prime minister is selected from among the elected representatives of the various Parties. So far, this system has worked for over a decade to the surprise of many who had predicted doom. Again, the lesson is that there is nothing wrong with reasoned re-structuring of political systems to reflect the reality on the ground. This is why the case is being strongly advocated for the formalisation of the zoning and power sharing arrangements proposed for Nigerian Federalism.

Conclusion

Though the internationally desired majoritarian electoral process with its zero-sum feature may be the vogue, the reality on the ground dictates that what is required in Nigeria is to set in motion a democratic machinery for the re-structuring of the Federation along the lines proposed. Anything short of this may actually be postponing the evil day, as experience teaches that this is fraught with danger, unless a system is designed that can ensure the devolution of powers from the centre to the states and local governments which are more accommodative of the peoples' interests. A leaner but more capable centre, economically empowered states and Local Governments, zoning and the rotation of the Presidency and other key Government positions, and political sagacity are what Nigeria needs to bring about unity, a sense of belonging, amongst its diverse peoples, and to ensure its future. This recommendation is being made against the background of Nigeria's federal experience extensively discussed in this article. In short, Nigeria's federalism appears to have been in motion, but without really moving forward. It is time not only to recognise, but also to summon, the necessary courage in constitutionally designing a power-sharing arrangement as a short-term panacea to the problem of nation building in Nigeria.

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Rethinking East African Integration: From Economic to Political and from State to Civil Society

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Abstract

This essay takes cognizance of the fact that integration, which entails the establishment of some structural conformity, is an important variable in the process of development. It traces historical efforts at integrating East Africa since pre-colonial times, explaining the changing nature of social and economic relations. The paper argues that state-driven efforts to integrate Africa in the colonial and early post-independence period militated against local patterns of cooperation in the East African sub-region because these schemes emphasised economic development. In any renewed effort toward integration, the emphasis ought to be laid on political debates and the participation of civil society in new forms of integration. By allowing greater participation of individuals in sub-regional constitutional amendments, the region could enhance regional citizenship, mutual co-existence and provide an impetus for greater economic development. Moreover, a bottom-up approach to the question of citizenship would guarantee self-respect and security among the peoples of the region, and also lead to long-term political and economic security.

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Résumé

Cet article reconnaît que l'intégration, qui correspond à la mise en place d'une certaine conformité structurelle, constitue une variable importante du processus de développement. Il décrit les tentatives historiques d'intégration de l'Afrique de l'Est depuis la période pré coloniale, en expliquant la nature changeante des relations socio-économiques. Cet article affirme également que les tentatives d'intégration de l'Afrique au cours de la période coloniale et de la période après-indépendance, étaient défavorables à la coopération dans la sous-région est-africaine, dirigée par l'État. Ces plans d'intégration insistaient sur le développement économique. Du fait que ces plans ont été un total échec, cet article propose une redéfinition de l'intégration. Dans le cadre d'un nouvel essai d'intégration, il faudrait accorder davantage d'importance aux débats politiques, et à la participation de la société civile. En permettant une plus grande participation des individus aux amendements constitutionnels sous-régionaux, cette région pourrait améliorer la citoyenneté régionale, la co-existence mutuelle, mais également favoriser le développement économique. En outre, une approche du bas vers le haut, en matière de citoyenneté, pourrait garantir le respect et la sécurité au sein des populations de cette région, ce qui, dans le long terme, favoriserait une certaine sécurité économique et politique.

Introduction

A move towards East African integration provides space for a wider terrain of social interaction, the self-actualisation of individuals and citizenship within the sub-region. Partnership and collective action is crucial in development, therefore, enlarging the social terrain of interaction could pay dividends in economic and political terms. However, this will be achieved only if an adequate policy reformulation on the terms of integration is undertaken to lessen distinctions that ascribe specific characteristics to different states of East Africa, characteristics that define individuals as Kenyans, Tanzanians or Ugandans. The constitutionality of integration must be worked out in terms of a reasonable theory of integration; one that provides for a shared space to pursue socio-political and economic activities across national borders, a space that transcends the concerns and interests of top political leaders.

The last decade of the twentieth century provided us with evidence of the collapse of numerous states and sharpening of ethnic strife globally, as in the case of Eastern Europe. This development has given rise to a need for avenues to reinforce common identities, which lessen the likelihood of violence and insecurity in sub-regions worldwide, and help promote a framework for cooperation (UNRISD 1994). I will argue that East African residents can draw from new trends in globalisation to make

their national borders more porous, instead of just being obstacles to human interaction. A good neighborliness approach to their affairs could enable the people of East Africa to resolve the problem of insecurity that has dogged the politics of the Great Lakes region (Salih and Murkakis 1998). A new attempt toward integration could enable citizens of the sub-region to stabilise, enhance and realise the full potential of their human resources for progress and development. This would also lessen the problem of refugees, which has impacted severely on the process of development in East Africa. Indeed, East African states have previously concentrated refugees from Rwanda, Burundi, Uganda and Somalia in the various camps within the region. In other instances, refugees and immigrants have been denied employment because of their citizenship (see Mamdani 2001; Malkki 1995; Turshen and Twaigiramariya 1998).

However, efforts towards inclusion of East Africans in the process of development would be self-defeating without analysing critically the historical premises on which East African integration was based. Earlier forms of integration emphasised economic factors and the role of the states in alleviating the grave problems of poverty and other social injustices that people experienced. For example, East Africans established inter-state parastatals such as the East African Airways and the East African Railway Services and Ports Authority. With such strong state involvement in the activities of individuals, the East African leaders perceived economic integration and cooperation as a panacea for all ills their inhabitants suffered. Here I suggest, however, that purely state and economic-driven approaches to problems in East Africa are limiting and exclusive—because they focus on the role of the state rather than on the welfare concerns of the people. Instead, I propose a historical approach as a way toward charting a new course for East African integration.

While tracing the history of integration efforts in East Africa, this paper departs from approaches that emphasised economics and the role of the state as mediator of those relations, to propose the encouragement of political debates among civil society in the process of integration. It highlights historical citizenship indicators in East Africa during the pre-colonial, colonial and post-colonial eras and demonstrates how they relate to the current premises on which the renewed efforts of integration are erected.

Pre-colonial societies and integration

The East African sub-region comprising Kenya, Uganda, Tanzania, Rwanda and Burundi possesses a common historical heritage dating back to the pre-colonial period. During pre-colonial times people intermingled

freely without inhibition and restrictions of artificial boundaries of country-specific laws, trading among themselves within the sub-region and beyond. Moreover, they intermarried and related variously, including participating in political affairs of the communities within which they resided. Some Arab and Waswahili traders from the East African coastal region, for instance, established chiefdoms and kingdoms in areas as far as the Great Lakes of East Africa in the nineteenth century prior to colonialism. Paul Tiyambe Zeleza (1993:303) confirms this as follows:

Family, clan and ethnic associations, both real and affected, played an important role in the provision of trading skills, capital and credit, and information. Traders formed alliances in foreign countries through marriage and blood brotherhood. The careers of the famous Swahili and Nyamwezi traders, such as Tippu Tip and Msiri who created commercial empires in Kasongo and Katanga respectively, were built on shrewd alliances with local rulers or people based on either marriage or fictional kinship ties.

They created these empires to secure important scarce items and products of daily use that were not available in the areas from where they came. Furthermore, they needed to purchase goods for exchange in the vibrant export and import trade of the nineteenth century. Some areas in present day Uganda, such as Kibero on Lake Kyoga and Bunyoro, specialised in salt and iron respectively (Gimode 1996:3). Further, in the interior of Africa, traders sought to exchange goods from the Far East (China, India, Persia, Arabia, and Pakistan), such as beads, cloth, utensils with copper, skins and ivory (Horton and Middleton 2000). In the process several ethnic groups, such as Waswahili, Nyamwezi, Akamba and Yao, distinguished themselves as specialists in the enterprise.

The existing political organisation within the region did not deter movement and the co-residential status of people. Whenever residents found it necessary, and in order to benefit from outsiders, local leaders would levy taxes and tariffs, as was the case in the nineteenth-century kingdoms of Mirambo of Wanyamwezi and Kabaka Mutesa I of Buganda. The Akamba of present day Kenya and Yao of Tanzania were similarly engaged in long distance trade that took them far away from their homes for several weeks or even months in parts of central and east Africa. One could also argue that this was a regionally integrated area characterised by expanding commercial networks and good neighborliness.

On another level, adjacent communities such as the Maasai and Kikuyu of Kenya engaged in local trade activities. The Hutu and Tutsi of Rwanda and Burundi co-existed mutually, as well. The colonial system of

governance in Rwanda and Burundi gave the Tutsi who are a numerical minority of 14 percent a lordship-like license to rule over the 85 percent Hutu majority. Whereas inter-ethnic or intra-ethnic differences, disputes and sometimes conflicts between ethnic groups such as the ones between the Hutu and Tutsi or the Maasai and Kikuyu existed, they did not deter the people from pursuing wider communal interests. Ali A. Mazrui (1994:134-136) has described this system as Africa's culture of tolerance, whereby African communities had recourse to their 'cultural attribute of short memory of hate'. By this Mazrui means that the East African peoples accommodated each other readily and forged mutual relationships. This spirit of accommodativeness and ecumenism certainly became an asset for future integration of the region.

The East African communities had built-in mechanisms of conflict management and resolution, having few long-standing differences between themselves. In fact, among the Kikuyu, there is a clan of Maasai origin called *Nyokabi*. Conversely, in the Tutsi/Hutu relationship there existed the *Kwihutura* and *gucupira* institutions that prevented the hardening of lordship-like distinctions, differences that had the potential of giving rise to disaffection against the Tutsi rulership, for instance. Mahmood Mamdani (1996:10) asserts that in pre-colonial Rwanda, the institution of *Kwihutura* enabled 'the rare Muhutu (Hutu person) who was able to accumulate cattle to rise through the socio-economic hierarchy and to shed Hutuness and achieve the political status of a Mututsi (Tutsi person)'. Mamdani (2001:70) adds that 'the loss of property could also lead to the loss of status summed up in Kinyarwanda word *gucupira*'. This is not to say that the *Kwihutura* system, or any other inclusive mechanisms designed to establish the realm of governance, guaranteed the safeguard of human rights in those societies. One can argue, though, that the Banyarwanda upheld citizenship and rights of individuals in the process of governance in pre-colonial societies. Thus, little evidence, if any, exists of pre-colonial East African societies that emphasised the idea of citizenship more than residence.

Colonialism and integration

Drawing on the spirit of cooperation and integration in East Africa, European finance capital gave more impetus to colonial integration efforts. The late nineteenth century was characterised by merchant capitalism, which established trading networks throughout East Africa. On the other hand, the twentieth century was overwhelmed by the spirit of industrial capital for which East Africa was both a market for European manufactures and a source for raw materials and human resources whose aim was to

create wealth to alleviate the economic problems of metropolitan Europe. European colonists in East Africa embarked on a program of systematic integration of the region. For instance, in 1902, the British established the Court of Appeal for East Africa, followed by the setting up the East African Currency Board in 1905 and a Postal Union between Kenya and Uganda in 1911. In 1917, the British colonial administration established a Customs Union.

By 1920, the East African Currency Board (EACB) was already issuing a single regional currency. When Tanganyika was transferred from German to British control, the country used the common currency already established (Gimode 1996:8-9; Secretariat of the Permanent Tripartite Commission for East African Co-operation 1997:1). Thus the British attempted to harmonise their administration and control of native affairs in East Africa. They argued that a stronger political union would be a prerequisite for economic integration of East Africa.

Prominent British citizens and parliamentarians agitated for the Federation of East Africa. Following this, Sir Sydney Henn in 1924 moved in the House of Commons that the East African territories be coordinated. Henn urged the British Secretary of State for the Colonies to send to East Africa a special commission that would report to him on the workability of the policy and services throughout the territories. He hoped that the special commission would also give him advice on how to run the programme of future economic development in the East African region (see Henn 1924). As a result, the British government established an East Africa Commission chaired by Colonial Secretary, W. G. Ormsby-Gore. The commission solicited views from Africans, people of Asian descent and Europeans on federation (see W. G. Ormsby-Gore 1925).

What was surprising, however, is that the majority of settlers in East Africa opposed the idea, save for a few like Lord Delamere. Delamere proposed that there be a Legislative Council with an elected European majority over all parties in the territories of East Africa. According to Lord Delamere, the federation would offer space for the further spread of European 'civilization' from the already relatively 'civilized' European-settled British East Africa, Kenya to Uganda and Tanganyika. From another point of view, though, Lord Delamere and the wealthy European settlers were interested in the labour force that they could obtain from the other territories. Nevertheless, despite the advocacy of federation by the minority rich white settlers, the moderates among the settlers in Kenya were opposed the idea, arguing that it was not the appropriate time. These moderates advocated the establishment of a white-dominated strong central

government in the hope that the federation would follow naturally. On the other hand, Africans vehemently opposed the idea of federation. This is confirmed in Ormsby-Gore's report:

We found little, if any, support in East Africa for the idea of immediate federation, and in some quarters we found definite hostility. We received a memorandum against federation from the King and the native government of Buganda, and discussions which had taken place in parts of Kenya immediately prior to our arrival revealed that the suggestion was viewed with more than a little suspicion by all sections of European opinion in Kenya. All shades of opinion in Zanzibar are hostile to federation and we also received representations against federation from various Indian Associations throughout the three northern territories (Ormsby-Gore 1925:7).

Africans were particularly suspicious of the motives and intentions of the colonists. Instead, they wanted first for their grievances to be considered—for their civil rights to be recognised.

Instead of pursuing the idea of an East African federation, the Ormsby-Gore report suggested that regular conferences of governors and responsible officials of the various departments be held in the territories on a rotational basis. The report suggested that governors from Kenya, Uganda, Tanganyika, Nyasaland (Malawi) and Northern Rhodesia (Zambia) and the Resident of Zanzibar attend the conferences. The governor in whose territory the conference was held would make the necessary secretarial arrangements. The governor of the host country was also responsible for drawing up the agenda for discussion. These governors' conferences dealt with matters of common interest to all territories, including 'native' administration, communications, taxation, land policy and labour, among others.

Ormsby-Gore renewed his call for a greater measure of administrative and political unity in Eastern and Central Africa. In 1927, for example, he persuaded Sir Hilton Young (Lord Kennet) to go out to East and Central Africa as chairman of a commission to look into the whole question of federation or closer coordination between the several governments in that part of the world (Amery 1953:361-362). At this point, the Kikuyu Central Association (KCA) reacted to the proposal by presenting a memorandum to the Hilton Young Commission, rejecting the idea of a federation. KCA thought that a federation of British East African territories was likely to impose widespread domination of the white settler community in the region. These events caused the crusade for federation to slow down, and the integrative effort translated into governors' conferences in the 1930s. The British administrators consolidated the East African Services (EAS)

in areas of as air transport, meteorology, customs, excise and income tax departments. These developments notwithstanding, the general mood in Britain was for the federation.

The end of the Second World War provided an impetus to the revival of a debate on the federation question. The war had made inter-territorial planning a useful ingredient in stabilising colonial control. Britain adopted this strategy in managing its colonies in the post-World War I period, after becoming conscious of the presence of Italy in the Horn of Africa when the latter entered the Second World War in 1940. Britain could no longer assume there were no security threats to its territories from hostile adversaries operating in the Horn of Africa. Consequently, Britain embarked on a strengthening government regulation and coordination of its territories in East Africa (Rothchild 1968b:47). Donald Rothchild has described this situation as follows:

A burgeoning of councils and boards took place around the secretariat of the Governors' Conference. The East African Production and Supply Council and the War Supplies Board are perhaps the most memorable of these transient bodies. These two agencies strove to fulfill allied resource of manpower demands, but they found themselves continually hampered by the *de facto* constitutional basis on which they operated.

In fact, in 1944, the Association of Chambers of Commerce and Industry of East Africa had criticised the existing system, which vested power in the institutions of the individual territories. The Chamber of Commerce argued that decentralisation meant that commercial activities in East Africa could be harmonised to speed up development of the region. After the Second World War, entrepreneurs and business people called for pursuance of a non-political line in the constitutions of the territories.

The business people were largely dissatisfied with the political institutions and procedures. They directed their criticism at the governors' conferences, which they saw as secretive and impotent in the face of new opportunities for stimulating economic progress in the region. The conferences usually decided upon common legislation in private and then presented identical bills to the three Legislative Councils (Rothchild 1968b:47). Naturally, this procedure minimised the role of local non-official groups and their representatives. It influenced the Legislative Councils' effective participation in the process of governance. It locked out the opinion of the majority of Europeans, becoming an object of attack by 'citizens' and 'subjects' who desired inclusion in the running of affairs of the colonial

state. The British government took note of this and made efforts to re-examine the inadequacies of the governors' machinery to attune to the new situation. Be that as it may, all the reforms were crafted with the intentions of maintaining British colonial interests.

Meanwhile, the British Labour Party published its White Paper on 'Inter-territorial Organisation in East Africa' in December 1945. The British government clarified its position on closer political union in East Africa. The Secretary of State for the colonies at the time, George Hall, informed the House of Commons that the proposals aimed:

- 1 To provide a constitutional basis for the operation of the common services;
- 2 To secure the more efficient coordination of policy and action, particularly in the sphere of economic development, communication and research;
- 3 To associate representatives of the public of all races with the management of the common services;
- 4 To provide effective means of enacting common legislation where this was required (Rothchild 1968b:48).

However, the British imperial government stated further that the proposal did not mean political unification, but an arrangement purportedly designed to permit the peoples of East Africa to take responsibility for their own affairs. Despite this rhetoric, evidence pointed to the schemes of white colonists to obtain firm control over East Africa. They intended to do this by securing access to political apparatuses for economic control of the three East African territories. In short, the governors hoped to establish a constitution for the common services, which would create both an East African High Commission and a Legislative Assembly (Rothchild 1968b). The East African High Commission would consist of the governors of Kenya, Uganda and Tanganyika, with the Governor of Kenya Acting as Standing Chairman. The Legislative Assembly was vested with power to enact ordinances for the three territories.

The East Africa High Commission met regularly during the year to deal with matters regarding policy as they related to the supervision of the broad network of common services in the territories. In fact, the East African High Commission provided the impetus for functional integration of the common services. For instance, it facilitated the integration of the system of harbours and railways, the creation of an East African Navy and the expansion of Makerere College into the University College of East Africa (Gimode 1996:10).

Nonetheless, the future of the East Africa High Commission was not clear, given the decolonisation wind of change blowing ferociously across the continent in the 1950s and early 1960s. For instance, a constitutional conference held in Dar es Salaam between the 27th and 29th of March 1961, attended by delegates from the Government of Tanganyika and the British government, discussed the achievement of full internal self-government and the attainment of independence in Tanganyika. The delegates agreed that independence ought to come to Tanganyika on the 28th of December 1961. Following this conference the Government of Tanganyika expressed its desire to continue with its participation in the common services provided that the East African High Commission did not infringe on the nation's sovereignty.

The event offered an opportunity for the territories to review their position in the East African High Commission. Central to their concern was a need to include the masses in the decision-making process. A meeting was organised for the 19th and the 27th of June 1961 in London for the delegates from the United Kingdom, Tanganyika, Kenya, Uganda and the East African High Commission, along with an observer from Zanzibar. The delegates proposed that:

... it would be in the interests of all the territories to ensure that whatever constitutional changes might take place in the future in East Africa, common services at present provided by the East African High Commission should continue to be provided on an East African basis ... They agreed that the Organization, which would be responsible for the common services, should be entitled the 'East African Common Services Organization' (Cmnd. 1433. London H.M.O.S. 1961: 4-11).

Having realised the deficiencies of the East African High Commission, the delegates agreed to enhance genuine and popular participation of the masses in the affairs of the sub-region.

Moreover, bearing in mind the different forms of constitution in the territories the British endeavoured to involve the people in the countries' affairs on an equal basis. Thereafter, the responsibility for running the East African Common Services Organization (EACSO) would rest with a group consisting of the principal elected Minister and other high ranking officials who were responsible to the legislature in each of the three territories and having full authority in the appropriate fields. This group was designated as the East African Common Services Authority (EACSA), whose decisions on matters concerning the territory were unanimous. The EACSA would determine its own procedures, which included arranging

meetings and the election of the Chairman. Despite recognition of the need for participation of the masses in the affairs of the sub-region, the emphasis remained on the state and economics – an arrangement that was to dog future efforts toward the integration of East Africa.

The EACSA was to be supported by four groups, each consisting of one minister from each territory. The groups were to be responsible for formulating policy in their specified fields such as taxation, law and the general administration of the territory. These groups came to be described as ‘triumvirates’ for the purpose of convenience. The ‘triumvirates’ were responsible for communications, finance, commercial and industrial coordination and social and research services. However, future efforts in the process of integrating East African integration largely drew on the EACSO statutes. Jane Banfield asserts that:

EACSO came into being as a result of local demands, to meet a local situation, and is a creation of the East African Governments; it is not ‘colonial’ in the sense of being the creature of a colonizing power. As such, EACSO is more ‘realistic’ as an organization in terms of its ability to meet changed and changing political situations and needs, [and it] provides a forum for various experiments in inter-territorial, inter-governmental, even inter-political arrangements (Banfield 1968:261).

Even though the EACSO policies echoed dominant colonial views, post independence efforts towards integration seem to have been patterned on this philosophy. Indeed, like the British colonists, the East African leaders of the post-colonial state hoped to create a stronger economic entity of the sub-region grounded in a federation. Yet the constitution and institutional arrangements, which they inherited at independence, have proved so far to be major impediments in realising their goals. Each of the three countries entered the era of independence with its own specifically defined national goals – goals that would impact the process of integration thereafter.

Independence and integration

The East African countries emphasised different development strategies after independence. Thus their integrative efforts came to prove problematic in the independent states. The inter-state integration arrangements in Africa as inherited from the British colonial administrators dealt with the economic aspects of production of goods and exchange of services. In other words, different countries became specialised in production and exportation of particular products - this purpose had served the British well. They

also developed specialised forms of transport and communication as well as services such as re-insurance and tourism. For example, Kenya increasingly specialised in food manufacturing, while Uganda produced electricity and processed raw minerals. Tanzania became famous for its wildlife tourism.

Even though East African political leaders – Julius Nyerere, Jomo Kenyatta and Apollo Milton Obote – understood the deficiencies of the institutions they inherited, they hoped to build an East African Federation. Their assumption was based on the understanding that integration efforts in East Africa would lead to the achievement of pan-Africanist ideals so greatly sought by independent African nations. While they perceived the EACSO as an ineffective organisation, the three leaders nonetheless envisaged the federation to be the most reasonable way to solve some of their deeply felt economic problems.

Suffice it to note that the decolonisation process in the three territories made it difficult to attempt a supranational unification. The decolonisation process had planted seeds of national consciousness – a sense of ideological and national interests of the individual leaders and states. In the debates on the nature of integration, much energy was consumed by the demands for nation building as pitched against the federation scheme. Moreover, even within the different countries, there were divergent views on what form the federation ought to take. For example, the Kenya African National Union (KANU) and the Kenyan African Democratic Union (KADU) were engaged in animated debates on the question of integration. Adar and Ngunyi (1994: 399) have asserted that whereas the two parties accepted the idea of federation in principle:

. . . KADU inscribed in its policy position the idea that ‘the regions (*majimbo*) must maintain their powers’. Regionalism (*majimboism*) as advocated by KADU emphasized the need for autonomy of the different regions within Kenya. KADU carried this policy position into the federation debates, and in so doing came much closer to Buganda’s position on the matter. KADU’s ethnic-oriented policy position was based on the belief ‘that a federal constitution is the best available means of entrenching personal liberty where traditions will be maintained’. KANU campaigned on the pledge of East African federation, which emphasised the need for a unified Kenya. These opposing views affected the way Kenya participated in the East African federation.

There also emerged two centrifugal views in Uganda, namely the official Uganda government position, which supported the federation as stated in

the 1963 Nairobi declaration, and the position of the Kingdom of Buganda, which opposed the idea. Buganda favored an autonomous status for the Kingdoms, as enshrined in the federal constitution of Uganda. This constitutional procedure placed the Uganda government in an awkward position. The Uganda government was compelled to clarify the questions of the East African federation to its citizens. Finally, when it came to making a decision about the East African federation, the government of Uganda was non-committal to the process.

Then, with Uganda's position appearing uncertain, Kenya and Tanganyika considered the formation of a federation independent of Uganda. Tanganyika on its part envisaged a closer political federation that would alter existing economic disparities within the sub-region. Kenya, on the other hand, maintained that a true federation must exercise control over foreign policy and foreign relations. In 1963, Kenyan and Tanganyikan members of parliament realised that the federation issue was dragging on, so they demanded the immediate federation of the East African countries (Adar and Ngunyi 1994:400).

But even with the expression of such strong sentiments for the federation, they did not arrive at a consensus on the way to go about integrating the region. Tanganyika, nonetheless, made it known that it was ready to federate with either of the two—Kenya or Uganda—or both. Uganda emphasised that it would not be rushed into a federation prior to sorting out crucial domestic issues. Kenya, in an apparent change of heart, expressed the view that federation of only two countries did not make sense. Thus, the federation issue remained a thorny one for the East African integration efforts.

As the states approached the mid-1960s, the warmth with which they had received the idea of a federation diminished and general acrimony between the East African states crept into inter-state relations. For example, Uganda and Tanganyika feared that Kenya would dominate the affairs of the federation, given the country's strong economy. Indeed, Kenya came to dominate the economy, inheriting most of the property from the colonial rulers. This led to an uneasy relationship among the countries. Tanganyika and Uganda wanted a more just sub-regional integration that would promote uniform economic growth in all three countries.

With the three countries having defined their national priorities, it became clear that national boundaries would remain unchanged. The boundaries also defined national policies, citizenship and residence of individuals.

However, East African leaders still nursed the idea of integrating the region. Writing on the subject, Donald Rothchild says that:

... because federation is a response to genuine needs, it seems certain that the desire to found transnational unions will persist in the years to come. Economic inducements such as regional comparative advantage and economies of scale as well as expanded opportunities for interterritorial projects (electric power and irrigation systems), a wider financial base, and a more rational allocation of skilled technicians and managerial personnel are constants (Rothchild 1968a:1).

As it happened, in the years that followed East African countries continued to specialise in different commercial, industrial and mineral activities. Uganda specialised in mining and electric production, while Kenya continued to manufacture household products. Tanzania, on the other hand, attempted to jump-start its weak industrial base as opposed to tourism.

Ideological differences among the East African leaders emerged because of the economic disparities of their countries. By mid-1960s, some of the gains towards integration had been lost. The East African leaders called meetings in Kampala and Mbale in 1964 and 1965 to resolve their differences and the economic disparities. During the meetings they agreed to embark on a programme of industrialisation in Tanzania. They also sought to correct trade imbalances between the three countries.

In June 1965, Tanzania proposed that each country should establish separate currencies and banks because its leaders were not convinced of the benefits of integration. Kenya, which was experiencing a positive inter-territorial trade balance over the rest of the countries, embraced the idea. This acrimony signaled the collapse of the East African common market.

However, East African political leaders had not discarded integration. Thus, they set up another commission in September of 1965 that recommended a Common Market and Common Services for Kenya, Uganda and Tanzania. They appointed Kleid Philip, a leading United Nations economist, to look into ways of making the East Africa federation work. He transformed legal and institutional structures that would suit the sub-region. His team comprised three ministers from each country. This culminated in the Treaty for East African Co-operation in Kampala on June 6, 1967. This co-operation became effective on 1st December 1967, establishing the East African Community, whose headquarters were in Arusha, Tanzania.

Although the formulations of the 1967 Treaty laid down new strategies for integration, the East African leaders did not abandon the structures

that they had inherited from colonialism – they merely added new elements to them. The new elements that they added aimed to correct the economic disequilibria in trade between the countries. They hoped to promote a more viable development strategy through the harmonisation of fiscal incentives offered by each country. These included the transfer tax system and the establishment of the East African Development Bank. At the time, they argued that a more equitable distribution system of industrial benefits would diversify wealth and bring about economic equilibrium.

In general, East African leaders thought that by putting into place a series of financial and administrative structures, they would effectively regulate the functioning of the Common Market Services (Thien 1989; Hazelwood 1992; Mutere 1996a). These blueprints, nonetheless, did not facilitate the process of integration that these leaders had anticipated. Eventually, the East African Common Market, which was perhaps one of the most advanced institutional structures in Africa's attempts at regional integration, collapsed. The collapse was largely due to lack of political goodwill and economic vision on the part of the leaders of member states. The members also lacked commitment to implement the economic policies that their leaders had promulgated. Thus, towards the mid-1970s, the EAC was headed for collapse. Absalom Mutere asserts that:

The institutional machinery of the EAC lacked an autonomous body with at least power of initiative and supervision. Consequently, the East African regional institutions could hardly play a dynamic and mediatory role in harmonizing partner states' national interests. Also unfortunate was the composition of the supreme decision making body, the East African Authority, made up of the three countries' presidents. This increased the danger of transforming personal rivalries into more lasting inter-state conflicts (Mutere 1996b:8).

Essentially, East African leaders were not ready to forfeit their political and economic sovereignty – they certainly were not ready for regional integration. Also the deep involvement of the state and the emphasis it laid on the economic gains from the integration militated against the success of the EAC.

Strident economic competition and the strong feelings of nationalism became a recipe for the growing spirit of acrimony that seemed to spread within the region. The bad blood also spread from the governmental level to the mass media, creating an atmosphere of immobilism and enmity among East African residents. Anyang'-Nyong'o (1990) and Mutere (1996c) have argued that personal and ideological differences of the East African leaders precipitated the collapse of the EAC. Yet these ideological

differences were merely a reflection of the political and economic separate paths the East African partners had chosen to follow. Tanzania chose to follow a socialist path, while Uganda contemplated moving toward the left (however, largely following a mixed economy). Kenya, on the other hand, embraced free market capitalism disguised as African socialism. The different political philosophies and economic policies came into conflict with one another and rendered the federation idea a spent force.

It is true that economics, rather than political factors, led to the collapse of the EAC. The process of distributing the assets and liabilities of the defunct EAC pointed to economic factors as straining integration efforts. According to Edwin Gimode, the collapse of the EAC was a foregone conclusion:

There was no more political will to keep it (EAC) going....Kenyan mass media subtly referred to Tanzania's socialism as a euphemism for laziness and lack of productivity. Tanzanians referred to General Amin as an ignorant fascist. In fact, as early as 1975, Kenya's Attorney General Charles Njonjo, had advised the government to withdraw from the community. Similarly the ruling party and the cabinet in Tanzania had advised President Nyerere on the same (Gimode 1996:18).

Following the strain in relations, the heads of state in East Africa, Julius Nyerere, Idi Amin and Jomo Kenyatta, parted ways. Finally, in 1977, the EAC collapsed and the efforts towards integration were dashed.

But despite the collapse of the EAC, cooperation continued at certain levels. For example, following the expulsion of the Asian business community and the sharp decline of manufacturing in Uganda from the mid-1970s onwards, Kenyan business people intensified trade in Uganda. Consumer goods and other imports from Kenya increased in markets in Uganda. Mamdani (1983:97) notes that in 1971 imports of animal oil and fats, cotton fabric and sugar valued at Uganda Shs. 24 million, Shs. 12.3 million and Shs. 11 million respectively streamed into Uganda from Kenya. By 1976, Uganda imported from Kenya products valued at Uganda Shs. 94.99 million, Shs. 41.68 million and Shs. 76 million. Concomitantly, multinational corporations (MNCs) operating in Kenya extended their commercial undertaking in Uganda. These included: Cooper Motors, Leyland Paints, East African Industries, Robbialac Paints and Shell Chemical Company.

Kenya continued to make economic in-roads into the Ugandan market – a move Uganda largely ignored because of the country's shattered economy from Idi Amin's misrule. For example, in 1980, Kenya won a

contract of 110.6 million pounds sterling to supply Uganda with buses, trucks and Land Rovers. The business that went on between the two countries appeared to convince economic and political analysts that Uganda and Kenya were moving close again, despite the earlier political misunderstandings (Okoth 1994: 374). Similar agreements existed between Kenya and Tanzania. Numerous MNCs operating in Kenya extended their commercial activities in the Tanzanian market. The Phillips electronic manufacturing plant, for instance, spread its trade network to Tanzania. While this business was going on between well-established MNCs, the people of East Africa were restricted by their governments from crossing the national borders to trade, work or visit relatives.

Only prominent businesspeople were allowed to cross the national borders for trade. This restriction created a security issue on the common borders of the East African nations. The masses violated the borders in various ways in search of better living standards by engaging in '*magendo*' – petty clandestine trade in items such as cooking oil, soap, flour, and toothpaste among others. In some cases women engaged in prostitution on either side of the borders. The security problem became real with the increase of refugees, especially those fleeing the tyranny of the misrule of Amin into Kenya and Tanzania.

It is not surprising that these developments compelled the East African countries to rethink regional cooperation. Tanzania and Kenya were not on very good political terms, but when Idi Amin claimed part of Kenya's territory in 1976, President Nyerere sharply criticised him. Similarly, when Tanzanian troops invaded Uganda, ostensibly to 'discipline' Amin in 1979, Kenya kept quiet over the matter. It would appear the mood among the ruling elites in Kenya was jubilant with Amin's ouster. Writing about Kenya's silence at the fall of Amin, Godfrey Okoth asserts that within a few days of Yusufu Lule's leadership in Uganda, there was a positive move to improve the relationship between Kenya and Uganda. Okoth claims that:

...there were some significant foreign policy initiatives in regard to Uganda-Kenya relations. For instance, shortly after becoming Foreign Affairs Minister, Otema Alimadi travelled to Nairobi for talks on reviving bilateral relations [between the two countries]. Kenya seemed to have responded favorably - by providing Uganda with generous economic assistance and by accepting to extradite several fugitives of the Amin regime (1994:373).

Thus, the spirit of East African integration lingered on, despite the intermittent misunderstandings among the East African heads of state.

For example, in 1980, President Milton Obote of Uganda could not see eye to eye with President Daniel arap Moi of Kenya.

In the following years, however, the two presidents warmed to each other. Following an agreement signed between the two presidents, Uganda's debts were rescheduled and Ugandan railway wagons carrying coffee were allowed to proceed to the Kenyan seaport of Mombasa instead of unloading them at the Kenyan/Ugandan border town of Malaba, as had been hitherto been the case. Moi and Obote also agreed to tighten the border security to curb cross-border cattle rustling and smuggling.

In the early 1980s, East African leaders were moving closer to each other, perhaps because of the realisation of the futility of fighting an undeclared 'Cold War' amongst themselves. For example, during the attempted coup in 1982 by members of the Kenyan Air Force, the Tanzanian government cooperated with Kenya in repatriating the coup leaders who had fled to Tanzania, in order that they might face trial in Kenya. The coup leaders, Hezekiah Ochuka and Pancrass Okumu Oteyo, were subsequently tried and hanged in Kenya. The Kenyans exchanged the coup leaders for Tanzanians who were also believed to have hatched a plan to overthrow Nyerere's government and who had sought political asylum in Kenya. Thereafter Kenya and Tanzania seemed to cooperate quite well on matters of border security.

Renewed effort toward integration or cooperation?

A rethinking

The beginning of the 1980s witnessed a resurgence of efforts toward cooperation of the East African countries. This was a response to the dismal development of Africa at the national, sub-regional, regional and international levels. By the mid-1970s, the overall economic performance of African countries slowed down considerably. Some of the basic socio-economic infrastructure inherited from the colonial administration in East Africa was rapidly deteriorating.

The stagnation of national economies militated against the thought of establishing cooperation in basic areas such as education and training; research; transport, production and marketing of strategic industrial products such as chemicals, metal and engineering goods; and money and finance. Coupled with this was an unjust international economic relations, christened the New International Economic Order (NIEO). The NIEO favored developed countries over developing ones. As a consequence, developing countries, particularly those in Africa, became trapped in the negative effects of the deteriorating terms of trade and high

interest rates, a situation which made it difficult for them to earn the much-needed foreign exchange resources for the purposes of development (Rasheed and Sarr 1992:13-14).

By the late 1970s African leaders were changing their strategies in managing the affairs of the continent. African leaders sought appropriate solutions to their dire economic and social problems. Working with this understanding in mind, African intellectuals and policy specialists met in Monrovia in February of 1979 to discuss development prospects in Africa. They were chiefly concerned with the type of development and the means that would transform the functionality of African social and economic systems as they approached the twenty-first century. Other meetings followed with the most important of them, perhaps, being the sixteenth session of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) in July of 1979 in Monrovia. The outcome became known as the 'Monrovia Declaration of Commitment'. The strategy adopted laid emphasis on three basic principles: namely, self-reliance, self-sustainment and economic cooperation and integration. It was envisaged this approach would help Africa to solve its social, political and economic problems.

In April of 1980, the second extraordinary summit of the OAU was held in Lagos and adopted what was known as the Lagos Plan of Action (LPA) – a translation into specific actions of the basic principles of the Monrovia strategy. The East African leaders followed up on the LPA as a new source of inspiration for greater regional integration and pan-Africanism. In his speech at the summit meeting to sign the formal winding up of the East African Community in Arusha on 14th May 1984, Nyerere offered an alternative framework for integration. He announced that:

Today, we are meeting to sign an Agreement, which formally brings that [East African] community to an end. Therefore, I cannot pretend that this is a very proud day for East Africa! We have to learn from its mistakes and move forward again. The existence of the Community was not itself a mistake. . . . None of our East African Corporations or institutions worked perfectly; I do not know of any national ones that do either. And just as faults within our domestic economies are dealt with and overcome – to be replaced by new problems—so the inevitable problems in international cooperation structures can be tackled (Nyerere 1984:1-2).

According to Nyerere, the reasons for the break-up of the Community could not be sought in organisational faults nor the different ideologies adopted in the three countries. Rather, the break-up occurred through a

general lack of political will. It is true that there had been a weak spirit for cooperation and a lack of appreciation of national independence.

The three East African countries ran mixed economies and traded with both capitalist and communist states. Yet these same countries could not trade among themselves. East African leaders realised that they needed to trade with each other. Thus, in 1984, they signed the East African Mediation Agreement to pave the way for a new form of cooperation. Presidents Julius Nyerere, Daniel Arap Moi and Apollo Milton Obote of Tanzania, Kenya and Uganda respectively signed the East African Community Mediation Joint Communiqué. The communiqué heralded a new era in East African cooperation.

However, political developments in Uganda and the ouster of Obote as president of Uganda in 1985 slowed down the process of close cooperation and integration in East Africa. On another level, scholars in public universities and lawyers in East Africa began to think of alternative frameworks for integration. They proposed a move away from concentrating exclusively on state structures (statism) and economics to re-examining the constitution of the countries of East Africa with a view to empowering civil society in the management of their affairs. They envisaged a new approach that would consider politics and the role civil society played in strengthening the newly found spirit of integration among East Africans (Shivji 1991). In 1996 lawyers and social scientists from the East African nations met in Mombasa, Kenya to debate an appropriate constitutional framework for a civil society-type mode of integration. They came up with eight resolutions on how to proceed with integration in the social and economics spheres (see Wanjala 1996; Kibwana 1996).

In the past, schemes to integrate East Africa had been considered in purely economic terms giving little attention to the social aspect of cooperation. A great deal of energy had been expended in erecting economic institutions to foster development within the sub-region. For instance, in the 1920s, the 1940s and even the 1960s and 1970s, the emphasis was on economic cooperation and integration.

Whereas economic cooperation and integration and the building of institutions are plausible approaches that could give impetus to progress and development in the East African countries, there is a need to shift and reconsider how civil society could participate in reforming the institutions. For example, with the new wave of democratisation in the early 1990s, various groups of individuals were involved in discussion on the question of East African integration. Scholars in public universities, women's groups, youth groups, transnational groups and different ethnic groups

across borders demanded freedom of association and movement within the region. They underscored the importance of adhering to constitutional reforms as the way to long-term integration.

The people of East Africa have a common cultural heritage that could be harnessed in the integration scheme. In recognition of this potential, leaders of the sub-region called a meeting in Arusha, on March 14, 1996. At this meeting Presidents Daniel Arap Moi, Benjamin Mkapa and Yoweri Museveni signed an accord that brought into being the Secretariat of the Tripartite Commission for East African Cooperation. The problem with this accord, however, is that its emphasis is on economics and the centrality of the state as the principal organisational unit of the affairs of the people. Hence, it does not take into consideration the place of civil society and individual citizens in shaping their own destiny. Until the issue of constitutionalism is resolved, the process of integration will remain a far-fetched dream for East Africans.

Even with the numerous meetings that have been held at different levels and institutions, such as the East African Judicial Committee, Environmentally Sustainable Development and the Promotion of Trade and Defense and Security in the Sub-Region, integrational efforts have not yielded a homogenous society that has eradicated nationalist sentiments. Economics and statism have reared their heads in efforts towards integration of the region. While it is a good idea to rely on economists as consultants to implement integrative efforts, there is a need to cast the net wide and involve other social as well as physical scientists. An attempt to include a wide range of people in the debate would minimise strongly worded economic statements such as:

Future plans for the cooperation include the establishment of a single market for the [sub]-region. To achieve this, the harmonization of policies necessary for the establishment of the market and the promotion of trade, tourism and investment will be speeded up The key areas covered include the decision by the East African Central Banks to allow exchange of currencies in respective banks in the region (Weggboro 1997:3).

While these are very good objectives they will certainly remain attractive only on paper if other social factors are not considered as crucial in the cooperation. It is imperative that the place of civil society is appraised in this arrangement. For example, the political leaders should make regulations and laws that would permit free movement and residence of individuals. This, therefore, calls for a paradigmatic shift towards embracing a civil society approach in the process of integration. While

the state ought to be recognised as a point of reference, it should devolve some of its powers to the public and reduce statism – the idea that the state is the only source of organisation and that the process of integration in East Africa must be economic in essence.

The institutions which civil society helps to build are likely to be long lasting, given that the same civil society possesses the capacity to re-examine and re-evaluate them from time to time in the event they are rendered obsolete. Unlike the state, which operates above civil society and whose institutions may be synonymous with the ideals of certain leaders predisposed toward prebendalism, the realm of civil society allows for flexibility and innovativeness from the bottom. This is because the domain of civil society is that of public opinion and the culture of respecting individual rights and their participation in the decision-making process. Thus, civil society embraces the bottom-up approach – an alternative framework that could be adopted in solving problems besetting Africans.

Suffice it to reiterate that, since the early 1990s the area has witnessed a resurgence of constitutionalism to re-examine the constitutions of the East African countries involved with a view of imposing limitations on the exercise of state power and entrusting institutions close to the masses with this task. This process has given the impetus to the people of the sub-region to redesign their own forms and modes of governance. The limitation of government involvement and the protection of fundamental human rights and freedoms have been the underlying tenets of these civil society, politically driven initiatives (Tindifa 1996:131).

Accountability and transparency of the government are crucial in the integration process. Thus, a 'responsive state' ought to draw up a framework of integration in which popular participation of the masses empowers and equips them with skills to make decisions in economic and social spheres. Civil society would participate in decision making processes not only through traditional methods of elections, but by way of strengthening existing and emerging social groups to manage and determine their destiny.

Recent newspaper reports provide evidence that East Africans are keen on reviving sub-regional integration. This will require the nurturing of a common political environment in the East African countries, including the other Great Lakes region countries of Rwanda, Burundi, and the Democratic Republic of Congo. If a civil society-responsive political culture were to be cultivated and nurtured in the East African sub-region, the problems of insecurity and political instability that have dogged the Great Lakes region of East Africa would be greatly minimised. Political

systems would become more open, stable and, therefore, citizen-sensitive and friendly (Kibwana 1996).

This type of integration would also go far in solving the current refugee problem. For example, the out-migration of impoverished peasants from Rwanda and Burundi since the early 1950s, and who form about 40 per cent of the population of Buganda or Banyamulenge of eastern Congo, would not be considered as aliens or immigrants but as committed citizens to the progress of the region. The latter notions quickly bring into focus the idea of citizenship and residence, the former flowing from membership of a political community, with the latter emphasising merely the provision of labour. The notion of residence as perceived in terms of border surveillance appears to strip a people of their human rights legally, even though they contribute immensely to institution building and economy of the countries in which they reside.

Rwandese refugees fall within this category. The Rwandese refugees suffered injustices meted out on them in Uganda. Successive Ugandan governments considered them to be aliens with no rights of citizenship despite the role they played in installing the National Resistance Movement (NRM) at the political helm. During the early days in the NRM constitution of villages, anyone, despite their birth or descent, could be elected to Resistance Committees – the committees responsible for running village affairs during the guerrilla warfare. The criteria of birth and descent were largely ignored and, instead, residence and labour were emphasised. Nevertheless, these political ideals were abandoned once the war was won and Ugandan citizens began to nurse leadership ambitions (see Mamdani 2001:2159-184). Mahmood Mamdani describes these as:

... developments that would bring home to refugees a bitter truth: that in Africa today, once a refugee, always a refugee. As a senior RPA commander put it to me in Kigali in 1995, 'You stake your life and at the end of the day you recognize no amount of contribution can make you what you are not. You can't buy it, not even with blood'. No doubt their ranks included some who were convinced from the outset that there was no alternative but to return (Mamdani 1996:26).

Indeed, the above scenario flows from the fact that political leaders have made the state and nationality as the two major determinates of citizenship, and also social, political and economic relations. They make laws that pit citizens against residents, and in this way create conflicts and social disharmony. As for the refugees, they have more often than not had little

option but to return to their 'motherland' or stay wherever they are as aliens. The insecurity in the Great Lakes region of East Africa is a function of this predicament.

Various segments of the East African people have received the idea of the bottom-up approach to civil matters and the management of the East African region with mixed feelings. For example, the political leadership has preferred to maintain the status quo, whereas the various groups of people have sought a political order for a broader based participation of individuals in shaping their destiny. In this context, several social movements have been emerging in the East African sub-region. These have included associations of the media, lawyers, women's movements, business people, university lecturers and students, among others. These groups have embraced the bottom-up approach located outside of state organisation to underscore the importance of civil society in the process of governance. There is no doubt that an approach such as this will ensure that there exists a political culture that would render national boundaries more porous. What this would lead to is the perception of new ways of governing the affairs of the region by empowering the people. It would be easier to enforce law, to curb crime within the region, and even to facilitate the implementation of the Lagos Plan of Action for economic integration of Africa.

Conclusion

This paper has attempted to explain the concept of integration in the process of governance and formulating the language of rights among the peoples of East Africa. It has highlighted integration schemes since pre-colonial times and demonstrates how individuals co-existed and lived mutually without regard to rigid political boundaries. This essay has asserted that citizenship flowed across ethnicity and became the basis of integration. Moreover, the recognition of individual rights in this understanding guaranteed security within the region, a factor that enabled free movement of people and their interactions.

However, with the advent of colonialism this approach was altered, and the emphasis was laid on residence instead of citizenship. On another level, the colonial administration came to dichotomise society in two domains, that of citizen and subject. These actors were organised within the state structure and governed by the constitution that stripped civil society of the power to influence decisions. This is because the 'subjects', who constituted the majority, were under the control of the colonial administrative machinery that gave more power to the few 'citizens' who

were Europeans. Following this, state power became synonymous with European power and presence. The integrative efforts that were forged at the beginning of the twentieth century were patterned and adopted a top-down approach. This approach was exclusive and authoritarian, explaining why the African peoples in the East African sub-region initially rejected it.

This paper has further argued that the independence schemes of integration were both economic-based and statist enforced. Thus, they were authoritarian in nature and did not take into consideration the civil and political nature of issues and experiences that confronted Africans. These efforts have also proved inadequate, as they have been based on unworkable premises, despite the good intentions the political leaders may have had. The statist and economic approach to integration resulted in the collapse of the East African Community, barely ten years after its formation.

This essay proposes that the previous approaches to East African integration be rethought to give more attention to the bottom-up approach. This entails grounding debates on the essence of constitutionalism and the possibility of constitutional consensus. The assumption is that, if consensus can be achieved in the process of politics within the sub-region, the politically established boundaries will be rendered inconsequential with time and natural integration would take place. This would mean that there would be greater respect for human rights in the region. It is possible that the much-sought economic development would be realised faster because human resources and capital could be freely harnessed.

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The Multiparty Promise Betrayed: The Failure of Neo-Liberalism in Malawi¹

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Abstract

The advent of multiparty politics in Malawi in June 1993 was not immediately perceived as the harbinger of a myriad of political twists and turns that have now confounded many. Emerging from the grip of a 30-year-old totalitarian regime, Malawians had every reason to jubilate when the pro-multiparty politics movement triumphed after the June 14, 1993 national referendum results were announced in which the movement was awarded a 64 percent victory of the vote cast to allow multiparty politics to be re-introduced into the country. First, this paper argues that the new multiparty system of government in the country is caught up in neo-liberal and neo-patrimonial puzzles that undermine the process of democratisation. Second, that this state of affairs is rooted in the failure of neo-liberalism in Malawi; thus, the Malawian case has demonstrated that when neo-liberalism flounders, despotism recurs in a cycle of regime change. Third, that the selective application and the strange interpretation of constitutional law in Malawian politics is a clear manifestation of the existence, and draconian domination, of this despotism. Fourth, and finally, that liberal ideology, by its very nature, is a major drawback to the creation of a truly just state in Malawi.

Résumé

L'avènement du multipartisme au Malawi en juin 1993 n'avait pas été immédiatement perçu comme le présage de jeux politiques qui en ont étonné plus d'un. Les Malawites, qui sortaient tout juste de 30 ans de régime totalitaire, avaient toutes les raisons de jubiler lorsque le mouvement pro-multipartisme avait triomphé, après que les résultats du référendum national du 14 juin 1994 avaient été annoncés, accordant 64% des votes à ce mouvement, permettant

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ainsi le retour au multipartisme. Cet article commence par affirmer que le nouveau système de gouvernement multipartite de ce pays se trouve piégé dans un labyrinthe néolibéral et néopatrimonial, qui porte atteinte au processus de démocratisation. Ensuite, il soutient que cette situation trouve ses origines dans l'échec du néolibéralisme au Malawi. Le cas du Malawi a ainsi démontré que lorsque le néolibéralisme échoue, le despotisme réapparaît. Troisièmement, cet article avance que l'application sélective, ainsi que l'étrange interprétation de la loi constitutionnelle au Malawi, est une démonstration claire de l'existence, et de la forte prédominance du despotisme. Quatrièmement, cet article affirme que l'idéologie libérale, par sa nature même, constitue le principal frein à la mise en place d'un État juste au Malawi.

Introduction

Malawi, like many other developing countries, has embarked on a path to consolidate democracy and sustainable development. Having emerged from 31 years of authoritarian rule only in 1993 when the country adopted multiparty politics, many questions are now being posed now about the future prospects of the new system. Under the rubric of multiparty politics, for example, some Malawians are now asking, 'why are we denied our freedom of expression and association? Why do the people from the ruling party beat us up? Why do the police stand by and watch such atrocities being committed? Why are opposition parties denied permission to hold public meetings?'² Indeed, eloquent questions are being asked about the absolutist conduct of the political parties in this multiparty state: 'what makes the ruling party so special that they are the only seemingly God-gent rulers of our country and not anybody else?'³

In Malawi today, denials of civil and political liberties and economic, social and cultural rights have been consolidated through the manipulation of state institutions, of the public policy process and by tampering with the laws of the country. Section 65 of the Republican Constitution of Malawi is perhaps the hallmark of this process. This section has perhaps been the culmination of oligarchic efforts by the ruling elite to accumulate exclusive state powers against popular demands for liberal democracy in the country, however foreign the paraphernalia of liberal democracy may sound. More than anything else, this amended section empowers the Speaker of Parliament to 'declare vacant a seat whose Member of Parliament (MP) voluntarily leaves the party that sponsored him into the National Assembly and *joins* another within or outside the House or *an association or an organisation* whose objectives are political in nature'.⁴ This section, to say the least, has contradicted and infringed upon certain

fundamental sections of the Constitution launched in 1995, notably, the right to freedom of association, the freedom to form associations, the freedom not to be forced to belong to any association and the freedom to form, hold, receive and impart opinions. Section 65 of the constitution has thus subverted basic principles and values of a liberal political system to which Malawi aspires. It is a simple task to mention sections of the constitution and values of liberal democracy that have been violated and breached by section 65 of the constitution. Notable among these constitutional provisions is Chapter 4, which provides for 'civil and political freedoms'. Chapter IV is the 'Bill of Rights' which, as an entrenched chapter, calls for a 'national referendum' in order for it to be 'evolved'. The Bill of Rights includes freedom of association. The amended section 65, therefore, contradicts the constitution and poses a major threat to the consolidation of democracy in the country. Thus, whatever may become of section 65, an indelible mark has nonetheless been made by this amendment on the democratic development of this country.

Much as questions have been raised on the democratic process in Malawi, this paper is not an attempt to provide summary answers to all of them. This paper has three objectives. First, to argue that the interpretation of section 65 based purely on the legal technicalities of constitutional law is limited. This section has broad social and political parameters that need to be appreciated and taken into consideration when evaluating its impact especially as related to the role of the constitution as the supreme law of the country upon which the very processes of democracy and governance rest. By doing this, the analysis is not by any means a replacement of the legal interpretations of section 65. The analysis rather gives further dimensions to the interpretations and application of this section. Particularly in Malawi, where the political use of constitutional law has basically revealed that moral partnership and the resilience of the neo-patrimonial state transcend the obvious and popular articulations of liberal democracy, this is important. Here, 'tenets of liberal democracy co-exist with notions of moral partnership, of enduring relatedness, with ideas of accountability, personhood and of the 'self' which are distinct from what is implied by the ideas of metropolitan liberalism'. In other words, 'despite liberal reforms, personified notions of power continue to be integral to a particular state formation which, in Malawi, has long promoted neo-patrimonialism'.⁵ This is because 'new institutions', including democratic constitutions, 'do not simply displace old ones; global forms do not take over local dispositions'.⁶

Second, to argue that the seemingly selective application of this section in parliament is not inadvertent but that it is rather a calculated strategy hatched in the echelons of power to perpetuate certain political interests using constitutional law. That this tendency is rooted far beyond neo-patrimonialism and liberalism. To understand this, I argue, we need to delve into the dynamics of state formation in Malawi characterised by exclusive and personified state power, extensive patronage, coercion and violence.⁷ Widespread notions of moral partnership, therefore, are a reaction and consequence to the political and moral deficit of this process or, as Lemarchand (1996) calls it, 'the moral discredit incurred by the state'. Third, to elucidate on the trans-systemic impact left by the legacy of section 65 of the constitution on the democratic and governance processes of the country. That the monstrosity of law as typified by section 65 of the constitution is a countervailing force against popular rights, freedoms⁸ and democratic efforts to fill in this political and moral bankruptcy. Political violence and corruption, in this sense, constitute the heart of the problem.

The neo-patrimonial state and constitutional interpretation

One of the causes for constitutional problems in Malawi is the vague understanding of the nature of the political rubrics under which the constitution is made, amended, interpreted and applied. It is the weak relationship between the constitution and the wider political system that parented it. Thus, the process of state formation in Malawi 'has retained more than a measure of continuity through the strong executive powers of the state president'. The multiparty system of government itself, apart from a short period of coalition government between the United Democratic Front (UDF) and the Alliance for Democracy (AFORD), 'has been mostly ruled by a *de facto* one party government since the 1994 general elections'.⁹ Under the UDF-led government, the state has virtually monopolised the public media, undermined the Anti-Corruption Bureau, the Law Commission, the Human Rights Commission, the Office of the Ombudsman and the now folding National Compensation Tribunal. The ruling party has often engaged in politically corrupting and terrorising tactics among opposition members of parliament. As Englund argues, this 'blatant abuse of power by UDF politicians has occurred in the context of establishing a toothless Anti-Corruption Bureau which, by early 1998, had yet to complete its first case'. Indeed, 'some abuses reveal clearly how the paraphernalia of liberal democracy often fails to curb neo-patrimonialism and greed under the Malawi state formation'.¹⁰ What is

crucial is that the law has sometimes been used as an anchor for political abuse. This is because the moral equality and goodness of law cannot be asserted quite absolutely. The law 'is relative to the constitution and consequently a bad state will be likely to have bad laws. Legality itself then is only a relative guarantee of goodness, better than force or personal power, but quite possibly bad'. The essence of this point is that 'a good state must be ruled according to law but this is not the same as saying that a state ruled according to law is good'.¹¹ The argument implies that it may not only be that statecraft in Malawi has been largely unconstitutional, as the legal technocrats would argue, but rather that the nature and philosophy of the constitution itself may not be morally good.

The other impression is that law, generally, is not an absolute moral good. At times, law and democratic constitutions may be interpreted to reflect deviant human desires. For example, there are several interpretations and applications that have been made on the amended section 65 of the Malawi Constitution, of course with different consequences. However, the terminology of the section is also elusive. The meaning of organisations with 'objectives that are political in nature', for example, is a vague term. This lack of clarity has meant that political parties, the church, civil society organisations such as the Forum for the Defense of the Constitution (FDC) and Non-Governmental Organisations (NGOs) have invariably been accused of peddling 'partisan politics'. Since the said section affects organisations and associations both inside and outside parliament, it is difficult to see how people's rights, freedoms and liberties would be preserved of themselves and as safeguarded by the law. The NGO Act (2001) is also debatable because of its interference through the NGO Board in the regulation of the political conduct of Malawian NGOs. The Act empowers the Board to cancel the registration of NGOs involved in 'partisan politics'. The NGO Act does not define what is 'partisan politics'. A further problem, relating to the 'impeachment' of judges by parliament (section 119 [6]) on the grounds of 'incompetence', is that the constitution does not clearly define what constitutes 'incompetence', thereby leaving the process open to political abuse. Coupled with section 111 [1] that empowers the president to appoint the Chief Justice, this section compromises the autonomy and independence of the judiciary.

Thus, the interpretation of section 65 has recently provoked awareness of other relevant sections of the constitution that have a significant impact on the political and democratic process in Malawi. For example, section 63 (3) of the Constitution, which empowers MPs to ask for postponement of declaring a seat vacant, has mostly been by-passed by those who seek

political surgery in courts of law. Legal experts have wondered ‘why do MPs look at the court as a hangman when you have powers to ask the Speaker to postpone declaring a seat vacant?’¹² This is because even MPs themselves interpret section 65 as a ‘political sword’ against which they have to fight and survive when the need arises. Similarly, section 108 of the constitution, which demands that the law has to be respected, has come under scrutiny. The law includes Supreme Court precedents because, according to the Speaker’s Lawyer, Shabir Latif, arguing in a recent case, ‘insofar as the decisions of the Supreme Court are concerned, they have to be followed. Any Supreme Court decision is law’.¹³ Yet Supreme Court precedence has come into conflict with statutes in a current case in which Jan Van Sonke is seeking an injunction to stop the Speaker from declaring his seat vacant following his resignation from the UDF. Sonke, it is said, is also asking the court to review section 65 of the constitution and determine whether or not it is constitutional. However, this has opened up another sticky problem – which law should prevail when Supreme Court precedence and statutes come into conflict? To this effect, High Court judge Dunstain Mwaungulu, has argued that because of this conflict of laws he is ‘caught between following a precedence set by the Supreme Court and respecting the law as enshrined by the country’s Constitution on section 108’.¹⁴ In this dilemma, he added, ‘in the case where the Supreme Court was peculiar, he would rather be bound by the statute’.¹⁵

Indeed, Supreme Court precedents are made and set by appointed legal professionals. As law, therefore, Supreme Court precedents have no more popular basis and mandate than law made by elected officials in parliament and can rarely reflect the national will, constitutional supremacy and political sovereignty of the country – except where they do not contradicting popular statutes. In any event, it is the Constitution which is the supreme law and not the Supreme Court of Appeal, because the Constitution is the supreme law of the people. The Court, in this regard, is like an overall worn by the law but it is not the law unto itself. To preserve democracy in Malawi, therefore, the rule of law must be upheld and not necessarily the courts. And this law must be law that is morally good and just. This means that if section 65 is unconstitutional, the court must say so regardless of what a Supreme Court precedent might lay down.

In his submission to the court, Shabir Latif further argued that the High Court Judge should not grant the sought injunction stopping the Speaker from declaring Sonke’s seat vacant because the Speaker had been procedurally fair, adding that ‘rules of natural justice were applied by giving Sonke a chance to be heard’.¹⁶ He added that the injunction would

not be materially necessary since the seat has already been gazetted. This is surprising considering that rules of justice entail fairness and full and equitable access to information by all parties involved in a dispute. It seems that the way the seat in question was declared vacant and quickly gazetted as such without formally allowing the other parties' access to full information about these developments may have undermined the principles of natural justice.

Political parties and government itself have been dazzled with the political implications and difficulties emanating from interpreting section 65. The ruling UDF party has perhaps revealed the greatest irony behind this section by abandoning sections of its own party constitution that violate civil liberties and freedoms. For example, the party has discarded the 'preceding ten year membership to the party' as a 'prerequisite for contesting the party's presidency' on the ground that 'it is inconsistent with the provision of the Republican Constitution in this regard, and, for that matter, it encroaches on freedom of association'.¹⁷ And yet, it (the ruling party) has failed to see this point when section 65 of the Republican Constitution is applied to discriminate against members of parliament critical of the ruling party agenda. It is clear that the interpretation and amendment of the party constitution now suits the convenience of the UDF oligarchy to pave way for its anointed presidential candidate to stand in 2004 presidential elections. Little is left in terms of values and principles of liberal democracy in this scenario.

But perhaps more than having the power to evict its members, parliament has interpreted its constitutional powers to include the mandate to amend the constitution and change the structure of government without seeking a popular mandate. The unanimous abolition of the *senate* by parliament in 2001 because it was 'economically expensive' for the country to run; the repeal of the *recall provision* from the constitution in 1995 which empowered the electorate to remove under-performing MPs from office; and the dwarfing of the *quorum* requirement, are cases in point. The recall provision, which some civil society and church organisations are trying to bring back, was repealed because 'members of parliament argued that it would be open to abuse'¹⁸ while the two-thirds quorum requirement was cumbersome for the members of the house to satisfy in order to transact business. Civil society itself, especially the NGO community, is not entirely immune from calculated legal suffocation.¹⁹ The abolition of the senate changed the structure of parliament from bi-cameral to unicameral. The repeal of the recall provision turned the political system into one less participatory, while the change of the quorum requirement

from two-thirds to a simple majority (50+1 percent) plunged the political system into what Andrew Heywood describes as the danger of majoritarianism in which 'the majority' may substitute itself for 'the people' and exercise unfettered power. Democracy could simply become 'the rule of the 51 percent, a tyranny of the majority in which the interests of both the individuals and minorities are sacrificed in the name of the people'.²⁰

The neo-patrimonial state: constitutional applications as a survival niche for the oligarchy

The issue of party defections in Malawi politics has been around for some time. By 1996, it was common to learn about opposition members of parliament defecting to the ruling UDF *en masse*. Asked about the constitutional implication of these defections, the UDF Legal Advisor, Peter Fachi, curtly countered: 'I don't see anything wrong with that, it's provided for in Section 40, Subsection 1 of the Constitution'.²¹

However, democratic Constitutions can be interpreted and applied in many ways. It has been said that when the ruling UDF party had problems with its breakaway group, the National Democratic Alliance (NDA), political defections became a political threat to be tackled. The UDF reacted to the perceived threats by hatching the amendment of section 65 of the constitution to tame its own political offspring that threatened to leave the fold. The application of section 65 of the Constitution of Malawi has, however, been overtly selective and discriminatory, infringing upon people's rights, liberties and freedom from discrimination at times. For example, while the Speaker found it plausible to declare vacant the seat of Sonke because he had resigned from the ruling UDF party, the circumstances that 'forced him to resign' notwithstanding, the Speaker declined to declare vacant the seats of AFORD President Chakufwa Chihana, and others who openly associated with the UDF in a 'Government of National Unity' and conduct joint political rallies. Indeed, expelled members of AFORD have contended that 'under section 65 of the Republican Constitution any coalitions, alliances or government of national unity are unlawful'.²²

The State President also admitted having associated with Malawi Congress Party (MCP) President, John Tembo, without his ruling party invoking Section 65 against him and his loyalists. Even in UDF itself, those who were critical of the 'open term' and 'third term' bills like Joe Manduwa and Jan Van Sonke have had to fight legally to protect their seats from being declared vacant. Clearly, the application of this section of the Constitution is an illustration of double standards in the house and beyond.

When it suits the ruling party, section 65 is applied; otherwise, the section is not invoked. This politics of the stick and carrot is also practised in parliament where the Speaker has often interpreted and applied section 65 in a manner that strikes some onlookers as altogether weird. However, what is interesting is the way people have treated section 65 since its inception. Most MPs have simply sought to challenge their expulsion from parliament on the basis of this section and once the courts reinstate them in parliament, they have not pursued the struggle by pressing for a review of the section in court. It is only recently that the situation has changed. Jan Van Sonke is seeking judicial review of this section but only after many casualties. This review is far overdue bearing in mind the consequences of maintaining and applying section 65 for the consolidation of democracy in Malawi.

Meanwhile, it must be noted, the wealthy oligarchy in Malawi has hijacked the democratic process. 'What everybody means by oligarchy is a government by the rich, just as a democracy is a government by the poor'. However, 'the essence of the matter is that there are two distinct claims to power, one based upon the rights of property and the other upon the welfare of the greater number of human beings'.²³ Like Amitai Etzioni's 'legalized corruption' in the American context, this oligarchy in Malawi, apparently enjoying an absolute claim to power, often works by corrupting public life. They seek to turn a government of, by and for the people into one of the wealthy. Political corruption is typically perpetrated by private interests seeking illicit public favors and finding quite willing officials.²⁴

The Malawian state's claim to adhere to democratic practices is contradicted by electoral chasms, corruption and widespread economic exploitation, and is no more than a criminal facade. One reason is that the neo-colonial deficits of our electoral laws limit political participation by requiring that parliamentary aspirants speak English for them to qualify for the contest. And yet, 'there is no provision in our Constitution that states that English is our official language'. Further, new rules governing the presidential and parliamentary elections also require that a candidate for the office of president pay a fee of K50, 000, overlooking the fact that 'the franchise is not only for the rich people'.²⁵ Similarly, it is a criminal façade because 'a plundering democracy is no more honest than an exploiting oligarchy'.²⁶ As one opposition MP argued, in Malawi 'greed has taken root in the hearts of the elite. Opportunistic approach is their strategy. That approach, by the way, includes corruption and fraud... political power is their weapon. They exploit the poor without shame. The consequences,

Mr. Speaker Sir, are unbearable. A *gini* co-efficient of 0.64 is, at best shocking, at worst, criminal'.²⁷

It can be argued that there have been coalitions, cabinet appointments and governments of National Unity in Malawi that have breached the spirit of the law. That is, when it suited those in power, coalitions and alliances have been formed contrary to law. Indeed, the oligarchy has used the law merely to justify its mutations in all these developments. 'That the constitution fails to clearly spell out whether an MP could double as cabinet minister or appointing opposition members as ministers'²⁸ without contradicting section 65 is a fact. In other words, the constitution is unclear. It fails to answer the question as to whether the country operates under a presidential or parliamentary system of government – opting, rather vaguely, for a 'hybrid' system of government with strong presidentialism. That is to say, much as law is a technical terrain, the constitution reflects a wobbly appreciation of the way the political system permeates through the entire body of law.

The violent rise and sublimation of trans-systemic oligarchy

The failure to entrench the UDF grip on state power at the national level through arbitrary constitutional amendments did not put the matter to rest. Indeed, the oligarchy in its determined attempt to capture the state machinery mutated and transited from one regime to the other; from the superstructure or the national political system to the sub-system, and shifted its focus from parliament to the party machine and the legal infrastructure. Instead of amending the national constitution, it now became imperative to amend the party constitution to serve similar motives - consolidating personal rule, the patrimonial state and the myriad benefits of its cronies. While in the one party state this was led by the *Ngwazi* and his self-styled royal family, this time around it is couched in the convenient language and images of liberalism. The underlying essence is that of a trans-systemic oligarchy that has survived beyond the one party state, marginalised its religious and political counterparts, and is now manifested with all its undemocratic paraphernalia in the multiparty system of government in Malawi. Its manifestation is a betrayal of the promise of multiparty politics. Among other factors:

One reason for the government's failure to sustain the democratic momentum may be the background of some top UDF officials who were prominent in previous MCP governments. The democratic transition has introduced the marginalization of the religious and intellectual contingent, who were at the forefront of opposition to the Banda regime, in favor of astute politicians with considerable involvement in commerce taking over the scene.²⁹

This development is not entirely new in Malawi. The Nyasaland African Congress (NAC), established in 1944, which later became the Malawi Congress Party (MCP), drew the rank and file of its leaders from 'self-employed businessmen, partly because of their earlier harassment by white employers and the lack of autonomy in the colonial civil service'. However, even at that time success in business and commerce 'brought resources to foster a moral partnership which, in turn, was integral to political prominence'.³⁰ The difference in the current set up is that the source of resources used for patronage has also shifted significantly from private business and commerce to the rampant abuse of state coffers. While the opposition and civil society in Malawi have repeatedly accused the UDF-led government of corruption, mismanagement and have called for a stop to the use of public resources to finance UDF functions, the UDF has gone ahead to claim that people should support it because 'it has access to development' resources. It is difficult, therefore, to distinguish party from state functions because 'Muluzi's public meetings have always been UDF events whose party symbols and yellow colours are displayed in abundance'.³¹ Due to widespread poverty in the country, where around 65 percent of Malawians live below the poverty line (US\$1 a day) mostly in rural and semi-urban areas, 'the political elite, including President Muluzi, seemed to think that popular support required acts of direct patronage'.³²

The oligarchy-dominated democratic process in Malawi is a fledgling one which faces numerous challenges. Political and democracy experts gathering in Lilongwe recently aptly noted that the problem of democracy in Africa and Malawi in particular is that 'we have life presidents in political parties, permanent leaders in NGOs'. In Malawi, argued Thandika Mkandawire, 'we have little Ngwazis everywhere. This is a culture that we need to stop. It's not a problem of donors but our own problem which we need to sort out'.³³ Underpinning these problems is perhaps a lack of 'sound political ideologies, weak civil society, inappropriate institutions, absence of political coalitions to come up with pro-poor policies and economic crisis that have made the country to swallow policies that are not developmental'.³⁴ Poverty, political violence and intimidation, corruption and lack of equitable media access have routinely been pointed out as anti-democracy problems besetting the country.

The incidence of poverty and underdevelopment notwithstanding, political discrimination has resulted in opposition constituencies being sidelined in the allocation of development resources by the state. State institutions including the media, parastatals and the police have tended to exacerbate this political trend by subsidising or protecting the partisan

interests of the ruling party. Similarly, section 65 of the Constitution has been used in an attempt to entrench 'the little Ngwazis everywhere'. For example, the ruling UDF is failing to proceed as usual without the incumbent party president when his two five-year consecutive terms come to an end in 2004. The UDF has hurriedly amended its party constitution and has created the position of *national chair* specifically to accommodate him. Even if the UDF presidential candidate and running mate win the general elections in 2004, 'they will be under the chairperson on party matters'. Further, the chairperson 'will be in charge of the party' since the party will have no president or vice president.³⁵ It must be noted that the process of despotisation here is trans-systemic. As Jack Mapanje has argued, while in the one party state Malawi was ruled by Dr. Banda and his extended 'self-styled royal family' or the Banda-Tembo-Kadzamira triumvirate³⁶ with all its political vices, the country is now on the verge of descending into the grip of an oligarchic political elite that intends to perpetuate itself in power. The fact that the three top positions—those of the presidential candidate, the running mate and the national chairman—have all been awarded to individuals by a joint clique composed of the national executive committee and the cabinet before a national convention has been held frustrates the democratic process in the UDF. After all, 'political parties are the central institutions through which people express their democratic will at the polls'.³⁷ Undemocratic tendencies among the ruling elite in Malawi are ubiquitous, leading to the perception that Malawi is now a 'crony capitalist state'³⁸ in which the sustenance of clients, cliques and the oligarchy in power is more important than upholding the popular will of the people.

Parliament itself has suffered the consequences of the amendment. These have been self-inflicted injuries. Soon after the amendment was passed, for example, seven senior members of the MCP and NDA were thrown out of parliament and only a court injunction restraining the Speaker from declaring their seats vacant. Indeed, it was said that these MPs were sacked from parliament because their MCP and NDA leaders had 'joined forces to vigorously campaign against a possible third term bid by President Bakili Muluzi when his two five-year terms expire in 2004'. Several other MPs have since been thrown out of parliament on the grounds that they have 'crossed the floor' from the party on whose ticket they entered parliament to another organisation or association with political objectives. Some MPs have either just been 'abducted' or 'bought' mysteriously when the ruling UDF party faced a crucial vote and possible defeat in parliament, as with the 'third term' bill. Nor have political parties

been spared the brunt of this political crusade by the oligarchy. Parliamentary candidates for the opposition MCP, AFORD and the People's Democratic Party (PDP), for example, were abducted and induced to resign from their parties and abandon their candidature in by-elections sometimes with the direct involvement of the State President.³⁹

Even the attempted 'impeachment' of three High Court Judges in 2001⁴⁰ was clearly linked to political manipulations aimed at creating presidential longevity and prolonging the tenure of power by the ruling party and its oligarchy in Malawi. To begin with, all the movers of the motions that initiated the impeachment were UDF MPs. They accused the judges of 'passing judgments that have not been favourable to the United Democratic Front (UDF) government, and are seen as tools for the opposition'.⁴¹ The MPs argued, *inter alia*, that 'Judge Mwaungulu should be removed for questioning the presidency while analyzing the 1999 general elections results. That was wrong and unbecoming. It clearly demonstrated that the Judge was a politically interested party. His judgment was clearly partisan and colored with his political thinking'. Similarly, it must be remembered that when the opposition was contesting the results of those elections in court, the Attorney General, Peter Fachi's, response to the proceedings was, among other things, that 'Muluzi will remain president of this country until another candidate is sworn in after holding fresh elections. Muluzi may even become life president regardless of what the court rules'. For his part, Judge Chimasula Phiri was accused of being National Democratic Alliance (NDA) president, Brown Mpinganjira's 'personal assistant as he continuously served Mpinganjira's interests through his court rulings'. And Judge Chipeta 'had lowered the dignity of parliament by reversing the suspension order' against another opposition leader, MCP president, Gwanda Chakuamba, from parliament for 'disrespecting the State President'.⁴²

True to the sentiments of the Attorney General, the ruling UDF party relentlessly pursued the indefinite extension of Muluzi's presidency through political campaigns and parliamentary manipulation. This culminated into the drafting and subsequent tabling of the defeated 'open term' bill, which sought to make Muluzi's tenure of the presidency open – reminiscent of the defunct 'life presidency' of Dr. Banda. This bill was rejected by Parliament on 4th July 2002 after it failed to muster the two-thirds requirement for such a constitutional amendment. However, the political resilience of the UDF and the oligarchy was revealed when the party later crafted the 'third term' bill, rationalised on the premise that,

unlike the open term bill, the third term bill would assuage popular fears of a return to a life presidency as it restricted the extension to only three consecutive terms for 'any president in Malawi not only Muluzi'. The 'third term' bill was introduced into parliament in March 2003 but was later referred to the Parliamentary Legal Affairs Committee for 'fine tuning' by the Attorney General, Henry Phoya, after it was clear that the bill was not going to attract the required two-thirds majority of MPs voting. The bill is still being reviewed by Parliament although Muluzi and the UDF have since identified Bingu Wa Mutharika and Cassim Chilumpha as ruling party presidential candidate and running mate respectively in the forthcoming 2004 tripartite elections. Implicitly endorsing its humiliating failure, the ruling party said that 'we already made a position as a party that we no longer want the third term bill. Our president also said it clearly that he does not want the bill to proceed. What we are now waiting is the official withdrawal'.⁴³ Indeed, the ruling party has set a clear precedent in attempting to perpetuate 'the little Ngwazis' in Malawi by pursuing the *open term*, the *third term* and now, within its own party, the *national chair* that almost combines absolute powers of the party president and the national chair itself in one person – Muluzi himself. This personality cult follows sharply on revelations by senior cabinet ministers early in 2003 in the media that the UDF party cannot survive without President Muluzi because he owns the finances, property and resources on which the party depends for its survival and operations. Ruling UDF Deputy Secretary General, Paul Maulidi, disclosed that 'president Bakili Muluzi is the sole financier of the ruling party and that UDF would "struggle badly" if he were to leave'. Indeed, it was acknowledged that 'UDF is a very poor party. It has no money. Without President Muluzi's financial help, we would only be relying on the funds that parties get from parliament'.⁴⁴ The UDF receives K1.8 million every quarter a year from parliament. The MCP is given K1.2 million and AFORD K800, 000 respectively. The situation is so bad in the UDF that 'almost everything that the party has comes from the president. So, what can we do without the President?'⁴⁵ A personality cult is being engrained into the country's politics despite earlier fears raised by the Malawi Law Society that such tendencies 'would be a breach of national understanding... considering the history of Malawi... history had shown that presidents turned into dictators by overstaying in power', and that the extension of their tenure of power creates the danger of having 'further or unlimited terms of office with ultimate loss of legitimacy, dictatorial tendencies and loss of power in disgrace'.⁴⁶ Typical of a despotic regime, the UDF thrived on the logic

that ‘you do not necessarily need to go through a referendum in order to change such a fundamental provision as the number and length of presidential terms. A parliamentary two-thirds majority can be sufficient as it was in Namibia... in reality, a vocal and proselytizing youth wing of the ruling party, which mobilizes the party membership with the blessing of the president may be quite sufficient for the purpose of re-writing the constitution. In other words, a ruling party accrues to itself the prerogative of changing the constitution to keep its leader in power for as long as it may dim fit!’⁴⁷

It must be pointed out that the run up to the parliamentary tabling of both the *open term* and *third term* bills as means for accumulating political power and all its emoluments was heavily characterised by political corruption and violence in the country. Apparently, political violence and corruption have often supplemented the inadequacies of using section 65 to silence political critics and prevent them from associating with political groupings other than their own political parties. Thus these vices too have become vicious instruments of power. It may be appreciated in that context generally that ‘the state is still the source of that power, accumulation and wealth for those who wield control over it. The notion of sharing the power or rotating positions of power is still unacceptable to most of the ruling elites in Southern Africa’.⁴⁸ We link corruption and power here because ‘... it is possible that a law could be stated that would say that the degree of corruption varies inversely to the degree that power is consensual’.⁴⁹ Since 1997, political corruption has risen in Malawi although the Presidential and Parliamentary Elections Act (1993), the Communications Act (1998), the Corrupt Practices Act (1995) and the Constitution (1995),⁵⁰ among others, were put in place partly to deal with such challenges. Political corruption here ‘refers to any behaviour which ‘violates and undermines the norms of the system of public order which is deemed indispensable for the maintenance of political democracy’. As a general term, political corruption covers ‘all illegal or unethical use of governmental authority as a result of considerations of personal or political gain’.⁵¹ The purchase of voter certificates, elected members of parliament inducing voters not to register and vote, abduction of political opponents, use of governmental development resources for party campaigns, political intimidation of High Court Judges and, in fact, the manipulation of law to eliminate popularly elected political representatives, have all undermined the norms of democracy in Malawi since 1995. The national radio station, the Malawi Broadcasting Corporation (MBC), remains the sole mouthpiece of the ruling party contravening rules and regulations laid down to govern

its operation.⁵² Where legal postulates are adopted in their colonial and western caricatures, these become infirm weapons to tackle the subtle modes of neo-patrimonialism, paternalism, clientelism and outright political corruption.

The path to the national chairmanship in the UDF has not been free of political violence either. For example, in 1997, a Land Rover belonging to the opposition MCP was burnt to ashes during a by-election campaign in Chiradzulu district. In another by-election in Machinjiri, Blantyre district two years later a UDF supporter was killed in clashes between the ruling party and the UDF. In 2002 a UDF constituency governor in Mulanje district died in clashes between the UDF and the NDA. In the same year, members of parliament were beaten on their way to parliament and some had their vehicle burnt in full view of police after the State President had opened parliament in Lilongwe.

The long-term campaign to retain power exclusively in the hands of the oligarchy in the ruling UDF party reflects this trend. This now is evident in the fact that the only avowed contender to the post of national chairman, Hon. Joe Manduwa, has been under siege for his political ambitions to the extent that he has been warned not to attend the party's mini-convention in Blantyre where the party constitution will be amended to accommodate the new post.⁵³ Similarly, two UDF district governors, Ackim Ntaja for Chiradzulu district and Mawu Lumwira for Zomba district, were physically manhandled at Sanjika Palace in Blantyre on July 5 and were fired from their posts and lost all the resources and benefits they enjoyed from the party for protesting together with the party's Treasurer General, Patrick Mbewe, against the appointment of Wa Mutharika as UDF presidential candidate in 2004. Lumwira argued that 'you cannot just impose a choice on millions of people. If that is what is called democracy, then I would rather be undemocratic'. At root here appeared to be political greed and hunger for power among the ruling oligarchy and its hangers-on. Indeed, the creation and allocation of the post of party national chairman to Muluzi was based on this premise and logic. As Lumwira argues, 'it is wrong that after you have already had your food, you queue up again when other people have not eaten. It is called greed, and this is what Muluzi is doing'.⁵⁴ This greed and illiberality led to, among other things, the banning of public demonstrations for or against the third term bill by the State President, and before that to 'the banning of public meetings held by the Malawi Congress of Trade Unions intended to address the Malawian economic crisis after the democratic transition'.⁵⁵

What becomes clear, cautions Englund, is the fact that not all 'primordial identities, whether regional or "tribal", have become the sole parameters of politics' in Malawi because of the impact of moral partnership on political discourse and transited clientelism typified by the colonial sycophant, the nationalist and now the democrat.⁵⁶ What is trans-systemic about this tension is that the colonial sycophants in Africa generally, and Malawi in particular, mutated to become nationalists as independence approached and, once again, changed colours to become democrats with false promises to fill in the moral and political bankruptcy left by both the colonial state and the one party authoritarian state. The essence of this mutation and the influence of the 'piggy banks' mark the umbilical cord of the politics of the regimes and systems of this process. In the face of transition and mutation, therefore, primordial identities may not exclusively account for the fact that both Lumwira and Ntaja, for example, come from the southern region - home to the State President and power base for the ruling UDF party. In trying to remain in power, primordial identities of tribalism, regionalism and religion are resources exploited by the ruling oligarchy but, more importantly, state institutions such as the judiciary, the law, the police and the legislature are subjected to personification and the consolidation of personal rule. In Malawi, beyond what Harri Englund calls 'locally-established moral partnership and top-down neo-patrimonialism' lies the captured state.

These political excesses have damaged both the institutions and process of democracy in Malawi. The legislature, political parties and the democratic process have been undermined. One major dimension of political corruption that became widespread in the course of the debate for a constitutional amendment was legislative and institutional corruption. A culture of political corruption in Malawi is undeniably growing where the moral standards in public life have been lowered to such an extent that people believe they can buy the public mandate and vote. Indeed, if public figures such as MPs can be bought with money what is left for ordinary Malawians? This buying of power and even human souls is rooted in the belief of the oligarchy that their property rights, education and social status in society accords them, as a class, absolute moral right to power that perpetuates and resonates their tenure of office at party, governmental and state levels. This grip on power defeats the principle and value of democratic accountability.⁵⁷

We need not belabour the point that the application of section 65 of the constitution, for whatever purposes, has left the legislature in Malawi with tattered integrity. The amendment is an instrument designed for the

consolidation of power in the hands of the ruling party and its leadership rather than in the people of Malawi. Signs of this legislative damage included the abduction of some opposition MPs in area 23 in Lilongwe in March 2003 allegedly by government cabinet ministers and ruling party officials to induce them with lucrative financial offers to vote for the *third term* bill when time came for voting. Some of the MPs were said to have received bribes while other resisted them and blew the whistle in the media. The battle was to diminish the voting power on the anti-third term side while illegally and corruptly inflating that of the pro-third term movement. The media, opposition parties, donors, the church and civil society groups condemned these acts, leading to the Anti-Corruption Bureau (ACB) probing the matter. The ACB, which is largely funded by foreign donors, is yet to demonstrate its efficacy in tackling political corruption in the country. For example, the probe into allegations of political corruption among the MPs has dragged on without result primarily due to a lack of resources.

Like many other political parties in the country, the ruling UDF has a youth wing. Having a youth wing, it is said, in itself is not a problem in itself, 'the difference lies in their relationship with the police'. The police in Malawi have, probably, been the most abused in orchestrating lawlessness and consolidating political power in the hands of the ruling UDF party and its leadership. In this exercise, police officers have often developed cold feet when the UDF Young Democrats terrorise political opponents of the ruling party.⁵⁸

It has been stated that 'Malawi is a republic. There is no room now for perpetual ruling chiefs to be protected by abuse of power. There must be free competition between political parties for the support of the people. It is the duty of the police to see that no one group invades another'⁵⁹ and that people's life and property are secured equitably. Indeed, 'police officers should know that first and foremost they are servants of the state and the state means the people as a whole, not leaders of the ruling political party'.⁶⁰ Similarly, it is important to note that the meaning of the rule of law has two aspects. First, 'that all people abide by the law', and second, that 'those who hold official positions should perform their duties according to the law; that which the law requires them to do they must do without fear or favour to anyone. That which is unlawful officials must not do regardless of who commands them to do it'.⁶¹

Beyond political and institutional corruption, democracy in Malawi faces fatal philosophical flaws. This is demonstrated by the illogical argument both at state and party levels that derives an *ought* from an *is*.

The argument, used by both the MCP regarding Dr. Banda and the UDF with respect to Muluzi, that 'because a particular person *is* good, then there *ought* to be a provision that allows presidents to remain in office for a third, fourth or indefinite term. By the same token, it is illogical to argue that because a particular president has not been a good president then there ought to be term limits'.⁶² This kind of opportunistic empiricism is bereft of the normative values and principles required to guide the democracy debate in Malawi.

Conclusion

This paper has argued that section 65 of the constitution of Malawi is a retrogression in the efforts and processes of consolidating democracy in Malawi. This section has been used virtually to entrench the interests and exclusive powers of a dominant oligarchy in multiparty Malawi. The real monster in this process, however, is cosmopolitan liberalism in which 'states must look "democratic", whatever the moral discredit they accumulate locally. In a more profound sense, liberalism promotes the exclusiveness of power that has come to characterize the neo-patrimonial state in Malawi. The reason is the individualist presuppositions of liberalism: subjects are linked to the highest state officials as pawns rather than as the *constituents* of their power'.⁶³ As Van Binsbergen (1995) and Kalstrom (1996), cited by Englund, H. in Cowen, M. & Laakso, L. (2002:185), have argued, these 'precepts of liberal democracy lend themselves to greed and the consolidation of exclusive power'. In Malawi, the ability of the ruling oligarchy to use patronage and clientelism to capture the state machine in the name of liberal democracy has particularly resulted from the manipulation of the constitution and some statutes.

Since the judiciary and the law are usually regarded, even by the most doubting Thomases, as technically sacrosanct institutions, the lack of popular control over these institutions becomes a major problem for the consolidation of democracy in a country where illiteracy and poverty levels are as high as 65 percent. This situation undermines the opportunity to use trans-regime 'indigenous resources'⁶⁴ for consolidating democracy. Indeed for Malawi, 'the conclusion that no class has an absolute claim to power re-enforces the principle that the law must be supreme, since its impersonal authority is less subject to passion than men can claim to be'.⁶⁵ As Plato told us, 'man, when perfected, is the best of animals, but, when separated from law and justice, he is the worst of all'.⁶⁶

This paper has argued, therefore, that when law is bad law political evil feasts on it. Worse still, when law is not understood in relation to the

wider political system in which it is embedded, little sense can be made of the legal regime which, having lost a popular mandate, is captured by the oligarchy as an arbitrary political tool for the rich few. In the ensuing drama, law lingers in the air to the chagrin and hysterical fear of the people the same way a loaded gun would in the hands of a raving mad man. The situation is no better when the law, having lost a popular basis, perches on the shoulders of the oligarchy who use it to wreak havoc on the poor. Indeed, neither poverty nor wealth is a moral yardstick for the monopoly of power. Law and justice demand equity and fairness among the classes competing for power. These values set the parameters for the construction and consolidation of a just state in Malawi. That liberal democracy as imported from the west is the best form of government in Malawi is not certain. What is clear though is that democracy in Malawi has been hijacked by the oligarchy and that the process of democratisation has betrayed the promise of multiparty politics.

Notes

1. This paper was presented to the Political and Administrative Studies (PAS) Students Society Forum at the University of Malawi, Chancellor College, Zomba, Thursday 12 June 2003. The constitutional amendment of section 65 passed by parliament in June 2001 in Malawi has had widespread political repercussions in the country. In spite of its political significance and implications, however, little has been argued about it outside purely legalistic commentaries. In its current state, I would like to thank students at Chancellor College who gave me their preliminary comments on the manuscript; Dr. Arne Tostensen of the Christen Michelson Institute (CMI) in Norway and the two anonymous peer reviewers for their insightful comments on the manuscript of this paper. The usual disclaimer applies.
2. These are issues raised by a concerned observer, 'Malawi's Democratic Vices', *The Nation* 23 June 2003 p. 17.
3. Ibid.
4. This constitutional amendment of June 2001 is apparently in conflict with Chapter IV of the same constitution section 32 (1), which among other things, provides that 'every person shall have the right to freedom of association, which shall include the freedom to form association'. Furthermore, section 32 (2) states that 'no person shall be compelled to belong to an association'. Similarly, section 34 says 'every person shall have the right to freedom of opinion, including the right to hold opinions without interference to hold, receive and impart opinions'. See also 'Sonke asks court to review section 65', *The Daily Times*, June 4, 2003, p. 3.

5. See also Harri Englund 'Winning Elections, Losing Legitimacy – Multipartyism & the Neopatrimonial State in Malawi', in Cowen, M. & Laakso, L. (eds.) *Multiparty Elections in Africa*, 2002 p. 172-186.
6. Ibid, p. 173.
7. As Chazan *et al* (1998 p. 157-160) in Harri Englund (ibid) has pointedly argued, after independence states in Africa came to be personified by their charismatic leaders and, as a result, 'assumed grossly autocratic proportions in Malawi. Promoted as "father and founder" of the nation, Kamuzu Banda embarked on an extreme centralization of political and economic power even before the country was declared independent in 1964. All "development" came to be identified with his personal efforts and wisdom, and all politicians and the populace at large were expected to display wholehearted loyalty'. The state that emerged in Malawi 'percolated through virtually every sphere of Malawian society, sometimes bringing extensive patronage, at other times coercion and violence... Popular participation consisted in expressions of support and obedience for the Head of State known as the *Life President* since 1971'.
8. See chapter 4 of the Constitution of Malawi, 1995.
9. Harri Englund, *op cit.* p. 175.
10. Ibid p. 175.
11. Sabine, G.H. & Thorson, L.T. *A History of Political Theory*, 1973 p. 107.
12. *The Daily Times*, *op cit.*
13. See also 'Sonke's Case Puzzles Judge', *The Nation*, 10 June 2003 p.1.
14. Ibid. p. 2.
15. See 'Judge Quizzes Attorney General's Lawyer Over Sonke', *The Daily Times*, 10 June 2003 p. 3.
16. Ibid.
17. These were views of the UDF deputy secretary general and Minister of Justice, Paul Maulidi. See Gedion Munthali, 'UDF to have no party president', *The Nation*, 18 June 2003 p. 2.
18. See Gideon Munthali, 'Church Presses for MPs' Recall', *The Nation*, 23 October 2003 p. 3.
19. The NGO Act (2001), section 23 (1) [C] leaves them vulnerable to political manipulation sanctioned by the parent Act. This section empowers the NGO Board in Malawi to 'cancel or suspend the registration of an NGO if it is satisfied that the NGO – has been engaged in partisan politics'. What 'partisan politics' means, however, is not clearly defined.
20. Heywood, A. *Political Ideologies - An Introduction*, 1992 p. 275.
21. 'UDF Attacks Commission', *The Nation*, 4 December 1996. Section 40 (1) of the Constitution of Malawi reads, *inter alia*, as follows: 'subject to this constitution every person shall have the right:
 1. to form, to join, to participate in the activities of, and to recruit members for, a political party;
 2. to campaign for a political party or cause;

3. to participate in peaceful political activity intended to influence the composition and policies of the government; and
 4. to freely make political choices’.
22. This argument was advanced by former secretary general of Aford, Dan Msowoya, who was expelled from the party (AFORD) together with his six colleagues apparently for disagreeing with their party president, Chakufwa Chihana, on the issue of the *third term* bill. Chihana has since been appointed Second Vice President in the UDF-led ‘government of national unity’. See McCarthy Mwalwimba, ‘Axed Aford Members Reinstate Themselves’, *The Nation*, 18 June 2003 p. 3.
 23. Sabine & Thorson, p. 106.
 24. Heidenheimer et. al. (eds.), *Political Corruption - A Handbook*, 1997 p. 10.
 25. See Joseph Chimbuto, ‘Constitution’s Roles Inconsistent’, *Daily Times*, 17 July 2003 p. 11.
 26. Sabine & Thorson op cit.
 27. These were arguments raised during a budget sitting of parliament by one prominent opposition member of parliament who is also an economist, Hon. Mapesi Gondwe on 15 June 2003. See Joseph Langa, ‘No Hope for Economic Development – Mapesi’, *The Nation* 16 June 2003 p. 3. For example, civil society queried government at a budget briefing meeting in Lilongwe on 16 June 2003 over the more than 100 percent raise in financial allocations to the Office of the President and Cabinet (OPC) and the ruling party instrument – the National Intelligence Bureau (NIB), while pro-poor sectors suffer.
 28. Joseph Chimbuto, ‘Constitution’s Roles Inconsistent’, *Daily Times*, 17 July 2003, p. 11.
 29. Lwanda (1996) in Harri Englund, op. cit. p. 175.
 30. Harri Englund op cit. p. 177.
 31. Ibid, p. 179.
 32. Ibid, p. 180.
 33. See Joseph Langa, ‘Experts Attack MW Democracy’, *The Nation*, 5 June 2003 p. 1. ‘Ngwazi’ is a symbolic Chewa (local language) name, which Malawians had given the former dictator, Hastings Kamuzu Banda, as a sign that he was almighty, infallible and *life president* of the country. See also Thandika Mkandawire, ‘Threats to Democracy in Malawi’, *The Lump Magazine*, July-August 2003.
 34. Ibid, p. 2.
 35. Gedion Munthali, ‘UDF to have no party president’, *The Nation*, 18 June 2003 p. 1.
 36. See for example, Jack Mapanje, ‘The Orality of Dictatorship: In Defense of My Country’, Harri England (ed.) *A Democracy of Chameleons – Politics and Culture in New Malawi*, 2002, pp. 178-189.
 37. See Kondwani Mwalughali, ‘Who will be laughing in 2004’, *The Chronicle*, 8-13 July 2003, p. 6.
 38. Ibid.

39. For example, Harri Englund observes that in Machinga, one of the districts in the southern region and home to the state president, the PDP candidate in a parliamentary by-election was taken to go and see the state president. The same day's lunch hour bulletin broadcast on MBC announced that the candidate had resigned from the PDP and given up his candidacy. UDF Publicity Secretary later admitted that Muluzi had supported the opposition candidate 'with cash and material assistance' because the opposition candidate was 'a boy from home who needed help'. Candidates for MCP and Aford, Edward Mlongoti and Evance Kapesi, respectively were allegedly abducted by UDF officials when they wanted to stand for the opposition in a hotly contested parliamentary by-election in Ndirande township in 1997. p. 182.
40. Justices Dunstain Mwaungulu, George Chimasula Phiri and Anaclet Chipeta were 'impeached by Parliament' in 2001 for 'incompetence and misconduct' until president Muluzi, after intense domestic and international pressure, refused to assent to the impeachment. However, their impeachment was clearly a case of political harassment.
41. African Church Information Services, [http://search.yahoo.com/search?fr=ieas\\$=Africa+church+information+services](http://search.yahoo.com/search?fr=ieas$=Africa+church+information+services), 5 November 2001.
42. UN Integrated Regional Information Networks, [http://search.yahoo.com/search?fr=ieas\\$=un+integrated+regional+information+networks](http://search.yahoo.com/search?fr=ieas$=un+integrated+regional+information+networks), 19 November 2001.
43. See also Joseph Langa, 'Budget Still on Drawing Board', *The Nation*, 18 June 2003 p. 2.
44. Pilirani Semu-Banda, 'Why UDF Wants Muluzi as Chair', *Weekend Nation*, 26-27 April 2003 p.1.
45. Ibid, p.2.
46. See also *African Church Information Services* ibid. 5 November 2001.
47. Sachikonye (2001:5).
48. Sachikonye (2001:6).
49. For a main discussion of ethics and corruption in government see, for example, Heidenheimer et al. (eds.) *Political Corruption – A Handbook*, 1997.
50. For example, section 58 of The Presidential and Parliamentary Elections Act (1993) as amended in 1997 and 1998 provides that 'every public office and public entity or authority shall give and be seen to give equal treatment to all political parties to enable each political party to conduct its campaign freely'. The Communications Act (1998) section 45 (1) provides that 'The [Malawi Communications Regulations] Authority shall regulate the provision of broadcasting in Malawi in the manner which it considers is best suited (f) to ensure equitable treatment of political parties and election candidates by all broadcasting licenses during any election period'. And The Corrupt Practices Act (1995) prohibits corruption among public officers generally under section 24.
51. Ibid, p. 7.

52. The ruling party monopolises the MBC in violation of The Communications Act (1998) section 87 (1) [b] which states that ‘MBC shall provide public broadcasting services in accordance with the following principles – the encouragement of free and informed opinion on all matters of public interest; [d] respect for human rights, the rule of law and the Constitution of Malawi; (2) [a] function without any political bias and independently of any person or body of persons; [b] support the democratic process; [d] provide balanced coverage of any elections’.
53. *Daily Times*, 9 July 2003 p. 1.
54. Gideon, Munthali, ‘Anti-Mutharika Governors Fired - Forced to Walk From Sanjika’, *The Nation*, 11 July 2003 p. 1-2.
55. Harri Englund op.cit. p. 176.
56. Partly because parties in Malawi lack ideological bases for their policies, the politics of the ‘personality cult’ are so pervasive such that, to borrow Harri Englund’s words, ‘the big men’ or ‘piggy banks’ syndrome, the self and their numerous social networks and welfare politics give politics another distinctive dynamic in Malawi. This is, as Harri Englund notes, ‘the imagery of prominent persons as piggy banks whose participation in party politics is merely an aspect of their authority. Through their moral partnership with their subjects, party politics is a consequence, rather than a source, of their authority’. It is also important to note that it is the same colonial sycophant that has gone through a metamorphosis to become the ‘nationalist’ agitating for independence and now the ‘democrat’ fighting the stigma of tyranny in Africa.
57. For example, Kanyongolo (2002) argues that accountability both as a constitutional value and a principle of national policy is guaranteed when leaders timely and constitutionally leave office to allow for public scrutiny of their office transactions so that they account properly and without undue influence for the activities carried out during their tenure of office.
58. On January 29 2003, ‘four MPs were roughed up at the Parliament buildings by youths believed to be UDF Young Democrats for allegedly expressing negative views on the Third Term Bill. The four MPs were Peter Kaleso, Green Mwamondwe, Jan Sonke and Joe Manduwa’. On February 1 2003, pro-Third Term demonstrators protected by the police clashed with University of Malawi students at the Polytechnic in Blantyre. The result was that 4 students were arrested for allegedly setting ablaze a UDF regional office at Chitawira in Blantyre but none of the UDF demonstrators was arrested despite the fact that they had also destroyed property at the University campus including the windows of the Polytechnic library and bus. Perhaps the ugliest scene took place on March 6 2003 when the UDF Young Democrats, in solidarity to UDF Blantyre district governor, Eric Chiwaya who was involved in a case, invaded the Blantyre Magistrates Court, beat up and injured 4 people. Similarly, a man who chanted ‘*sayimanso!*’ (the president will not stand for office again) in Limbe when Muluzi was coming from abroad was brutally hacked by panga knife wielding UDF Young Democrats. On August 17 2000, main opposition

MCP President, Gwanda Chakuamba and his party Treasurer General, Dr. Hetherwick Ntaba, 'escaped a night of shooting as they drove from a rally at Chulu in Kasungu in preparation for a by-election. Youths led by UDF Young Democrats leader, Sam Zimba, trailed the Chakuamba/Ntaba vehicle to Kasungu police station' and 'Zimba attacked a policeman who tried to block the intimidators from intruding into a cell and lay their hands on chakuamba'. What is more, 'after failing to get at their target, the youth smashed the windows of the car in which Chakuamba and Ntaba had arrived at the police station'. Although some arrests were made after some time and pressure on the police, the case has made no progress through courts up to now. In fact, Zimba himself was never arrested. As if this was not enough, on July 30, 2002 Kasungu South East MP, Kizito Ngwembe (MCP), 'was beaten up by over 30 youths at Kasungu Police Station' and was left for dead in full view of police officers. No arrests were made and the police are still investigating the matter (this catalogue of political violence was compiled by former UDF First Vice President and long time Cabinet Minister, Aleke Banda. See 'Politics of Intimidation, Harassment', *The Nation*, 23 and 25 June 2003 p. 16 and 14. Banda argues, inter alia, that the rule of law and state security apparatus in the country have been deliberately flouted by those wielding political power to intimidate and harass political opponents even though Malawi is a multiparty state now.

59. Ibid.

60. Ibid.

61. Aleke Banda, 'Politics of Intimidation, Harassment', *The Nation*, 23 June 2003, p. 16.

62. Kanyongolo, 'Constitutionalism and the Removal of Presidential Term Limits from the Constitution of Malawi', 2002, p. 6.

63. Kanyongolo (2002) and Williams, (1993) cited in Harri Englund (2002).

64. In classical terms, David Held (1987:33-34) has referred to a 'democratic' Athenian city-state and the 'oligarchic' republic of Rome as polities or 'face-to-face societies' that shared "oral cultures, with elements of popular participation in governmental affairs and little, if any, centralised bureaucratic control. Both sought to foster a deep sense of public duty, a tradition of civic virtue or responsibility to the 'republic' - to the distinctive matters of the public realm. In both polities, the claims of the state were given a unique and privileged priority over those of the individual citizen. The Malawian case has, however, shown that public virtues as an indigenous resource obtaining in a particular society and associated with a certain political regime may be discarded as the regime collapses. For example, as Phiri, K.M. (in: Ott, M. et al, 2000:82) has aptly argued, 'during the political transition of 1992-94, the forces concerned castigated and condemned all self-help initiatives sponsored by the Banda government because of the authoritarian culture with which they were associated. The result is that in many parts of the country it is an uphill struggle to rebuild the same self-help spirit in relation to the requirements of the poverty

alleviation program'. Similarly, Poschke, R. & Chirwa, W. (1998: 79) emphasised that in the countryside of Malawi there is a great deal of focus on individual freedoms and a corresponding lack of interest in the pursuit of collective goals or projects that are for the common good. The challenge though is to tame the negative aspects left by a 'culture of orality' or the 'orality of dictatorship' (Mapanje, J. in: Englund, H. 2002: 185) in Malawi and turn that 'indigenous' resource into an 'orality of democracy'.

65. Sabine & Thorson op.cit.

66. Cited in Sabine and Thorson, op cit. p. 101.

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Decentralisation and Development: The Malawian Experience

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Abstract

The reorientation of the local government system towards decentralisation has been at the centre stage in most developing countries, including Malawi, since the advent of multiparty democracy in the 1990s. The justification for the adoption of some form of decentralisation is to promote democratic governance and participatory approaches in development. The primary purpose in this article is to analyse the context within which decentralisation initiatives are undertaken in Malawi and to assess the extent to which decentralisation promotes participatory approaches in development. This paper is based primarily on documentary research and supplemented by interviews conducted with senior officials from local authorities and with selected members of the public.

Résumé

Le retour du gouvernement au système de décentralisation a été une priorité dans la plupart des pays en développement, dont le Malawi, depuis l'avènement du multipartisme dans les années 90. La justification de l'adoption de la décentralisation est la promotion de la gouvernance démocratique et l'introduction d'approches participatives au développement. Le principal objectif de cet article est d'analyser le contexte dans lequel les initiatives de décentralisation ont été prises au Malawi, mais également de voir dans quelle mesure la décentralisation promeut une approche participative au développement. Ce texte est basé sur des recherches documentaires, et complété par des interviews de responsables des autorités locales et de certains membres de la société civile.

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Introduction

Most developing countries, including Malawi, have embarked on the political and administrative decentralisation of government and development structures, among others, to promote democratic governance and participatory approaches in development (Ikhida 1999:165; Tordoff 1994:555–80). Scholars have documented a wide range of political and socio-economic merits for adopting some form of decentralisation and participatory approaches (see Cook and Kothari, 2001:5; Mutizwa-Mangiza et al., 1996:79; Rondinelli et al. 1983:11-13). From the political perspective, decentralisation is considered a key strategy for promoting good governance, interpreted as greater pluralism, accountability, transparency, citizen participation and development (Crook 1994:340). Administratively, decentralisation is an important process that allows decongestion of the central government and reduces the workload to manageable proportions. The breaking-up of the workload promotes greater efficiency, coordination and effectiveness in public service delivery. Since decision-making powers are transferred from the centre to local institutions, decentralisation provides an opportunity for local involvement in decision-making and harnessing local knowledge, resources and expertise in the development process (Ikhida 1999:165; Mutizwa-Mangiza et al. 1996:79).

Malawi's decentralisation initiatives can be traced back to the colonial era. Yet this paper focusses on the decentralisation initiatives undertaken since independence in 1964. It is worth noting that the reorientation of the local governance system towards decentralisation (devolution) has been at the centre stage since the advent of the multiparty democracy in the 1990s. Among the steps taken to institutionalise the 'new' decentralised local governance system include the adoption of the Republic of Malawi Constitution Act No.7 of 1995, the passing of the Local Government Act No. 42 of 1998 and the Malawi Decentralisation Policy. However, there is a need for a comprehensive understanding of the context in which decentralisation initiatives are undertaken and the major outcomes of such initiatives. This is important as it provides a base for identifying viable strategies that ensure effective decentralisation and sustainable local development.

This article is divided into five major parts. It commences with clarification of three inter-linked concepts, namely, decentralisation, development and citizen participation. These concepts provide the theoretical framework for this analysis. The second part presents an overview of the outcome of decentralisation initiatives in selected countries

in Africa. This is followed by an analysis of the decentralisation initiatives undertaken in Malawi since independence in part three. The aim of this part is to determine the extent to which the decentralised structures promote citizen participation in local development and to highlight the major challenges and limitations faced. In the fourth part, the context of decentralisation and citizen participation in the multi-party dispensation is analysed and recommendations for effective promotion of popular participation in development are presented. Finally, the key issues drawn from the analysis are presented in the fifth part by way of conclusion.

Conceptual underpinnings: Decentralisation and development

Concepts such as decentralisation, development and citizen participation, which are pertinent to this analysis, reveal a variety of meaning and purposes since scholars in the social sciences define and interpret them in different ways (see Oyugi 2000:4; Ayee 1992:49, Sharma 2000:183). Therefore it is important to clarify these concepts right from the outset.

Decentralisation

Discourses in Development Studies show variations in the meaning, purpose and forms attributed to the concept of decentralisation. For instance, such concepts as *delegation*, *participation*, *divisionalisation*, *deconcentration* and *devolution* are associated with decentralisation (see Barle and Uys 2002:143; Kiggundu 2000:89; Wolman 1990:32; Rondinelli 1981:137). Despite the variations, there tends to be a common agreement that decentralisation is a generic concept for various forms of structural arrangements in government and organisations. As a process, decentralisation involves the transfer of authority and power to plan, make decisions and manage resources, from higher to lower levels of the organisational hierarchy, in order to facilitate efficient and effective service delivery (Smith 1985:1; Rondinelli 1981:137; Kiggundu 2000:89).

However, the two major forms of political and administrative decentralisation that have been adopted by most developing countries including Malawi are *deconcentration* and *devolution* (see Mahwood 1993:3; Tordoff 1994:555–80). On the one hand, deconcentration involves the transfer of workload and selected administrative or decision-making authority and responsibility from the headquarters to lower field-level officials within central government ministries or public agencies (Smith 1985:3; Kiggundu 2000:99; Sharma 1995:26). On the other hand, devolution involves the transfer of authority and power to local units of government, which operate in a quasi-autonomous manner outside the

direct administrative control and structure of the central government. It entails conferment of the necessary legal powers to discharge specified functions upon formally constituted local structures characterised by a measure of autonomy (Smith 1985:3; Kiggundu 2000:95). As will be shown in the subsequent analysis, the local governance system has been oriented towards devolution since the advent of multiparty democracy in the 1990s.

Development

The concept of development is elusive and difficult to define in standard terms since it is associated with a wide range of definitions and interpretations (see Oyugi 2000:4; Long 1977:3). For instance, most laissez-faire economists explain development in terms of economic growth and quantifiable indicators like increase in the gross national product or per capita income. On the other hand, welfare economists tend to emphasise organisational and structural transformation, and associate development with public welfare and the attainment of goals like rising net income, reduction of poverty, unemployment and social inequality. In the local context, most Malawians associate development with modernisation, acquisition of services, facilities and infrastructure including clean and safe water, education, health facilities, roads, and the degree of citizen participation in decision making at the local level.

In this regard, this analysis adopts a broader view of development that transcends economic views and mere material changes and includes human attitudes regarding a spirit of enhanced self-help, and citizen participation in the decision making process. Development is viewed as a process of social action in which citizens or local people at the district, area and village or grassroots levels organise, plan and take action in partnership with government to improve the political and socio-economic conditions of the locality (Sharma 2000:183). Thus the focus is largely placed on the state of social well-being and general quality of the citizens as reflected in the human life or non-economic indicators rather than quantitative aspects of economic growth and the state economy.

Citizen participation

The term 'citizen participation' is a multidisciplinary one, and it falls into four major areas of democratic theory, namely, political behaviour, community development, citizen action and government initiated citizen action (Checkoway and Van Til 1978:60). Consequently, there are variations in terminology and definitions. For instance, terms like popular

participation, community involvement, public participation and citizen participation are often used. However, in this analysis the term 'citizen participation' is preferred because of its relevance to the Malawian context. In addition, there is common agreement that citizen participation entails an active process in which participants take initiative and action in purposeful activities in relation to a local institution or area of which they are citizens or legal residents (Langton 1978:16; Brynard 1996:133).

As will be elaborated further, citizen participation is critical to development since it enables local people to control and monitor resources and developmental activities. It serves as a means of monitoring abuse of the powers and ensuring transparency and accountability in resource utilisation (Clapper 1996:76). In addition, by participating in the various development committees, citizens provide the necessary input in form of labour, resources, information, feedback and advice required in the development process.

The relationship between decentralisation and development

Political and administrative decentralisation is considered as important for the promotion of citizen participation in governance and development. However, the relationship between the two tends to be unclear. Scholars suggest that much depends on the unique circumstances in individual situations (see Oyugi 2000:4; Long 1977:1-9). Although there seems to be an ambiguous linkage between decentralisation and development, it is commonly agreed that decentralised local governance contributes to development in terms of promoting participatory development strategies, and the production of policies that are adapted to local needs (see Sharma 2000:177; Crook 1994:340).

The involvement of citizens in development planning and implementation enables the formulation of realistic plans that are in line with local circumstances and conditions. Administratively, decentralisation is considered as a key strategy that provides solutions to overloaded and over-centralised agencies (Boeninger 1992:268; Ikhida 1999:165). The decongestion of the workload at the centre promotes cost-effectiveness and greater coordination and efficiency in public resource utilisation, service delivery and local development. For instance, by giving local institutions the power to make some decisions without constantly referring to the top levels, delays are minimised and responsiveness in development or project management is enhanced since decisions are flexible and adjusted to respond to circumstances on the ground. In addition, decentralisation is regarded as a means of facilitating the even distribution

of resources and minimising development regional inequalities (Omiya 2000: 197, Sharma 2000:178; Mukandala 2000:120; Mutizwa and Conyers 1996:78). For instance, as an economic intervention, the decentralisation process entails establishing or decentralising small-scale projects close to the grassroots.

Decentralisation and participatory approaches in development are not without their critiques. Although a wide range of political, administrative and socio-economic merits are attributed to decentralisation and participatory approaches, a number of scholars have raised criticisms relating to their technical, theoretical and conceptual limitations (see Cooke and Kothari 2001:1-6; Kiggundu 2000:103; Smith 1985:5). For instance, Smith (1985:5) states that decentralisation appears to be parochial and separatist as it threatens the unity of the general will, reinforces narrow sectional interests especially and encourages development inequalities, among others, due to its emphasis on local autonomy.

There are a number of critiques relating to the quality, validity, ethics and operations of participatory approaches. These approaches to development are methodologically considered to be parochial (see Cooke and Kothari 2001:1-6). For instance, it is argued that participatory strategies generate poor standards and practice and lead to the abuse or exploitation of the people involved. Cleaver (2001:36) argues that despite claims that participatory approaches to development improve efficiency and effectiveness, and promote processes of democratisation and empowerment, there is little evidence about the effectiveness of participation in ensuring sustainable development and material improvement among poor and marginalised people.

There is debate over a number of issues including the use terminology like 'community participation', the objective of participation as to whether it is a means or an end, and the applicability and the appropriateness of the techniques and tools (Cook and Kothari 2001:7-10). For instance, it is argued that the term 'community' masks power relations, biases in interests and needs based on ethnicity, age and class. It is also suggested that in practice participatory approaches simply mask continued centralisation in the name of decentralisation.

However, the detailed rehearsal of the limitations of decentralisation and participatory approaches to development is beyond the scope of this analysis. As indicated in the introduction, the main purpose of this analysis is to highlight the decentralisation and development experience of Malawi, unravel the major challenges, and move beyond simple identification of the limitations to the analysis of fundamental contextual issues.

Decentralisation in Africa – Overview

The idea of nation building and planning for development became buzzwords in most African countries at the dawn of independence. The quest for appropriate planning resulted in the establishment of decentralisation (deconcentration) in the form of a network of development committees, which operated in every administrative unit in the field and were linked to the parent committee or a government ministry at the centre (Oyugi 2000:xii-xiii). The development committees were established at the district level and the periphery in many countries such as Tanzania, Kenya, Lesotho, Tanzania, Botswana, and Zambia (see Kiggundu 2000:111–14; Mukandala 2000:122). From the 1960s to 1980s decentralisation initiatives were undertaken in the context of nation building. Thereafter they accompanied the introduction of Structural Adjustment Programmes (SAPs). During the introduction of SAPs, a relatively strong deconcentration programme called the district focus for rural development was introduced under donor initiative in countries like Kenya and Malawi in order to strengthen citizen participation in decision-making.

The wave of democratisation and globalisation experienced since the demise of the Cold War in the 1980s has propelled African countries to adopt political and administrative decentralisation (devolution) and such policies as the deregulation of economic activities, reduction of central government's participation in economic production, delegation of responsibilities for the provision of some services and infrastructure to sub-national institutions such as district councils, community based groups and non-government organisations (UNDP 2000:95).

It is of note that countries tend to adopt selective interpretations of decentralisation and adjusted decentralisation policies to suit the prevailing ideologies of development. However, the underlying assumption for adopting some form of decentralisation is that it promotes citizen participation in decision-making and it is considered a right and part of political democracy. Decentralisation is viewed as an important strategy that enables citizens to express their real development needs and engenders sustainable development and grassroots commitment to political and development activities. In this regard, most developing countries in Africa including Malawi have reinvigorated local structures and set up a system of committees at the local level.

At this stage, it is important to have an overview of how well decentralisation initiatives in African countries have performed and facilitated participatory approaches to development. The outcomes of various forms of decentralisation have tended to be unsatisfactory in most

developing countries. Apparently, the promotion of merits of decentralisation, and in particular, citizen participation in development, reveals a gap between theory and practice. Oyugi (2000:xiii) states that the development committees that were set up in the 1960s and survived up to the 1980s functioned as appendages of the central agencies and they were not autonomous entities. The committees were used as instruments of the central authority to control the behaviour of the citizen in the development process. In short the decentralised structures failed to effectively involve the citizens in decision-making matters relating to development in most African countries.¹

The results of a centralised economy system and development planning adopted from the 1960s–1980s have been disappointing in most developing countries. This situation has provided strong justifications for the adoption of some form of decentralisation, and in particular, devolution, with the hope to promote participatory development strategies, to improve efficiency and effectiveness in development planning and administration, and to implement egalitarian policies (Mutizwa-Mangiza and Conyers, 2000:78). However, the outcome of such decentralisation initiative tends to be unsatisfactory. For instance, Kiggundu (2000:111) states that public management at the local level remains centralised in most developing countries despite the pronouncements by politicians and pressures from international donor agencies in favour of decentralisation.

In most Anglophone countries in Africa, local government structures are facing problems such as the lack of local autonomy, high dependence on central government policy, shortage of financial resources and poor administrative capacity (Oyugi 2000:12; Kiggundu 2000:112). In Ghana (Nkrumah 2000:65), Uganda (Makara 2000:86), Zambia (Chikulo 2000:46) and Kenya (Omiya 2000:202) decentralisation has been neither a major process of good governance and development nor has it facilitated citizen participation, accountability and transparency, due to centralist tendency and interference in issues of local institutions by central government officials, among other factors. In Zimbabwe, Botswana, Lesotho and Tanzania as elsewhere, decentralisation is facing challenges due to the inability of local structures to function without guidance from the centre and to make binding decisions (Munro 1995:107–40; Oyugi 2000:12; Tordoff 1994:558). Aril (2000:121–43) states that despite the introduction of political and institutional reforms aimed at increasing political decentralisation and introducing democratic local government, the performance of local councils in Zimbabwe and Tanzania has not been responsive due to central government control over local planning and

local councils' limited financial autonomy. In some instances, decentralisation has promoted regional inequalities, in that financially better-off localities such as cities and towns have prospered while the development of rural areas has tended to lag behind.

It can be deduced from the above analysis that decentralisation initiatives have neither promoted democratic governance nor have they led to viable participatory approaches to development. The various decentralised strategies have failed to actualise genuine participation due to *inter-alia*, centralised systems that allow minimal citizen participation and regulate local institutions heavily. Clearly, the success of decentralisation initiatives depends upon a number of internal and external factors, which according to Kiggundu (2000:102) include age and size, nature of tasks, technology, internal management and administrative capacity, and socio-political and economic factors. This confirms the view that there is no automatic relationship between decentralisation and development and much depends on the unique circumstances obtaining in a particular country. In this regard, the following section presents the experience and situation in Malawi.

Decentralisation and development in Malawi

The need for active citizen participation in the socio-economic development and nation building was recognised by the Banda regime at the dawn of independence. This was manifested by the creation of district development committees (DDCs) and other local institutions to provide for decentralised planning in January 1965 (Miller 1970:130). The DDCs became operational as from September 1966 with the responsibility, among other matters, to foster dialogue between government and ordinary people in the villages through their representatives; to promote government's development policies at the local level; and to coordinate the various stages of decision-making and project management (Miller 1970:130). The agriculture sector envisaged citizen participation in development as reflected in the Malawi Development Policy (DEVPOL) of 1971–1980 and 1987–1996 (UNDP 2000:54; World Bank 1992:3). The agricultural policy was hinged on integrated rural regional policy and extension policy while the social mobilisation policy was aimed at promoting citizen participation in self-help projects and community development at the local level (Simukonda 1997:18). In principal, development at the local level required a collective effort of various institutions including the district councils, DDCs and the department of community development.

However, although citizen participation in the development process was adopted in principle, the participatory strategies were highly manipulated and politicised such that the local people hardly played any role in governance and development processes (Simukonda 1997:8). In principle DDCs operated independent of the local authorities and this resulted in competition for resources and duplication of development activities (Miller 1970:130). Over the years, both the DDC and local authorities played a very insignificant role in local governance and community development due to 'the politics of intimidation and repression', which characterised one-party rule (Apthorpe et al. 1995:8).

The political environment was characterised by party supremacy, intimidation, centralisation and politicisation of the local structures and denial of human rights and basic freedoms of association, speech and dress (Otanez 1995:51; Apthorpe et al. 1995:11). For instance, at the local government level, the passing of section 50 of the Local Government District Council Act No.22: 02 of 1965 repealed and undermined the autonomy and decision-making powers of district councils. The central government stripped district councils of their functions, reduced grants, withdrew some services like road maintenance and controlled staff appointments, promotion, discipline and dismissals (Kaunda 1998:52; Simukonda 1999:67).

Government initiatives and the 1993 district focus structures

The situational analysis of Malawi carried out in 1993 highlighted the need for effective decentralisation and citizen participation in development activities. It was clear that the absence of effective structures at the lower levels of government hindered the process of development and poverty alleviation efforts (MDDPM 1995:10). As a result, the Malawi Congress Party (MCP) government adopted a selective decentralisation policy that was formalised in the *district focus* development policy in November 1993. This marked the beginning of the process of reinvigorating local structures and citizen participation in development and local governance (MDDPM 1995:10).

The district focus strategy entailed creating and strengthening institutional structures through a transfer of decision-making and authority and financial control over development funds to the district level (MLGDP, 1999:2). The strategy was first introduced in six pilot districts and later replicated in other districts albeit with varying progress. In order to promote

effectiveness, democratic governance and development, the district focus strategy undertook the following (MDDPM 1995:11):

- strengthening the decision-making and coordinating roles of DDCs;
- introduction of sub-national planning structures;
- establishment of the District Development Fund (DDF); and
- strengthening of participatory structures at the local level.

As indicated, the DDC was in principle the key local structure established to promote local development. Although the committee underwent reorganisation several times since its inception in 1965, its operations were reviewed during the implementation of the district focus strategy in order to make it more representative and reflect the views of the local people. The major change in the composition of the committee was the exclusion of the Clerk of the district council and heads of departments of line ministries operating at the district level. The new membership of the DDC included the district commissioner as a chairperson, members of Parliament in the district, chairpersons of political parties operating in the district and represented in the parliament; representatives of non-governmental organisations and chairpersons of all local authorities; traditional chiefs and co-opted members of the private sector (DDPH 1998:9).

The reorganisation of area and village development committees was also undertaken in order to further improve governance and enhance grassroots participation in the project management cycle. The district focus strategy largely involved 'deconcentration' or administrative delegation of authority and power to institutions that were part of the central government bureaucratic structure rather than devolution of powers to local government institutions.

Decentralisation initiatives in the multiparty dispensation

The introduction of a multiparty system of government in Malawi in June 1994 resulted in the reorientation of the form of decentralisation from administrative decentralisation (deconcentration) to political decentralisation (devolution). During the six-year period (1995–2000), the DDC was the key institution that provided local representation and political leadership at the district level since local government elections were not conducted until November 2000. The representatives (councillors) who had been elected during the one-party rule and were essentially from the Malawi Congress Party (opposition members) ceased to function.

A number of steps have been taken to institute a new decentralised local governance system including the adoption of the new Republic of Malawi Constitution (as amended) Act No. 6 and 7 of 1995 on May 18th 1995, the passing of the Local Government Act No.42 of 1989 and Malawi Decentralisation Policy. The Constitution (as amended) Act No. 7 of 1995 envisages political and administrative decentralisation by providing in Chapter XIV for the creation of local government authorities whose responsibilities include the promotion of participatory approaches in development. Section 146 (3) of the Constitution states that issues of local policy are to be decided at the local level under the supervision of local government authorities called district assemblies.

Similarly, the Local Government Act of 1998 provides for decentralised local governance and development. Section 3 requires district assemblies to promote democratic principles, accountability, transparency and participation of the people in decision-making and development process. Among the policy objectives to be attained by the decentralisation process, as highlighted in the Malawi Decentralisation Policy (MDP) (2000:2) include:

- to create democratic environment and institutions of governance and development, at the local level which will facilitate the participation of the grassroots in decision-making;
- to promote accountability and good governance at the local level in order to help government reduce poverty;
- to establish strong local institutions that embrace participatory democracy, and
- to strengthen and deepen democracy by bringing the services and decision-making closer to the public and improve governance by achieving accountability and transparency.

The above provisions envisage a new status and increased role for the decentralised local government system. The decentralisation process aims at bringing the government closer to the community, facilitate bottom-up development planning and give greater attention to the needs of the local people. Section 14 (2&3) of the Local Government Act No. 42 of 1998 provides for the creation of district assemblies and other committees at area, ward and village levels in order to enhance citizen participation in development and governance. The following analysis focuses on the key structures at the district and sub-district level that are highlighted by the District Development Handbook (DDPH) and the Malawi District Development Planning Manual.

District Assemblies

As already noted, the 1995 Constitution, the Local Government Act No.42 of 1998 and the Malawi Decentralisation Policy provides for the establishment of 'local government authorities' which are called district assemblies. The district assembly is a local institution at the district level, which has been formed by integrating two parallel structures of district governance, namely, the district administration and the district councils (DANIDA 1998:8). Currently, there are 28 district assemblies in the country under a single tier system. City, municipal and town assemblies are regarded as district assemblies in their own right. There are 3 city assemblies, 1 municipal assembly and 8 town assemblies. This analysis is however biased towards the district assemblies found in all administrative centers of the country. The average population in each district is around 500,000 inhabitants while wards within districts have an average population of 10,000 people (DANIDA 1998:24). The district assemblies became operational following the local polls held on 21 November 2000.

According to section 5 (1) of the Local Government Act of 1998, the composition of district assemblies includes: councillors elected from each ward; a district commissioner who is responsible for the day to day running of administrative activities and heads the district assembly secretariat; traditional chiefs and members of parliament as ex-officio members; and five appointed members to represent special interest groups. Also, representatives from 'interest groups' are included as members of district assemblies in order to widen representation and promote popular participation in the political and development processes.

The key functions of district assemblies that are highlighted in section 6 of the Local Government Act of 1998 include the consolidation and promotion of democratic institutions and citizen participation in development, and passing of by-laws that foster good governance. In addition, the second schedule of the Local Government Act of 1998 requires district assemblies to deliver services like education and clinical health services, environmental protection, control of nuisances, roads construction and maintenance, among other public amenities. Clearly, the responsibility assigned to district assemblies relating to local governance and development is enormous and challenging.

District Development Fund (DDF)

The district development fund (DDF) is a structure that was established in 1994 to support the implementation of the district focus strategy and

enhance local participation in the allocation of development funds (MDDF 1997:1). The DDF pools funds for development activities from government and donors into a bank account for the district. Interviews with senior district assembly officials² showed that the Directors of Finance, and Planning and Development play a role in ensuring that funds are properly managed while the elected members of the district assembly decide which projects are to be funded. The DDF represents a new approach to funding as it involves local representatives in the decision making process and promotes local participation, transparency and accountability (UNDP 2000:114).

Village Development Committee (VDC)

The Village Development Committee (VDC) is the lowest structure at the district level that represents a group of villages or a village depending on size of the village (DDPH 1998:8; MDDPM 1995:17). The functions of the committee include conducting meetings for the identification of community needs and initiation of self-help projects, soliciting funds for community based projects; supervising the implementation of projects, mobilising community resources for local participation, and coordinating and communicating with the area development committee (ADC) regarding the local development needs (DDPH 1998:8; MDDPM 1995:10). The prescribed membership of the VDC includes the group village headman/woman who acts as the chairperson; vice-chairperson; secretary; vice-secretary; treasurer; vice treasurer; ten members elected from various villages within the VDC (DDPH 1998:6). However, interviews with senior government officials revealed that VDCs existed on paper only in most districts.

Area Development Committee (ADC)

The ADC is a representative body of all VDCs under the leadership of the traditional chief. The membership of the committee includes (DDPH 1998:18):

- 1 one female and one male member elected from each VDC;
- 2 ward councillors;
- 3 representatives of political parties that are in Parliament;
- 4 members of Parliament;
- 5 representatives of religious faiths;
- 6 representatives of youth and women groups in the area;
- 7 representatives of business community; and
- 8 chairperson of area executive committee.

Although in principle each traditional chief is supposed to have one ADC, in geographically vast areas one traditional chief may have more than one ADC. For instance, it was observed during the time of fieldwork that in Zomba district there were nine ADCs against seven traditional chiefs. Among the key functions of the committee include:

1. holding monthly meetings in collaboration with VDCs;
2. raising funds and mobilising community resources for projects;
3. reviewing and integrating projects from VDCs; and
4. submitting the proposed development projects to the area executive committee (AEC), and the district executive committee (DEC).

The AEC and the DEC are committees composed of field officers at the area and district level respectively. The AEC is composed of field workers at the sub-district level while departmental heads of line ministries such as agriculture, commerce and industry, community services, education, forestry, health environment, human resources constitute the DEC (MDPPM 1995:22). These committees are charged with the task of evaluating the proposals from the community before submission to the district assembly (DDPH 1998:10).

Limitations

The promotion of genuine participatory development strategies through a network of committees highlighted above faces a number of challenges. The major factors that constrain effective citizen participation in development, which are further elaborated in part four of this analysis, include centralisation, bureaucratic controls, filtration of local inputs, and the prescription of membership for ADCs and VDCs.

Although the aim of the new local governance system is to ensure a bottom-up approach and to decentralise control and decision-making powers over development activities, in practice the ultimate control remains with the centre (MDPPM 1995:10). The role of the central government, according to the legal instruments like the Constitution and the Local Government Act of 1998, is to set guidelines and supervise local institutions. However, in practice the centre tends to exert the ultimate power and control over local affairs including the actual drawing up of plans for the local institutions (DANIDA 1998:22; UNDP 2000:119). Musukwa (2001:1) reports that elected councillors complain about the central government's continued grip on district assemblies and attempts to force its will on matters supposed to be decided at the local level. The undermining of local autonomy is confirmed by a number of provisions

in the Local Government Act of 1998 that ensure central government's unlimited authority over the affairs of district assemblies like finance and human resources. According to section 4 (2) of the Local Government Act of 1998, the power to declare any local government area to be an assembly rests with the minister for Local Government. Sections 57 and 58 state that the minister is required to approve any external financial assistance to the district assembly. Attempts to increase local autonomy of district assemblies in the recruitment and selection of their staff were thwarted by reinstating the Local Government Service Commission as the recruiting agency for middle-level and senior officers (DANIDA 1998:23).

In addition, various government ministries tend to decentralise (deconcentrate) their functions independently, depending on their understanding of what the decentralisation process means to them. The uncoordinated and fragmented decentralisation of functions has resulted in a waste of resources and duplication of efforts (see Kamanga et al. 2000:56–57). Currently there is no legal framework covering sector devolution plans and therefore no meaningful devolution has taken place as envisaged by the Local Government Act of 1998 and the Malawi Decentralisation Policy. The practice in most district assemblies shows that line ministries continue to forward local inputs and project proposals from the public to particular ministries for consideration for possible funding.

The development planning system and organisational structure is highly bureaucratic and characterised by stringent controls and delays in project funding, communication and feedback problems to local structures. The development plans proposed at grassroots are subject to review and filtration in the institutional matrix, especially the DEC and AEC. Although the rationale for the screening is to harmonise local demands and plans with national policies, the end product of the screening process does not always reflect the actual local needs. (UNDP 2000:115). The bureaucrats or participatory facilitators tend to override legitimate submissions and local decision-making process. According to the MDPPM (1995:12) it takes years before requests by the citizens at the village level are implemented in most cases.

On the political dimension, the traditional chiefs who chair the ADC and VDC assume their position through heredity. This implies that undemocratically elected leaders direct the key grassroots structures that are critical for the promotion of democratic governance and participatory development strategies. According to Apthorpe (1995:27) the local elite

including the traditional leaders and members of Parliament can easily manipulate the ADCs and the VDCs. The prescription of membership of the grassroots structures clearly places emphasis on representation of the citizen interest. In addition, the VDC, which in practice is an aggregate of several villages, does not go deeper into the lowest level of the village head. This situation limits the degree of participation and involvement of the community in the decision-making machinery.

The lack of awareness and capacity among the local people and the absence of the VDCs in most areas also constrain effective local participation in development. During interviews it was indicated that only a few members of the VDCs were active and that most members were not even aware of their responsibilities due to inadequate training programmes (MLGDP 1999:3). During conversations with village people it became clear that most citizens were not even aware that ADCs and VDCs are actually in existence in their locality. As indicated, in most districts committee at sub district level exist on paper only. During interviews with some residents in the six selected districts, it was noted that a few people who are aware of the existence of VDCs and ADC in their area, viewed the committees as arms of government and primarily accountable to the top echelons of the administrative structure rather than the local citizens. In committees where a degree of citizen participation has increased, the administrators tend to define the context in which participation takes place. The development planning system does not adequately take into account the basic principles of democratic governance since it tends to ignore participation and empowerment of the 'voiceless' in decision-making (MDPPM 1995:10).

The Local Government Act of 1998 does not provide details regarding the functions of VDCs and ADCs, and therefore their activities have no legal basis. The members are not empowered to make binding decisions about development. In this regard, citizen participation through governmental structures tends to be symbolic or a façade. Citizens largely rely on elected representatives rather than direct involvement at the grassroots level since membership is prescribed and avenues for participation tend to be restricted and ineffective. In addition, there is no legal framework and clear linkages between the operations of civil society and community based organisations and the local government structures at the district and sub-district levels.

It can be deduced from the above analysis that the attainment of the decentralisation policy objectives, and in particular, the promotion of participatory approaches to development, remains a daunting challenge.

However, decentralisation initiatives have generated enthusiasm and great expectation among the local people to take part in decision making particularly in proposing solutions to their developmental needs. The decentralisation process has also raised awareness about bottom-up approach in development especially in districts that have developed socio-economic profiles. Thus local institutions like VDCs and ADCs hold great potential in initiating projects and mobilising labour for implementation and maintenance of various projects. However, the prevailing conditions at the local level militate against the effective promotion of participatory approaches in governance and in development as shown in the following analysis.

The context of decentralisation and citizen participation in development

In order to understand some of the obstacles to participatory development, it is useful to consider the context of decentralisation and citizen participation in Malawi. The process of attaining decentralisation policy objectives, including the promotion of participatory approaches to development by local institutions such as district assemblies, ADCs and VDCs, largely depends on what is happening within the local government sector and at the national level. The degree to which citizens feel obliged to participate in local government affairs is affected by numerous factors. The following analysis focuses on the political and socio-economic factors, elite dominance, and administrative and financial factors.

Political factors

The existence of many political parties in the multiparty dispensation represented the flourishing of pluralism and political diversity in Malawi. However, there is a trend of a culture of antagonism, lack of political tolerance and mutual respect among political opponents. The political intolerance is evident at the national level through elections results, which are often polarised along regional and ethnic lines, and in the use of inflammatory language, tension and political violence especially during political rallies and election campaigns (see Kayambazinthu and Moyo 2001: 87-102; Somanje 2001:4). Although Malawi has a multiplicity of actors in the political arena, the situation has not genuinely translated into a democratic state. This manifested the shaky legitimacy of results of most elections, which are often challenged by allegations of a lack of freedom and fairness, rigging and violence. A case in point is the 1999 presidential and parliamentary elections that ushered in the United Democratic Front (UDF) government into a second term amidst protest (Ngubane 1999:22).

The political environment, which is characterised by intolerance for diversity of opinions, electoral manipulation, partisan violence and confrontational tactics renders existing local institutions ineffective in their task to promote citizen participation in the political process (Somanje 2001:4). During interviews, some villagers indicated that they were unwilling to contribute to self-help projects initiated by a rival political party. Thus development activities and projects tend to be highly politicised in certain areas. This implies that local knowledge does not always determine the planning process and outcome. The local needs are often structured by local perception of dominant political interests and what government agencies in question are able to deliver. Thus, local needs tend to be manipulated and as such local aspirations are constrained by political and institutional contexts.

Political pluralism breeds intense and unmanageable conflicts if it is not accompanied by attitudes of political tolerance and mutual respect especially in multi-ethnic societies (Bratton and Liatto-Katundu 1994:555). Citizen participation in development cannot survive in the absence of political tolerance. Therefore, there is a need to stabilise the nascent democracy and cultivate a democratic ethos in order to effectively promote genuine citizen participation in development. The political leadership has to engage all mechanisms that nurture a stable local democracy and consensus building through inter-party discussions and training workshops, among others.

Socio-economic factors

The promotion of citizen participation in development tends to be hampered by several factors including the lack of effective civic education, illiteracy and poverty, which culminate in a tendency towards apathy (Gama 2000:3). Malawi has the 4th lowest GDP per capita (estimated at US\$586 per annum) in the world and the poverty analysis and profile indicates that 65.3 percent of the population is poor and lives below the poverty line and 28.2 percent of the total population are living in dire poverty (MPRSP 2002:5). Most people lack economic empowerment and depend on government handouts and material gains in return for political allegiance.

In this regard, a high proportion of the citizens is politically naïve partly due to the political background against which they have emerged, which was characterised by centralised and authoritarian rule, community manipulation and oppression (Simukonda 1997:8). The low level of education and the parlous economic standing of a large number of citizens and representatives negatively affects genuine participation in the development process. For instance, Sukali (2000:11) points out that most

local people failed to understand the importance of the role of councillors after their absence for six years since the abolition of district councils from December 1995 to November 2000. Consequently, only 14 percent of the eligible voters actually participated in the local government elections.

Interviews with senior district assembly officials revealed that most councillors have poor educational backgrounds and face problems in trying to understand policy issues relating to finances. The local leaders are unable to communicate their vision in a way that reaches and motivates local people (Musukwa 2000:2). The situation hampers development efforts and representative government since most councillors are unable to clearly articulate and aggregate the diverse needs of the people and develop plans.

The attitudes and perceptions of the local people towards politics and their representatives are often negative. The politicians are perceived to be preoccupied with self-enrichment, and their political rhetoric is seen not to match delivery. Most citizens interviewed seemed reluctant to get involved in the political process out of frustration induced by the rising cost of living and economic decline, which robs them of their peace of mind and desire to participate effectively. The implementation of SAPs through economic liberalisation, privatisation, and in particular, the rationalisation of public expenditure has resulted in untold suffering among the poor (see Chinsinga 2002: 31; Anders 2002: 55).

An educated and well-informed citizenry is a critical precondition for the effective promotion of democratic governance and citizen participation in development processes (Bratton and Liatto-Katundu 1994:545). The community needs motivation and a thorough understanding of the political system, civil rights and responsibilities of the various levels of government in order to participate intelligently in local issues. There is a need for all stakeholders and training institutions to coordinate their activities and devise a comprehensive civic education programme for the general public, politicians and public officials. The representatives should provide tangible outcomes in terms of roads, bridges, schools, clinics and affordable quality services to encourage the grassroots to participate in local development.

Elite dominance

The prescription of membership for grassroots structures clearly places emphasis on representation, which restricts the extent to which local people take part in decision-making (UNDP 2000:60). The well being of the local communities often revolves around the power wielded by a few key individuals. Apthorpe et al. (1995:27) consider that the local elite easily

manipulated the ADCs and VDCs. Thus, elitisms leads to participatory decisions that reinforce the interest of the already powerful. For instance, in Nkhata Bay a traditional leader decided that a postal agency should be located near his house despite an alternative location suggested by the community (UNDP 2000:18). The result of local government elections of November 21 2000 based on a simple majority has led to the dominance of a single party in most districts. Although the electoral results indicate growing popularity and substantial gains by the ruling party, the situation poses a threat to meaningful pluralistic local politics and democratic participation since it ensures dominance of political interests at the local level (DANIDA 1998:8). The general public is allowed to attend and participate in the district assembly meetings; however, the lack of knowledge and information regarding district assembly affairs hampers public attendance and local contributions to issues of local development. In addition, the representation in terms of number of seats for such groups as women, youth, disabled and the minorities is not specifically guaranteed (DANIDA 1998:23). This implies that decision-making powers lie in the hands of the elites or a few key individuals.

Unless participatory approaches take into account the relative bargaining power of the key actors or stakeholders at the grassroots level, they are in danger of merely providing opportunities for the more powerful. The challenge that remains is that of finding mechanisms to reduce political dominance and ensure genuine involvement of the grassroots in decision-making on most substantive developmental issues. The key considerations should include strengthening the bottom-up approach, promoting financial autonomy at the local level; introducing more direct contact with the community, and further subdividing the villages or wards into 'cells' or subunits for development planning. These steps may help promote accountability and transparency systems that are oriented towards local people rather than the centre; and restructure the basis of power of local elites through equitable distribution of land and wealth in the rural economy.

Administrative factors

The legacy of the shortage of qualified staff is still experienced in most rural district assemblies partly due to inappropriate and inadequate training programmes, inadequate qualifications among the serving officials especially in the financial management and accounting, and numerous vacant positions (UNDP 2000:126). Interviews with senior officials confirmed that the quality and quantity of manpower is very poor both at

the central and local levels, which constrains the effective promotion of participatory development strategies. The administrative capacity of most district assemblies is insufficient to ensure the effective discharge of the enormous obligations devolved upon them (UNDP 2000:126). Among the critical vacancies that exist in the top posts include the positions of the director of planning and development, director of finance and data clerk. During the time of this research out of twenty-seven districts one did not have a district commissioner; eleven did not have directors of planning and development; thirteen did not have directors of finance; one did not have a director of administration; and fourteen did not have data clerks. The directors play a central role in the attainment of the decentralisation policy objectives and in particular, the management of funds and the promotion of local development. The absence of directors of finance and planning and development greatly contribute to ineffective local governance and promotion of participatory approaches to development (see Chinsinga et. al. 2001:45-48). The shortage of skills in planning and development has resulted in problems in developing viable district plans (UNDP 2000:126; Nhlane 2001:1). Musukwa (2001:2), points out that most district assemblies operate without plans and that they simply follow directions from donors.

The promotion of effective citizen participation in development by district assemblies requires appropriate management styles and adequate numbers of highly qualified personnel. There is a great need for intensive capacity-building programmes to ensure that human resource positions in district assemblies are commensurate with the enormous responsibilities assigned to them. Therefore, it is important that adequate and appropriate training programmes oriented towards decentralised systems should be designed and offered to the public, councillors, and district and extension staff after a thorough training-needs analysis to facilitate effective management of democratic participatory approaches.

Financial factors

Currently, decentralisation initiatives are pursued in the context of a centralised financial system. The National Local Government Finance Committee (NLGFC) was established in line with Section 149 of the Constitution to oversee all financial transactions of district assemblies in the country. The NLGFC obtains funds earmarked for assemblies from the Ministry of Finance, and government policy provides that 5 percent of the net national revenue should be transferred to district assemblies as unconditional grants and that 25 percent of this amount is be committed

to development activities (Chilungo 2003:4). In addition, conditional grants are to be transferred to district assemblies to cater for various sectors like education and health, among others.

Despite the existence of four major sources for district assembly finances, namely, central government transfers, locally generated revenue, donor aid and loan and overdrafts, most district assemblies are characterised by chronic financial problems. This is due to, among others, the narrow resource base for locally generated revenue, lengthy budgetary processes, legislative financial controls, lack of effective accounting systems, and inability to access loans (Kaluwa et al. 1998:22). The shortage of finance is exacerbated by the lack of effective information systems or data bases, inadequate and inappropriate skills and techniques for efficient revenue mobilisation and utilisation, the prevalence of corrupt practices, the misallocation of funds in some district assemblies, and erratic and unpredictable disbursement of grants (Mzembe 2001:1; Kaluwa et al. 1998:22). During the time of study, district assemblies had not received any conditional grants. In addition, some donors by-pass the official structures at the district level like the DDF and deal directly with communities. This practice encourages duplication of projects and activities in the district and further denies the district assemblies a chance to efficiently coordinate the much-needed development funds. The district assemblies find it difficult to produce tangible development outputs in form of roads, schools, bridges and health centers. Consequently, most district assemblies are unable to meet the demands of the citizens.

It is critical that the financial management systems be updated through computerised and modern accounting systems, effective inter-governmental transfer procedures, internal and external financial controls and auditing, effective supervision and engagement of well-trained revenue collectors and financial managers to ensure the prudent management of public financial resources.

Conclusion

There are high expectations among policymakers and enlightened citizens for an increased public role in development and governance. As observed by Phiri (2000:8), the citizens are looking forward to genuinely taking part in the decision making process on matters that concern their welfare. The basic elements of good governance that were absent in Malawi during the single-party rule, especially democratic popular participation in development, are to be actualised through the decentralisation process. In the multiparty dispensation, effective decentralisation and citizen participation

in governance and development is expected to reinforce democratic ideals, legitimise democratic institutions, and give a sense of ownership of the development projects and lawmaking process to the citizens.

The promotion of citizen participation in development is the key role of the Malawi local government as outlined in the Local Government Act No. 42 and the Malawi Decentralisation Policy. However, the development efforts of district assemblies are constrained by many factors, which include political intolerance, elite dominance, inadequate and inappropriate trained personnel, shortage of finances, and lack of civic knowledge and empowerment. In communities where a degree of citizen participation occurs, administrators and politicians initiate and define the environment in which participation takes place. What is considered to be citizen participation in development is in most cases mere consultation during public meetings addressed by public officials, politicians and traditional leaders.

The decentralisation process places the district assembly in a central position, with little clarification on how non-governmental organisations and community-based institutions below the VDCs are integrated into the local governance system. The linkages between lower level committees and the district assembly are vague especially on the functions of ward assemblies, which have yet to be established. There is a need for a clear legal framework, which defines the role and linkages of the key actors at the local level like members of Parliament, councillors, traditional chiefs and community based organisations. The incorporation of the traditional chiefs in the local structures must be reviewed if democratic governance and participatory strategies are to be enhanced. While traditional leaders can continue playing a role, the political leadership of local institutions of development should remain with elected people. Clearly, there is a pressing need for a thorough review and institutionalisation of viable structures that are in line with pluralism, democratic governance and legal provisions. It is important that local institutions are oriented towards participatory and direct forms of democracy and citizen participation by broadening membership and creating broad based community groups. In sum, the political, socio-economic, administrative and financial factors prevailing at the local level that militate against decentralisation efforts and participatory approaches to development should be addressed pragmatically through such measures as capacity building, civic education and training and development programmes at all levels in order to promote effective citizen participation in development.

Notes

1. Countries like Kenya, Lesotho, Tanzania, Zambia and Botswana have experienced failures in promoting popular participation in development through development committees – see Oyugi (2000:xiii).
2. Fieldwork covered five districts, namely, Zomba, Machinga, Chiradzulo, Blantyre and Thyolo district assemblies.

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Towards Better Management of Public Education in Cameroon: The Case for Decentralisation

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Abstract

This paper conceptualises centralisation and decentralisation and provides evidence that the Cameroon public education system is facing imminent decentralisation. It uses available literature and the author's teaching experience to criticise the centralised education system in Cameroon, especially in resource allocation and management. The author argues that to increase the quantity and quality of education in Cameroon, there is a need to decentralise responsibility for and control of education. He presents the model proposed by government for decentralisation and proposes roles and functions for the various levels of authority in the model.

Résumé

Cet article conceptualise les notions de centralisation et de décentralisation et démontre que le système éducatif camerounais va au devant d'une décentralisation imminente. Il se base sur la littérature disponible à ce sujet, ainsi que sur l'expérience pédagogique, pour critiquer la centralisation du système éducatif camerounais, particulièrement en matière de distribution et de gestion des ressources. L'auteur avance que, pour améliorer la quantité et la qualité de l'enseignement au Cameroun, il est indispensable de décentraliser l'imputation et le contrôle y afférent. Il présente le modèle proposé par le gouvernement en vue de la décentralisation prévue, et suggère des rôles et fonctions pour les divers niveaux d'autorité contenus dans le modèle.

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Introduction

The role of education in all aspects of development (economic, social, cultural, technological and scientific) is paramount. For a people to develop, they must acquire sufficient and proper education. The Dakar Framework for Action says education is a fundamental human right, the key to sustainable development, the key to peace and stability within and among nations and an indispensable means for effective participation in the societies and economies of the twenty-first century (World Education Forum 2000). A recent publication of IIEP (2002) highlights the importance of education by stating that:

Education is not just a human right. It is also vital for reducing poverty, promoting health, improving governance and empowering people to make choices about their destinies. People are at the centre of development and education is crucial for enhancing their capabilities, furthering equity and promoting social progress (IIEP 2002:2).

Considering the importance of education in the development of a people, there is a need to expand access and improve its quality. The education initiatives launched in Jomtien in 1990 were never achieved. In Dakar 2000, it was revealed that Education For All was still a far target in many African countries. The Dakar Framework for Action calls on all countries, especially in the Third World, to take accelerated steps to ensure that all eligible populations are enrolled in school by 2015 (Rahman 2000; World Education Forum 2000).

Prior to Dakar 2000, 47 African countries, including Cameroon, met in Johannesburg in 1999 to assess progress towards achieving education for all. The data and information presented at this meeting shows that 40 percent of 220 million eligible children in sub-Saharan Africa are not in school (EFA 2000). This shows that the quantity of education is not enough.

Education quality is a very difficult commodity to measure. However, there is unanimity in the international literature that the quality of products from African schools is deplorable (Tamukong 2001). The teaching-learning process is defective since it is plagued by many problems, including outdated curricula, unqualified teachers, shortage of teachers, overcrowded classrooms, relatively high unit costs, chronic shortage of equipment and books and above all, low teacher morale resulting from inadequate salaries. A natural corollary of this situation is low quality products. From the preceding discussion, it can be concluded that the quality and quantity of education on the continent are not sufficient. The

factors that compromise adequate provision of quality education include availability of resources, curriculum, teachers, textbooks, and management among many others.

The focus of this paper is the management of the public school system. In Africa, as well as elsewhere, there are two basic systems of educational management: centralised and decentralised. The Francophone and Lusophone countries generally have centralised systems where the central government, through a ministry of education, holds all power for education. On the other hand, Anglophone countries usually have decentralised systems where control over and responsibility for education are shared between the central, provincial and local governments. However, in each group of countries, the degree of centralisation or decentralisation varies, and sometimes also within countries with federal systems.

Experience has shown that both types of management have advantages and shortcomings. However, decentralisation has been found to be comparatively better if well implemented and this explains why many countries around the world are presently decentralising education (Tamukong 1995; Bray & Lillis 1988; Govinda 2003; Grauwe 2003), even though this process is sometimes referred to by other names include municipalisation, regionalisation and localisation (Orivel 1990; Bray & Lillis 1988; Lauglo & Mclean 1985; Yannakopoulos 1980). The Dakar Framework for Action calls for decentralisation and the formation of various partnerships with different categories of people and organisations. It is worthy to note at this point that no education system can claim to be 100 percent centralised or decentralised. The reality is that both types of management are practiced in each country with one far outweighing the other resulting in the differences between and within countries pointed out earlier. Thus, the type of management can be situated within a continuum ranging from extreme centralisation to radical devolution of power (extreme decentralisation).

Some definitions

Centralisation in management is the retention of decision-making authority by top management, while decentralisation when top management shares decision-making authority with subordinates. The two words constitute extreme situations on what is called the centralisation-decentralisation continuum. Decentralisation increases as the degree, importance and range of lower-level decision-making increases, and supervision by top management decreases (Kreitner 1995:309).

There is a need to strike a balance in every organisation, that is, to determine which types of decision-making to decentralise and which to centralise. The two extremes are dangerous to organisational survival, development and competitiveness. Extreme centralisation means too much control, which tends to thwart initiative and imagination, while extreme decentralisation means lack of control, which can engender anarchy and chaos.

Political decentralisation

Whether the system of education is centralised or decentralised depends very much on the political structure of the country. Where officials of the central government carry out decision-making alone, the political structure is described as centralised (Williams 1993). Where lower tiers of government are legally empowered to take important decisions, then we have territorial decentralisation (Fiske 1996:9). There is also functional decentralisation that involves various authorities operating in parallel (Bray 1999). For example, if two or more ministries deliver educational services or if the government and the private sector deliver such services, then there is functional decentralisation.

Centralisation/Decentralisation in education

A system of education can be described as centralised, decentralised or mixed. Where all decision-making is taken in the ministry of education, the system is centralised; where a larger number of important decisions on education are taken at the local level, the system is decentralised; where decision-making is equal or almost equally shared between the ministry and the local authorities, the system is mixed. Decentralisation of education is not a static situation, but a process – a continuous dynamic activity requiring constant monitoring, evaluation and readjustments.

According to Tamukong (1995), educational decentralisation occurs in three increasing stages: deconcentration, delegation and devolution. These terms can be defined as follows (Bray 1999; Fiske 1996; Williams 1993). Deconcentration is the weakest form of educational decentralisation and involves a shifting of some management functions to regional or branch offices in such a way that the central ministry remains firmly in power. Personnel in such offices are directly accountable to the ministry. Delegation implies a higher level of decision-making at local levels. In this case, the central government lends power to lower levels of government or semi-autonomous organisations such as churches. Such power can be withdrawn at any time without resort to legislation. Devolution is the most far-reaching form of educational decentralisation. There, power over financial, administrative and pedagogical matters is permanently transferred

to sub-national levels whose officials do not need to seek approval from the central level. The sub-national officials have the option of informing the centre of their decisions. The role of the centre is mainly the setting of broad national goals and the collection and dissemination of information.

Educational centralisation in Cameroon

The revised constitution of Cameroon has highlighted the creation of regional governments that will have control of and responsibility for social services including education (Cameroon 1996). The regional governments will be composed of elected representatives of the local populations and the traditional rulers. Furthermore, on the eve of 20th May 2001, President Paul Biya clearly indicated that regional governments are going to be set up. Thus, it is foreseen that Cameroon will soon be experiencing political decentralisation. The scholarly literature, for example Bray (1999), Fiske (1996), and Florestal and Cooper (1997), shows that in decentralised systems, regional and local governments have considerable authority over and responsibility for education and this is the route that Cameroon appears to be taking.

In line with the above remarks, the National Assembly of Cameroon passed Law no.98/004, to lay down guidelines for education in the country (Cameroon 1998). This law indicates that the education system is to be decentralised. Section 11 (1) states that 'The state shall formulate and implement educational policy with the assistance of regional and local authorities...' At present, there are no regional and local authorities in Cameroon. This law therefore implies the creation of such authorities which shall participate in formulating and implementing policy.

Section 12 says sources of education finance include budgetary allocations from the state, contributions from education partners, and budgetary appropriations from regional and local authorities. Section 32 states that each school will have an educational community composed of the authorities, the teachers, the students/pupils, persons from the socio-professional circles and regional and local authorities. Section 33 makes it clear that the system will be decentralised, 'The members of the educational community shall be involved, through their representatives, in consultative and management bodies set up at the level of educational institutions, as well as at each level of the decentralised authorities, or of the national education set up'.

The new constitution and the 1998 education law are still to be fully implemented. A partial implementation of the 1998 law has resulted in the creation of school management boards that will be examined in more detail later.

At present, the Cameroon education system is functionally decentralised in the sense that there are authorities that operate in parallel. Several ministries, especially the three ministries for education and higher education, operate educational institutions. In addition, the provision of education is both public and private. Furthermore, the three ministries and two semi-autonomous organisations organise examinations in the country. The GCE Board organises secondary school-leaving examinations for Anglophones while the Office du Baccalauréat does the same for Francophones.

In contrast, there is no territorial decentralisation which, according to Bray (1999), entails a redistribution of power or authority for decision-making among different tiers of government (such as nation, states/provinces and districts) and schools. It is this kind of decentralisation that is contained in the 1996 revised constitution and the law no. 98/004. In this light, one can rightly say that the present education system is centralised and that the 1996 revised constitution and 1998 education law aim at changing the situation. At present, most decision-making, monitoring and management functions are concentrated in the Ministry of National Education in Yaounde. The Ministry regulates all aspects of the system including students, teachers, funding, administration, curriculum and facilities. The recruitment, posting, payment, promotion and retirement of school personnel are management functions of the central government. The provincial and divisional delegations of education, found all over the country, are there to ensure that the Ministry has effective control of schools in the periphery. The delegates, who are officials of the ministry, do not make decisions except perhaps in a few non-vital areas if any and such decisions must be based on prescribed legal texts and procedure. They are however, encouraged to make suggestions and proposals to the minister.

Because of the existence of provincial and divisional delegations, we could say the education system is deconcentrated, but some writers argue that deconcentration is often a way of ensuring effective centralisation, which appears to be the case in Cameroon.

The new Ministry of Technical Education is organised and run along the same lines as the Ministry of National Education. The Ministry of Higher Education on the other hand, is not even deconcentrated.

A major step that the government has taken in the direction of decentralisation and which appears to be a partial implementation of the 1998 law is the creation of school management boards in every public nursery, primary or secondary school by decree no. 2001/ 041 of 19th of February 2001 (Cameroon 2001). Because of their importance in education management in Cameroon, these boards are further examined below.

School management boards in Cameroon

Public nursery or primary schools

Composition of the school management board

Each school has a school board composed of at most eighteen members, six of whom are ex-officio and twelve are elected. The size of the board varies depending on the school and its locality. The ex-officio members include:

- (i) The head teacher,
- (ii) The president, secretary and treasurer of the PTA,
- (iii) The local council representative,
- (iv) The representative of the minister of finance as auditor.
- (v) Elected members are chosen by the group they represent and include one to three representatives of the teaching staff, two parents who are not teachers in the school, one pupil from class five or six, the representative of the most popular trade union in the school, a representative of the business community, a representative of NGOs functioning in the locality, a representative of local development associations, the representative of the traditional authority, and another auditor voted by the board from among its numbers.

An executive composed of a president, a vice president, a secretary and a finance secretary runs the board. The president and vice-president are elected for a mandate of one year which can be renewed three times. They must not be personnel of the school. The head teacher serves as the minutes secretary while one of the teachers' representatives serves as finance secretary.

Functions of the school management board

The board meets normally at the beginning of each term on the invitation of its president. Extra-ordinary sessions can be held at any time at the initiative of the president, two-thirds of the numbers or the divisional representative of the ministry of national education. The board, which is the structure that supervises, advises, controls and evaluates the running of the school, has the following specific duties.

It determines the school places, adopts the school budget and controls its execution, approves administrative and management accounts. The board confirms the organisational chart and the internal regulations of the school. It must locate and mobilise school resources, while ensuring the rational utilisation of infrastructure, personal, finances and didactic materials. The board has the responsibility of seeing to the enrolment of school aged children in the community, and participates in the recruitment

of pupils. It may participate in recruiting part-time and temporary personnel. It must evaluate school performance and give its opinion on all facets on school life. If necessary it is required to inform the governance observatory and the minister of national education of any malpractice.

Secondary schools

Composition of the management board

The board is composed of twelve ex-officio members and sixteen elected ones to give a total of twenty-eight. This number can vary depending on the size of the school and the prevailing conditions of its location. The number should not exceed twenty-eight. The ex-officio members are the head teacher (principal), the vice principal, the senior discipline master, the chief of works in technical institutions, the bursar, a representative of the local council, the president of the students' co-operative, the president, secretary, and treasurer of the PTA. In addition, a representative of the minister of finance serves as one auditor.

The elected members comprise a representative of administrative personnel, two student representatives (one boy and one girl), three representatives of teachers, four parent representative who are not teachers in the school, a representative of the business community, a representative of NGOs operating the locality, a representative of development associations, a representative of the traditional authority, and another auditor voted by the board from among its numbers.

The management board is run by an executive composed of a president, a vice president, a secretary, and a finance officer. The president and finance officers' mandate is renewable twice. They should not be teachers or students of the school. The principal serves as secretary while the school bursar serves as the finance officer.

Functions of the school management board

The board meets normally at the beginning of each term on the invitation of its president. Extra-ordinary sessions can be held at any time at the initiative of the president, two-thirds of the numbers or the divisional representative of the ministry of national education.

The management board is charged with the supervision, advice, control, and evaluation of school management. In this capacity, it performs much the same duties as those undertaken by the boards of primary schools as specified above. During its first plenary session, the Board establishes a standing committee to assist the principal with regard to student admissions and the recruitment of part-time and temporary staff. This committee is

chaired by the principal and other members include the vice president of the Board, a vice principal, two parent representatives voted from among the Board members, one student representative voted from among the Board members, one teacher representative voted from among the Board representatives, and the representative of administrative personnel on the Board.

Observations regarding management boards

As indicated earlier, the creation of management boards is a step towards decentralisation. The inclusion of local people such as traditional chiefs, businessmen, parents and others in managing schools is the beginning of a sharing of decision-making between the centre and the locality. However, the boards suffer from some major weaknesses. They do not generate any revenue, they do not receive and spend any money from higher levels and above all, they cannot sanction anyone. The board assists the head teachers to recruit temporary staff but does not have the means to pay any such teachers. Instead, it is the PTA that generates revenue to pay temporary staff and this gives the PTA a very powerful position from which it could dominate the Board. Furthermore, other school financial problems are resolved by the PTA, which in some cases has put up classrooms, built the school fence, installed water and set up school libraries and such-like.

Thus, one can say that the school board is not powerful enough because it lacks money and cannot sanction anyone. Furthermore, the extensive presence of civil servants who are representatives of the central government on the secondary school boards can dwarf any local initiative. There is therefore a need to look for means by which the board can generate and manage financial resources and to give it some controlling authority over personnel. Furthermore, there appears to be a need to review local representation in management boards so that local communities do not become awed by the presence of civil servants at the secondary school level.

Management problems in Cameroon

The preceding section has shown that the education system in Cameroon is to be decentralised according to the 1996 revised constitution and the education law of 1998. In carrying out decentralisation, it is vital to eliminate the ills that have plagued the system due to its centralised nature as well as new ones that may arise due to decentralisation. Decentralisation has at times created far more serious problems and the literature cautions that countries should not just copy blindly but should determine what to centralise and what to decentralise depending on local contexts (Bray &

Lillis 1998; Yannakopoulos 1980; Bray 1985; Bray 1999; Lauglo & Mclean 1985). In order words, decentralisation should not be considered a magical cure or panacea for all problems. It is necessary for decision makers to know what went wrong with centralisation and to evolve strategies of pre-empting such ills as well as emergent ones in the new structures.

This paper supports the case for decentralised management of public education in Cameroon. The author has worked in the Cameroon public education system for over 20 years and is very conversant with its problems. In addition, he has read the literature on the decentralisation and centralisation experiences of many other countries (see for example Bray 1985; Bray & Lillis 1988; Hinchcliffe 1989; Jimenez & Tan 1987; Lauglo & Mclean 1985; Orivel 1990; Patrinos & Ariasingam 1997; Watt 1989 and Yannakopoulos 1980). In the following sections, management problems identified in the present set up will be highlighted and ways of solving them through decentralisation will be presented. The identified problems are not inclusive and may not be unique to Cameroon and thus the solutions suggested could apply elsewhere in Africa as well.

Poor allocation of human resources

In the Cameroon public school system, teachers and other education personnel are not rationally deployed. There is an urban-rural disparity with urban centres having a disproportionately higher share of human resources. In some urban primary schools, there are 2–3 teachers per class and in some urban secondary schools there are teachers who work for just four hours per week spread over one or two days. In some rural primary schools teachers are forced to do multigrade teaching because of the lack of staff, while in rural secondary school some teachers have up to 30 hours per week and cover many subjects and grades at the same time.

The Ministry of Public Service in Yaounde with the assistance of the department of personnel of the Ministry of National Education recruits all teachers of the public school system in the country. These are then deployed by the Ministry of National Education which also transfers teachers from one school or town to the other. However, the provincial and divisional delegates are authorised in some rare circumstances to effect the transfer of personnel within their geographical jurisdictions.

This centralisation of recruitment, posting and transfer of teachers is highly inefficient for a multitude of reasons. There is a lack of equity between geographical locations in the distribution of teachers. The central authorities cannot or do not see problems at local level. They tend to focus on satisfying the needs of Yaounde and other cities to the detriment

of rural areas. Teachers do not often have the possibility of choosing where to work. School heads cannot effectively plan because very often, they are not sure of the number of teachers they will have for a school year. Some transfers are even disruptive because they occur within the school year and quite often, the transferred teacher is not replaced. Corruption has been noticed in the transfer of teachers i.e. some teachers corrupt Ministry officials so that they are transferred or posted to particular places or schools. Teachers are not duty-conscious and assiduous. Local authorities, including school heads, cannot sanction them directly. Thus teachers tend to behave the way they like and teach when and how they like because of lack of local control. When a head or delegate acts tough to a teacher, the latter will go to Yaounde and arrange for a transfer.

There is a great desire among teachers to remain in the major urban centres like Yaounde and Douala. When interviewed informally they give a plethora of reasons for wanting to stay in these areas. I list some of them here. Teachers claim that there are no social amenities in rural environments. Some want to continue their education and can only do so in the cities. Some are married and their spouses do business in the urban centres. Some want to stay where they can easily locate and attract spouses. Some stay in Yaounde to follow up on their files so that they can get paid.

In a decentralised system where the recruitment and management of human resources is localised, such phenomena will generally not occur. The central government ensures an equitable distribution of finances and each locality recruits and manages the personnel it needs. Those who sign contracts with a local authority will have to take up residence within its area of jurisdiction. Salaries will be paid locally and promptly so that personnel do not have to travel to Yaounde for months and even years to get paid. If someone does not like the amenities available in a locality, he or she will not apply to work there. Where an environment is so enclaved, the provincial and central governments can make special allocations to the authorities so that they attract teachers, as has been the case in Botswana and elsewhere.

Poor allocation of financial resources

Proposed current budgets are determined in all the schools but the ministry decides final allocations. Very often, the gap between what is demanded and what is allocated is very wide. The ministry alone determines all capital investments. The allocation of finances does not appear to follow any agreed upon formula and as a consequence, schools with the same level of enrolments sometimes end up receiving vastly different current budgets.

If semi-autonomous local education authorities are created, the above problem will be solved easily. Central and provincial finances will be allocated to these authorities following the proportion of eligible population or some other agreed upon formula instead of the whims and caprices of ministry officials. Here, the assumption is that in decentralising education to provincial and local authorities according to the 1998 law, accompanying formulas for financial contributions from each tier of government will be formulated as well. If such arrangements are fixed, each local authority knows beforehand what to expect from higher levels and this will reduce or eliminate the irrational distribution of financial resources. If the central and provincial governments are really committed to equity, they will take steps to equilibrate delivery of service between different geographical units by making special grants to the disadvantaged ones as has been the case in some decentralised systems where some local governments could not generate their quota of education budgets or were lagging behind others in terms of service delivery.

Disparity in quantity

The quantitative provision of education is unequal with Yaounde and other major cities having disproportionately higher shares. The majority of unenrolled children in Cameroon are found in the rural areas because of the lack of schools or shortage of school places. The general tendency has been for top ministry officials to create schools mainly in urban centres and in their respective villages. Furthermore, top civil servants of other ministries as well as politicians lobby and obtain schools for their places of origin. Villages that do not have powerful sons or daughters end up without schools, or they are saddled with ones with a few poorly constructed classrooms, if they have any. If there is decentralisation that ensures an equitable distribution of resources, local authorities in both rural and urban areas will be in a position to create sufficient school places of good quality for their children. But when Yaounde alone has to decide, some areas will always be favoured over others.

Disparity in quality

This situation is closely linked to the previous remarks. The centralised nature of the system has created a situation where well-built schools possessing equipment and high quality teachers and libraries are found only in towns and in the villages of powerful political elites. Recently, the government embarked on equipping public secondary schools with computers and so far, the focus has been on schools in Yaounde and a few

other provincial headquarters. This tends to exacerbate the gap between the rich and the poor.

In a decentralised system local authorities in cities and villages will use resources generated locally and those from central and provincial governments to solve such problems and consequently enhance education quality. Education officials will be accountable to local communities who hire them and as such will tend to use resources efficiently and effectively. Thus the local authorities must be powerful enough to be able to sanction the personnel they recruit.

Some experiences in the case studies by Bray and Lillis (1988) show that decentralisation transferred power from the hands of corrupt central government officials into those of corrupt local barons. Such people tend to make it very difficult for decentralisation to work by getting unqualified relations recruited, taking contracts to build schools and embezzling the money and protecting their protégés from sanctions. Creating commissions for recruitment, discipline and contracts can control this problem if parents and educated elite are highly involved. Also, a bit of central supervision at the regional/provincial level may be necessary to pre-empt corruption.

Irresponsible school heads

The minister alone, sometimes on the proposal of delegates, appoints school heads. The heads are not accountable to any local authority and the practice has been for them to run the school single-handedly, resulting in a lot of inefficiency. Collegial decision-making and democratic management practices are very rare in the public school system in Cameroon. Cases of misuse of financial resources abound. School heads have been known to steal school money and materials for their own personal use. There is even the case of a school head who removed louvres from a school building to put in his house. In a few cases heads have converted school buses for personal use or even for public transportation for their own benefit.

Some school heads are arrogant and run their schools like military camps. This author remembers a head who used to throw stones at students and refused to dialogue with complaining parents. Others do not even possess the basic elements of management and end up creating an atmosphere of tension in the whole school. In some cases people with very doubtful social values have been appointed and their whole life styles have left local communities completely awed. In the face of all these difficulties, the local communities are powerless. It takes a very long time for Yaounde to react, and even then if the head has a powerful 'godfather',

nothing is done to him. Sometimes he is merely transferred in the same capacity to cause the ruin of yet another community.

In a decentralised system, vacant positions are advertised and the local authority recruits candidates after interview. A principal or school head recruited in this way will be accountable to local authorities and can be disciplined rapidly when need arises. Such a situation guarantees efficient and effective use of resources as well as good administrative practice.

The recent creation of school management boards is a step in the right direction. However, the boards are not powerful enough, especially since they cannot discipline school heads and other personnel. The board can only report malpractices to the ministry and to the good governance observatory.

Poor teacher management

Teacher management is the weakest aspect of centralised management in Cameroon. Apart from a recent innovation where a few contract primary school teachers are recruited locally at divisional level, teacher management is centralised in three ministries in Yaounde. The Ministry of Public Service and Administrative Reform recruits, promotes, pays, disciplines and retires teachers. The Ministry of National Education posts, transfers and appoints them while the Ministry of Finance and Economy pays their salaries and allowances.

There is very little coordination between the ministries. Sometimes, it takes more than 24 months for a new teacher to get his first pay-cheque. The consequence of this situation is that newly recruited teachers spend one to two years in Yaounde shuttling between the three ministries to be able to get their salary. This situation is inefficient and ineffective because the teachers end up being paid for all the time they spent following their files in Yaounde. It is also demoralising and frustrating for the teachers to come to realise immediately they are recruited that the system is so inefficient.

In a decentralised set-up where teachers as well as other education personnel are recruited, paid, promoted, disciplined, and retired locally by a single authority, the situation described above cannot arise. At the end of his first month, a teacher gets his first pay-cheque. He will not waste time for which he is paid to 'chase' files in Yaounde.

Another problem is the transfer of teachers across the country, for example from Kousseri to Mundemba. First, it is expensive since the government pays transportation for the transferred teacher, his family and luggage. It is also expensive to the individual because he is likely to lose or damage some luggage on the way or even be forced to sell at give away prices. Second, some transferred teachers take a year or more to reach their

new posts and they get paid for all this long time spent in transit. Some transferred teachers simply disappear into nature for life or go overseas resulting in the phenomenon of 'ghost teachers' who continue to be paid.

If local authorities recruited and managed teachers, no such waste will occur. A teacher can only be transferred within the authority's area of jurisdiction and the movement of such a teacher can be rapidly effected using the authority's buses. Furthermore, transfers will be greatly reduced because individuals will be recruited into specific vacant posts. In this way, teachers will get paid only for effective work. Thus transportation costs will greatly reduce and the phenomenon of 'ghost workers' will reduce or even disappear.

Lack of assiduity or laxity among teachers, especially in rural areas, constitutes a major crisis in the system. Many teachers in rural schools just abandon their jobs completely while retaining their salaries. A few perform as visiting teachers, staying in urban centres and appearing in the school once in awhile to teach for an hour or two for the full month's pay.

The above problems are easily solved in decentralised systems. If each local authority advertises posts, interviews, recruits, and pays teachers, then the situation above cannot arise. The job description can demand that those who end up being recruited, no matter their origin, take up permanent residence within the authority's area of jurisdiction for the duration of their contracts so that the phenomenon of 'ghost teachers' can be eliminated or at least controlled. Furthermore, the local authorities, being closer to the schools, are better placed to monitor and evaluate teacher productivity, assiduity, and conscientiousness so that sanctions are applied with rapidity to dissuade others. Such strategies will certainly ensure more effective and efficient use of public resources.

The Government model

Law no. 98/004 has identified three levels of authority: the state or central government, the regional authority and the local authority. The same law has assigned responsibility as follows:

The State

According to section 11, the state shall formulate and implement policy with the assistance of rational and local authorities, families and private and public institutions. Specifically, the state shall set the objectives and general guidelines for national teaching and training syllabuses in conjunction with all sectors of national life in order to make education more professional. It must ensure the constant adaptation of the educational

system to national economic and socio-cultural realities, and also to the international environment, especially through the promotion of bilingualism and the teaching of national languages. The state lays down the conditions for the creation, opening and running of government and private educational establishments and controls them. It defines standards for construction and equipment of public and private educational establishments and controls them. It is required to draw and update the school location map and finally, it must finance education.

Regional and local authorities

The responsibilities of these authorities are covered in three sections of the law. Section 11 states that they shall assist the state to formulate and implement education policy. Section 12 stipulates that they shall finance education. But Section 13 contradicts section 11 by saying that a separate law shall determine the responsibilities of the regional and local authorities in implementing education policy and in financing education. At this point, the idea of assisting in formulating education policy is removed since the awaited law will only cover policy implementation and education finance and the present one has not shown how and in what domains the local and regional authorities are to assist in policy formulation.

Comments on the model

When one reads Law no. 98/004, it becomes very evident that the education system in Cameroon is to be decentralised. The structures have been identified and they are equally covered in the 1996 revised constitution that involves territorial decentralisation. What is confusing in the law is that one section says the local and regional authorities will participate in policy formulation and another says these authorities will only implement policy and finance education.

Furthermore, setting of standards for school buildings that the law says is the purview of the central government is better done at regional level due to spatial variation in price and availability of building materials. Regional variations in climate will also affect the type of school building. In addition, school location planning is better done at local and regional levels where immediate knowledge of needs is more readily available than at the centre.

Considering the above comments and inspired by the literature on case studies of decentralisation, as well as long experience in the education sector of Cameroon, this author has made proposals for the sharing of authority and responsibility between the state, the regional authorities and the districts.

It is worth noting that in local terminology, state and centre are synonymous unlike elsewhere where state is instead synonymous with region or province.

Proposals

Considering the disadvantages of centralisation as highlighted above, the main thrust of this article is to propose ways of managing public education in Cameroon effectively, efficiently and equitably. This is very much in line with the present constitution and the 1998 law on education. The proposals will hopefully result in increases in both the quantity and quality of education so that Cameroon can attain education for all by 2015 as contained in the Dakar Framework of Action and in the current education sector plans. The proposals entail decentralisation to an estimated 80 percent (considering the number and importance of roles and decisions at the district and regional levels) and centralisation to about 20 percent, giving a mixed system in a sense but which can practically be described as decentralised in line with the model contained in the 1998 law. It is the strong conviction of the author, which has evolved from a long teaching experience and from reviewing the literature on education in more than 40 countries, that this decentralised model, if properly implemented and subjected to constant monitoring and readjustments, then education in the country will be in perpetual good health.

The model assumes the presently envisaged three levels of authority will be involved in the provision and management of education: the local or district, the province or region and the state, centre or nation. Each of these levels of authority must play some role in education if it is hoped to provide quality education to all the eligible population.

Another important assumption is that Cameroon must of necessity undergo political decentralisation by giving some decision-making power to regions or provinces and districts because of the rich cultural and linguistic diversity in the country, and especially as a way of implementing the present constitution. The literature, notably Tamukong (1995), Bray & Lillis (1988), Lauglo & Mclean (1985) and Foster (1975), has shown that splitting a country into semi- autonomous sub-national units is a way of maintaining national unity and political stability in culturally diverse countries. Thus to prevent ethnic wars as happened recently in Rwanda, Burundi, Nigeria, Sudan, and Ethiopia, and to pre-empt secessionist wars, it is often advisable to effect political decentralisation by creating semi-autonomous regions/provinces/states each with its own democratically elected government.

Each region should ensure good governance and rapid development by creating districts/local council areas/counties according to geographical, historical, cultural, and linguistic or other affinities. Elected local governments that fully represent the peoples' interests will run such districts or areas. Districts may be further split, but for the purpose of this paper only the three levels of authority above are assumed, considering that the constitution provides for these three levels only.

The provincial and district governments will function through creating suitable structures (such as ministries, secretariats, commissions, or boards) and one of them will have education as its portfolio. The proposals that are presented below have been generated from living through the centralised experience in Cameroon and from reading on decentralisation experiences in a large number of countries including Nigeria, Botswana, Kenya, Papua New Guinea, China, Guyana, Burma, Zambia, India, Pakistan, Brazil, Netherlands, USA and Australia (Bray & Lillis 1988; Hinchcliffe 1989; Jimenez & Tan 1987; Yannakopoulos 1980; Orivel 1990; Udoh & Akpa 1990; James 1986; USIS 1986; Watt 1989). The two sources have jointly led to a formulation of the roles assigned to the different levels of authority below. The government is still to come out with a law to distribute responsibility for and control of education between the various levels of government and this proposal is intended to guide such a law.

The district authority

Sociologists claim that real development must lie in peoples' own culture, beliefs and values (ODA 1995). This statement is sometimes enough reason to devolve decision-making authority to districts so that local communities become more involved in the management of local affairs. Ethnic tensions and wars have broken out in Cameroon and elsewhere in the continent before because some groups felt that development projects initiated by central governments tended to impoverish their livelihoods, exclude them from resources (such as knowledge, information, technology, education, land, water, energy, labour etc.) and from social, political and cultural institutions, activities and facilities. Decision-making power is very essential for peaceful development. Thus, it hoped that in the new set up, districts would be very powerful in taking decisions about improvement of lives, access to resources, and participation in the political process. A district will thus bear much responsibility for and control of education and ensure that it is equitably delivered so as not to increase socio-economic differentiations. The district authorities in charge of education could be assigned the following functions.

First, they must oversee and coordinate delivery of educational services in the whole district while generating funds through the local government finance department and through user charges in secondary schools. District authorities will operate nursery, primary, and secondary grammar schools. They will authorise the creation of private schools considering the local school map. They must keep education statistics, determine school locations, determine enrolment targets, and fix class norms following local demographic factors and provincial targets. It would be their responsibility to determine on the closure and merger of schools, to manage and disburse funds allocated by the provincial authorities, and generate guidelines for institutional authorities to ensure a smooth running of the schools. The same authorities must adapt some aspects of the curriculum e.g. agriculture, history and cultural studies to local contexts, mass produce/purchase teaching aids and some textbooks, construct, equip, and maintain all public schools, supervise all schools to ensure quality and student welfare, recruit and manage all categories of education personnel i.e. teachers, school heads, administrative personnel, health personnel etc. The district should be able to hire, pay promote, sanction and retire all personnel nursery, primary and secondary schools, provide free primary education but charge fees in secondary school while ensuring that the poor still have access. Each district will decide whether to deliver free nursery education or not since its provision has a lot of equity problems attached. It must organise primary school leaving examinations and award certificates, assist the examination boards and regional authorities to run secondary school leaving certificates, oversee the preparation of individual school budgets and ensure timely disbursement of funds for all approved expenditure in the public schools. Other duties include organising periodic in-service training for teachers, administrators and school counsellors with assistance from the regional authorities; creating and running school and public libraries; stimulating and sustaining school-community relationships and monitoring and evaluating delivery of education and effecting timely interventions.

The regional authority

It is assumed that each province/region will have a democratically elected government, which will function through particular structures one of which will be in charge of education. The regional education authorities among other functions will set provincial norms and targets in line with national objectives. They will recruit and manage some categories of education personnel and assist the districts in personnel recruitment and management.

The Regional Authority will coordinate education in the province by setting guidelines for the districts, manage and equitably disburse funds from the central government, and to do so must generate revenue to finance education and make grants to the districts depending on demographic and social factors.

In addition the regional authority should be favourably positioned to determine school curricula to reflect national objectives and regional contexts, to approve district plans for educational development and provide needed assistance in their implementation, and determine the working conditions of education personnel. Other tasks include setting criteria for creating private institutions, determining standards of school buildings and facilities, operating universities, colleges of education and technical secondary schools, qualifying teachers, administrators and school psychologists in association with universities or other certification bodies, and assisting examination boards in organising various examinations and awards.

Regional authorities should also carry out research to inform policy and practice. They can cut costs through the bulk production or purchase of textbooks and other teaching aids. Finally, they must monitor and evaluate the provision of education in the province and carry out timely interventions.

The Central/State authorities

Cameroon currently has three ministries of education: National Education, Technical and Professional Education and Higher Education. It would make more sense, economically to fuse them. However, the focus here is on the role of the central government in the delivery of education in the country.

The ministry or ministries, assisted by other executive and legislative structures, will carry out activities that include setting national norms and standards, generating guidelines for curricula and school structures, coordinating delivery of educational services in the country, aggregating education statistics from lower levels, ensuring equitable access to all levels and types of education by carrying out spatial and social equilibration, and setting guidelines for the functioning of regional authorities.

As with regional authorities they will also need to carry out research to inform policy and direct interventions, generate resources to finance its activities and make grants to regions based on demographic and social equity factors and operate national universities, research centres and libraries.

Conclusion

Caution must be exercised in decentralising education. A global survey shows that majority of countries are decentralising while a few are recentralising. A tiny minority has not moved in either direction. Thus, as Bray (1985) has noted, to many countries decentralisation is in fashion, it is the thing to do, it is modern. Because of this infatuation, countries go about decentralising in the mistaken belief that it is a panacea for all the ills of education and without taking the necessary precautions to preempt possible problems. Decentralisation has, for example, shifted responsibility to some local collectivities without endowing them with the financial and managerial capacity to perform in their new roles, and central governments have tended to lay all blame on the failings of education systems on ill-equipped local governments; decentralisation has therefore, in some cases, led to larger social and geographical disparities in education. It has, in some countries, led to very corrupt practices at local level because control structures were dismantled and, has consequently resulted in very low quality education in some areas. This catalogue of decentralisation potential limitations is very long.

But since it is generally agreed that decentralisation is a better option than centralisation—possibly because of its democratic implications—governments have to factor in structures and procedures that will eliminate or at least control the above and other identified difficulties when decentralising. The first step is to determine what to decentralise considering local contexts and levels of education concerned; and to work from the basis that the central government will continue financing education instead of abdicating its responsibilities, as has happened elsewhere. Urwick (1992) has suggested that centralisation/decentralisation should be guided by the principles of efficiency and equity and that in reality a mixed system is ideal, as where certain aspects of the delivery of education are centralised while some are decentralised. He suggests that planning, for example, should be centralised for reason of efficiency and that resource allocation too could be centralised for the purpose of equity. However, centralised resource allocation has not been equitable so far and there is a need to decentralise it considering the local situation in Cameroon.

International policy borrowing is in vogue just as decentralisation is. An attempt has been made in this paper to point out what is wrong with the centralised delivery of public education in Cameroon. Also, some

major failings of decentralisation have been identified above. The questions that policy makers should ask themselves include:

- What are the major problems of education in Cameroon and how can such problems be solved?
- Which countries have experienced similar problems to those of Cameroon?
- Did these countries solve the problems and can their solutions be adapted to Cameroon? If so, how?
- Since Cameroon has opted for decentralisation, what aspects of education delivery should be decentralised and which should remain centralised?
- In decentralising, what should be the relative distribution of power and responsibility between the state, province and district?
- What problems are likely to emerge in decentralisation and how can these be pre-empted?
- What problems arose in decentralisation in similar countries and how were such problems solved?
- Can such solutions be adopted and built into the decentralisation process so that the identified problems do not occur?

This paper has presented proposed roles and functions of the various levels of authority summarised from the experiences of various countries as contained in the literature. They could be adapted or modified as the case might be. They could serve as a starting point on any debate by policy makers as to what to assign to each level of government. There is a wealth of experience from which countries like Cameroon can draw in order to make the decentralisation exercise a fruitful and successful one.

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Book Review/Revue de livres

Lilia Labidi, 2003, *Romancières sénégalaises à la recherche de leur temps* (Tunis, Éditions Sahar, 144 pages).

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Cet essai se distingue par l'originalité de la démarche par rapport aux approches classiques du texte littéraire. Cela est dû au profil universitaire de son auteur, puisque Lilia Labidi est professeur d'anthropologie et de psychologie clinique à l'Université de Tunis, ses spécialités la prédisposant à privilégier une approche à mi-chemin entre la psychocritique, la sociocritique et la poétique. De ce fait, un éclairage particulier permet au lecteur de découvrir dans les œuvres visées¹ des messages forts que l'on n'y distingue pas *à priori*.

Ainsi, *La Grève des Bâttu* s'explique par des données contextuelles historiques, politiques, sociales et religieuses que l'auteur inventorie systématiquement pour les considérer en rapport avec la question de l'émancipation de la femme au Sénégal et en Afrique (puisque Lilia Labidi ne fait pas mystère de son féminisme militant à travers ses travaux) et en particulier de la polygamie (p. 21–25).

L'auteur procède à une typologie des personnages féminins du roman (les actrices du changement, les témoins sans voix, les victimes de l'ordre culturel dominant, et les partisans), en examinant en profondeur la personnalité de Lolli Badiane, de Salla Niang et de Raabi.

Le Baobab fou, premier des cinq romans de Ken-Bugul, se caractérise par un «nouveau réalisme psychologique» (p. 44) avec une écriture innovante et une personnalité doublement aliénée par les stigmates du colonialisme et du patriarcat ambiant, endolorie par la rupture avec la mère et avec la culture d'origine. Il s'agit d'une quête du renouement, du contact, du «lien» (p. 46) jusque dans l'abjection de la prostitution ou dans la folie, à travers «le temps, le présent et le passé où s'entremêlent légende, préhistoire et histoire» (p. 48).

L'auteur, selon son orientation personnelle, met plutôt en exergue la dimension féministe de son héroïne (p. 49 et suiv.) depuis l'enfance au village jusqu'en Europe en passant par l'adolescence et les premières

expériences sexuelles. Puis c'est le retour au pays, le harem du Serigne (là, Labidi sort du cadre du roman de référence et évoque *Riwan*, troisième roman de Ken-Bugul). Le personnage présente une personnalité complexe, où les rapports avec la gent féminine ne sont pas sans ambiguïté, et sont des rapports d'attraction et de répulsion, de sympathie et de jalousie, voire de désir. Il s'agit là d'un «féminisme méta-politique» (p. 59) d'avant-garde.

De fait, *Le Baobab fou* peut être perçu comme une quête de racines imaginaires et en même temps une exhumation de l'histoire (coloniale) qui a amené le sujet à perdre et ses «pères» et ses «re-pères», d'où un conflit (œdipien) de dimension mythique. D'où le besoin d'une thérapie, d'un exorcisme, d'une réparation (ce qui explique l'ambition de Ken-Bugul d'être pédiatre). Labidi avance une explication mythologico-psychanalytique des souffrances de l'héroïne de Ken-Bugul (p. 63–67) par la confusion mère-Afrique et l'absence de cette entité dans les déterminants de sa destinée.

Écrit en 1976, mais publié vingt ans plus tard (vingt ans trop tard !), *L'Ombre en feu* de Mame Younoussé Dieng évoque les lancinantes questions de l'«éducation» (au sens d'instruction) des filles et du mariage précoce ou forcé. Il s'y agit de l'histoire «d'une jeune fille de milieu rural dont les projets n'aboutissent pas», d'une jeunesse «qui se meurt de ne pas vivre son rêve» (p. 86).

Labidi s'appuie sur de longs extraits du roman qu'elle estime assez illustratifs des questions que Dieng a voulu mettre en scène à travers des «segments» tels «urbain/rural, homme/femme, aînés/jeunes, éduqué/analphabète» (p. 87). Kura entre à l'école et y acquiert un esprit critique; elle refuse d'abord le mariage arrangé par ses parents avant de se résigner, sacrifiant ses études en martyre de la cause féminine pour finalement mourir en donnant la vie.

La scolarisation des filles et ses implications socioculturelles est au centre de ce roman, où des sous-thèmes tels le mariage forcé et/ou précoce, la mortalité périnatale des femmes et la question de la «citadinisation» des mentalités sont également évoqués.

En conclusion, Lilia Labidi procède à une synthèse des trois romans de son corpus autour de la «quête de valeurs nouvelles» (p. 119) dans des fictions axées sur la polygamie en milieu urbain, la perte des repères et l'éducation des filles couplée au mariage forcé en milieu rural. De ce fait, trois personnages jeunes, Raabi, Ken-Bugul et Kura «ont des destins qui convergent. Circulation dans l'espace public, éducation, jeune âge, relations conflictuelles avec père et mère et difficultés psychologiques» (p. 122).

Bien que toutes ces données soient peu favorables, Lilia Labidi se veut optimiste quant à leur promesse d'un «renouvellement des rapports entre les sexes», et quant à la «modernisation d'une certaine construction de la narration de soi de la femme africaine» (p. 138).

L'un des intérêts de cette étude est que Lilia Labidi, qui a séjourné au Sénégal, rencontré les auteurs de ses textes de référence et nombre de femmes leaders d'opinion des sphères politique, économique et intellectuelle, ne reste pas enfermée dans son corpus romancier. Elle confronte les idées véhiculées par la fiction au référent réel, à des études, statistiques, textes de loi, articles de journaux. La société civile, à travers les partis politiques, les syndicats, les ONG, les associations féminines, est citée à l'appui des idées et opinions de l'auteur. Les faits sont confrontés à ce qui s'observe ailleurs, en Afrique du Nord en particulier. Ces mêmes entités devraient constituer le lectorat principal de cette étude, et il est évident que le public universitaire y trouvera un éclairage nouveau d'une problématique dont il fait depuis des décennies une consommation quelque peu répétitive.

On pourrait reprendre l'auteur sur certains détails, pour des erreurs dues à une certaine méconnaissance des réalités sociologiques sénégalaises.² On pourrait aussi regretter que la relecture avant impression ait laissé subsister çà et là quelques coquilles ou erreurs de syntaxe.

Mais ce sont là des vétilles qu'une réédition prochaine – que cet ouvrage mériterait amplement – pourra facilement réparer.

Notes

1. Il s'agit de: *La Grève de Bàttu* d'Aminata Sow Fall, *Le Baobab fou* de Ken-Bugul et *L'Ombre en feu* de Mame Younoussé Dieng.
2. Par exemple, page 29, on note «Lolli Sokhna» comme nom d'un personnage de *La Grève des Bàttu*, alors que celui-ci s'appelle Lolli Badiane; p. 44, Riwan est donné comme le nom d'une femme, alors qu'il s'agit du chambellan du marabout; p. 45, il est dit que Ken-Bugul «a inspiré les musiciens» sur la base du titre d'un album de musique intitulé «Ken Bugul Dee», etc.