

# PARLIAMENTARY OVERSIGHT OF DEFENCE AND SECURITY IN TANZANIA'S MULTIPARTY PARLIAMENT

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## Introduction

In 1992, the Parliament of the United Republic of Tanzania enacted the Political Parties Act, which reinstated multipartism in Tanzania's politics. This was after nearly 30 years of constitutional single-party rule that was formally established in 1964, following a failed military coup attempt. The process of proscribing competing political parties and the muzzling of the autonomous civic organisations had, however, been evolving from the early days of independence under the aegis of the Tanganyika African National Union (TANU), which was bent on creating national unity to promote development. Rationalising this trend, Mwalimu Nyerere argued at the time that in order for the twin objectives of nation building and economic development to be effectively pursued and achieved "... there is as much need for unity as was required during the struggle for independence. Similarly there is no room for difference".<sup>1</sup> The country now has 14 registered political parties, five of which are variously represented in Parliament.

During this period of single-party rule parliamentary business as a whole was dominated and manipulated by the ruling TANU party in the 1960s and its successor Chama Cha Mapinduzi (CCM) from the mid-1970s, until the advent of multipartism in 1992. This was also a time during which Julius Nyerere, the 'Father of the Nation', almost single handedly directed the affairs of state and party as president and chairman, respectively. It was particularly the time when the separation of powers and checks and balances between the executive, the judiciary and the legislature were quite tenuous under party supremacy, implementing a policy of 'socialism and self-reliance'.

Tanzania's political system under this policy progressively evolved into a party-state whereby Parliament, in particular, was subordinated to the party national executive and its role was reduced essentially to that of a rubber stamp approving, publicising and legitimising the policies of the party state with very little debate.

Under the system the presidency was not only executive; it became almost monarchical. The 1977 constitution, for example, stipulated that 123 out of 229

members of parliament (MPs) were to be nominated by the party under the chair of Nyerere and the president – none other than Nyerere.<sup>2</sup>

To be sure, there were occasional instances when individual or groups of parliamentarians would dissent from party and government positions, but such incidents were few and far between and the consequences of daring to differ were dire, usually involving expulsion from the party and therefore from Parliament as well. As early as 1968, seven MPs were dismissed from the party for questioning the subordination of Parliament to the political party (then TANU). They consequently lost their parliamentary seats. The 1977 constitution reinforced this situation in two ways. First it subordinated Parliament to the National Executive Committee of the party and turned it into a committee of the general conference. Second, it empowered the president to dissolve Parliament at will. It was not until 1993 that the constitution was amended to vest Parliament with the powers to impeach the president – albeit after a lengthy and cumbersome procedure – to confirm or reject an appointed prime minister and to pass a vote of no-confidence in a sitting prime minister.<sup>3</sup>

Lately there has emerged a growing debate in Tanzania on the workings of multipartism. This debate has had as its aim the assessment of the political efficacy of multipartism as contrasted with the single party system. Most of this discussion has been focused on the effectiveness of the party political system and, in particular, the position and role of the new opposition parties in Tanzania. A contention frequently advanced in this debate is that parliamentary debates were more vibrant and engaging under the single-party parliament than under the present multipart system. It may be safely inferred from this that the scope of issues and the depth of debate have also declined. One reason offered to explain this phenomenon is that the threshold for party solidarity in the ruling party has been lowered and it has been easy to brand any dissent in the ruling party as being 'oppositional' and therefore a betrayal of the ruling party. The danger here is that if that were true and given that the ruling CCM party remains dominant with 257 of the 292 seats, then the House must be considerably quiescent.<sup>4</sup>

In this sense then the introduction of multipartism could, at least in the short term, have achieved quite the opposite consequences. Rather than stimulating debate, promoting the tolerance of dissent, nurturing accommodation and compromise and strengthening parliamentary oversight over public policy, multipartism could be weakening the legislature *vis-à-vis* the executive by cultivating intolerance of dissent and nurturing impunity within political parties under the pretext of party loyalty and solidarity. Certainly the tendency to banish and harass dissenters in political parties is rife across all the parties.<sup>5</sup> Moreover, multipartism could indeed also be weakening the role of Parliament in overseeing the making and implementation of public policy. This would be consistent with the fears expressed by veteran opposition politician Kasanga Tumbo on the eve of the first multipart elections in 1995 when he lamented:

“A multiparty franchise was supposed to entrench democracy under multipartism, but in the absence of institutions established to guarantee democratic life, Tanzania might well revert to [a] one-party system of rule through the forthcoming elections, thereby missing the political objective of establishing democratic rule under multipartism.”<sup>6</sup>

It is interesting to note that the Speaker of the House Pius Msekwa expressed the same fears when assessing MPs’ responsibilities to themselves, the party and to society as a whole in a multiparty setting in which the party whip has acquired new and enhanced significance. When, for example, a three-line whip is invoked over a resolution in Parliament, all MPs are required to be in the House and to vote in support of the motion (or against it, in the case of the opposition). Failure to comply could lead to drastic disciplinary action, including possible expulsion from the party. Alternatively, MPs may be forced to resign from the party. In both cases the MP would automatically lose the parliamentary seat. Msekwa notes:

“Looked at from that perspective, the ineffectiveness of the government back-bencher under multipartism becomes alarming. In Parliament he cannot criticise the government without attracting disciplinary action. On the other hand, rising to speak merely to support the government may be tedious and perhaps even boring. So he may feel it is probably best to say nothing at all. He will thus be sitting there in the House, more-or-less as an observer of the events, which are taking place, while his front-bench colleagues fight it out with the opposition.”<sup>7</sup>

It is even more interesting to note that nearly eight years after the restoration of multipartism, an opposition member of the House recently protested against the Speaker:

“Msekwa is the number one agent for killing democracy in this country. He utilises parliamentary rules of procedure to violate the constitution by silencing CCM members of the House. When the government proposes to privatise [a] public corporation it uses Msekwa to silence MPs after which the companies are sold cheaply.”<sup>8</sup>

This paper is an attempt to enquire into these contentions. It sets out to explore if the legal, political and capacity conditions are conducive to the establishment of an effective parliamentary oversight regime under multipartism in Tanzania. The underlying proposition is that if multipartism

has impacted parliament positively then parliamentary oversight over public policy in various sectors has become more efficient and effective, leading to enhanced transparency and accountability in government. If, on the other hand, parliamentary debates on important questions have been focused on a narrower range of issues or where, indeed, some important policy issues have escaped parliamentary scrutiny due to some features of multipartism, then we will try to establish the extent to which this could be the result of muzzling dissent in the narrow interest of party loyalty but at the expense of the greater national interest. We will look at parliamentary oversight over the sensitive area of defence and national security.

### **Defence and national security in Tanzania**

Traditionally there is no area of public policy that is more sensitive than national security. It is one area which all states have shrouded in secrecy and whose instruments range from the overt to the covert and subversive. It is also an area in which public debate is conventionally restricted, information is sketchy and frequently severely restricted to a few, variously classed, 'security cleared' individuals and groups of people. In brief it is an area defined by confidentiality, disinformation, subterfuge and all manner of cloak and dagger activity, which renders parliamentary oversight a formidable task. A good recent example of this predicament is the ongoing debate in the United States (US) Congress and the British Parliament on whether the heads of state in both countries deliberately lied to their respective legislatures on the question of weapons of mass destruction in the rush to go to war with Iraq for reasons other than those stated to the representatives.<sup>9</sup>

Yet defence and security is such a vital area of public policy both in terms of its subject matter (war) and in terms of the proportion of public expenditure that it cannot and should not be left to the executive alone. It is also a vital area of concern in terms of regulating civil-military relations and in finding a balance between the military security of the territory/state and the socio-economic security of the citizens. The challenge to parliament is how to balance this equation not only as the elected watch dog over public policy but also as the ultimate authority over the public purse. In exercising its responsibilities parliament needs all the information it may require not only to be informed about policy developments but also to be able to make decisions that bind the executive on a particular course of action, which can only be changed with parliamentary approval.

It is interesting, for example, that while the recent sale of a sophisticated aircraft control radar system by the British firm BAE raised a major debate in the British Parliament, it was neither tabled in the Parliament of Tanzania nor even reviewed by its Defence and Security Committee. The purchase of the US\$40 million system raised some furore in the press in Dar es Salaam but was soon

forgotten about. Ibrahim Lipumba, Chairman of the vocal opposition party the Civic United Front (CUF), is reported to have commented:

“Only reports in the UK press have informed Tanzanians as to what is happening. The issue was not presented in Parliament in a way that delegates knew what was going on and the issue never came up in the public expenditure review, which was meant to include the views of all civil society.”<sup>10</sup>

It was generally agreed at the time that the radar system would add to the debt burden of Tanzania and probably half the gains of debt relief, which had just been agreed under the Heavily Indebted Poor Country (HIPC) programme. Editor of *Jane's Air Traffic Control* David Rider argued at the time that the system was not suitable for civil aviation and that a more appropriate system would have been more in the range of US\$10 million.<sup>11</sup>

Chapter 3 of the Constitution of the United Republic of Tanzania spells out the details relating to the establishment, composition and functions of the standing committees of Parliament. Presently, 15 such committees are duly established and functioning, although a process is under way to reconstitute them. The Defence and Security Committee is one such committee, comprising 15 members and chaired by ex-Prime Minister and current mainland Vice-Chairman of the ruling party John Malecela. Whether that is by design or by coincidence is not clear. What it does mean, however, is that the chairman is strategically positioned to link party with government policy. The committee's work, therefore, must inevitably be influenced by the position of the chairman in the ruling party. This is particularly true bearing in mind that the committee has only one member from an opposition party.

It is imperative to note that the extent and effectiveness of parliamentary oversight over defence and security matters in any country will depend mainly on the structural relationship that exists between the armed or defence forces and the government. All governments have such relations with their militaries. Such relations may be formal in the sense of being explicitly spelt out in the constitution and various legal instruments, but, in practice, they are usually informal and frequently embedded in the political cultures and systems of the particular countries. It is these relations that ultimately determine the modalities of civilian control over the military and, specifically, the extent and effectiveness of parliamentary oversight over defence and security affairs.

There are at least four such structural models of civilian control over the military.<sup>12</sup> They are:

- *The military regime*: Under this model the government is fully under the control of the military whose personnel take charge of what would normally be considered civilian functions including the presidency, the cabinet, strategic positions in the ministries as well as in regional and local

government. Under such conditions civilian institutions such as parliament may be suspended or even abolished but in some situations they may be retained as legitimisation symbols. No civilian oversight over the military is possible. This model is applicable to a number of African military regimes including Rwanda and Nigeria, which are in the process of re-introducing civilian control.

- *Mobilisational or movement regimes*: Somewhat akin to the 17th century European monarchies, this model may apply to a number of African countries under movement regimes such as Uganda, Rwanda and Eritrea. Under the model, civilian supremacy is maintained because there is no differentiation between the rulers and the military. Just as the aristocracy at once constituted the civilian as well as the military elite in 17th century Europe, so do movement leaders change easily from colonels and generals to presidents. In Uganda, for example, it is quite common for President Museveni to be in his straw hat in parliament on one day and to change into his helmet and head for the battle front against the LRA in the north, the next day.<sup>13</sup>
- *The professionalism model*: In this model the officer corps is disciplined by its own professionalism. The soldiers accept, internalise or become accustomed to their subordination to civilian control. In return they receive adequate compensation from the political authorities. In this arrangement revolt or mutiny against civil authorities is equivalent to insubordination in the military. The military disciplines itself and the public authorities remain in firm control of the budget and equipping the military. Parliamentary oversight over the military is easiest partly because the executive is under no pressure by the military threatening to take over. It can therefore afford to be open and transparent in the budget and supply process.
- *The penetration model*: Here the military becomes an integral, though subordinate, part of the political authority and is inculcated with civilian political values and interests. Subordination to the military may take the form of selective recruitment through ethnicity or regional affiliation, but the more common method in countries like Tanzania is political/bureaucratic co-optation whereby military personnel are appointed into political and administrative positions such as district and regional commissioners, ministers, diplomats or party cadres.

### **Parliamentary oversight in the penetration model**

As indicated above, the structural model of control of the military that most closely approximates Tanzania's political system is the penetration model. The dismantling of the Tanganyika Rifles (TR) after the 1964 mutiny and the formation of the Tanzania Peoples' Defence Forces (TPDF) in 1965 followed the assessment that part of the reason that the colonially inherited army mutinied

is that it had been left independent of the political process and, in particular, placed beyond the control of the all-dominant political party at the time, TANU. In order to rectify this 'anomaly' in the new army, the penetration model was adopted. This entailed not only the explicit and formal subordination of the military to the party and government but also the politicisation of the armed forces through the inculcation of party ideology. It also meant the removal of boundaries between political authority and the military. Symbolically the political leadership could be seen in military gear but in practical terms military recruitment was undertaken through the party and party leaders undertook military training. At that time Tanzania was close to a movement regime and there was no meaningful independent parliamentary oversight over the government in general.

At the introduction of multipartism, the Political Parties Act, 1992 defined a political party as "... any organised group formed for the purpose of forming a government, or a local authority, within the United Republic through elections; or for putting up or supporting candidates to such elections".<sup>14</sup> With regard to civil-military relations, the act stipulated, *inter alia*, that party branches had to be removed from military areas; military personnel were not to perform political party functions; political commissars were to be removed from military establishments; parties were not to interfere in military recruitment; and that those members of the armed forces who also held party political positions had to choose between a civilian status in the party or a career as a professional soldier. These statutory requirements were duly carried out, but what is instructive is that those officers who opted for civilian positions did not abandon their military ranks, and the appointment of military personnel into government positions has continued unabated to the point that one gets the impression that at the level of regions and districts the country is, for all intents and purposes, under military rule.<sup>15</sup> This reinforces the contention that Tanzania is operating under a penetration model.

Parliamentary oversight under public policy is difficult even under the most liberal model of professionalism. This arises from three key problems. One is the problem mentioned earlier of party loyalty whereby backbenchers are reluctant to be seen to identify with the opposition. The second problem arises from the availability or lack of information. Whereas governments depend on massive bureaucracies and experts for detailed information on policy, parliamentarians – including backbenchers and members of parliamentary committees – are handicapped unless the policy area happens to be one of their own expertise. Otherwise governments tend to bombard and overwhelm parliamentarians with information such that they are made to submit to policies not because they agree with them but because of ignorance. A third reason complicating parliamentary oversight may be cited as nationalism or patriotism, particularly in matters of defence and security where information is not only complex and confidential but the issues themselves are sensitive, emotive and urgent. In

such situations parliamentarians find themselves in very difficult dilemmas since although they are expected to be critical, they are not mandated to obstruct the government. To oppose or otherwise obstruct government action against terrorism in the US at the moment, for example, may be seen as unpatriotic, if not outright treasonous. These difficulties are compounded in a country like Tanzania where MPs are not only relatively less educated but also have relatively less access to information, be it official or from other sources such as the press.

Under conditions such as those described above, the penetration model in civil–military relations in general makes it even more difficult to institute efficient and effective parliamentary oversight of public policy in the area of defence and security policy for the following reasons:

- Independent and unconstrained parliamentary oversight requires that there be a clear separation of powers and checks and balances particularly between the legislature and the executive. Where the boundaries are diffuse and the executive is clearly and overwhelmingly more powerful than the legislature in terms of information and material resources, it is unlikely that parliament, let alone the oversight committee, will be capable of sustaining a strong critical stand against the government. This is particularly true in Tanzania where the executive maintains a close relationship with the armed forces, making it plausible for Parliament to be perceived by the military as being against the defence forces.
- The oversight function of parliament can be enhanced by the existence of a strong, organised and clear opposition in parliament. Such an opposition would not only keep their counterparts in parliament and the executive on their toes but it would, perhaps ironically, also assist the backbenchers in their quest for some relative autonomy from the executive in executing their responsibilities as legislators with some leverage over their party government. In Tanzania the numerical weakness of the opposition combines with its lack of organisation and strategic clarity to render it ineffectual in enhancing parliamentary oversight.
- The effectiveness of oversight committees will also depend on the structure and functions of party committees in parliament and their relationship with their parent political parties. The Political Parties Act, 1992 abolished the TANU (later CCM) parliamentary party formed in the early days of independence (1962–65) when Parliament operated under multiparty principles. Parliamentary Standing Orders and Rules of Procedure were amended in July 1992 when the restored multiparty Parliament met to provide for the formation of parliamentary party caucuses, bringing together all MPs of the political parties represented in Parliament. In theory these committees are supposed to be consultative between the government and its party representatives. In practice, however, every time there has been a situation in which (CCM) backbenchers have taken a strong position

against the government they have been summoned as a party caucus to ensure "... full loyalty and disciplined support of all its MPs".<sup>16</sup> This imposes limitations not only on the MPs but also on members of the ruling party in the oversight committees.

- To a large extent the success of the oversight committees, like parliament itself, will depend on the degree to which MPs can exercise some independence in their functions. The Tanzania constitution presently disallows independent candidates for Parliament, local government councils and other public representational positions. Thus all MPs have to obtain the support of some political parties in order to run for election. They also have to maintain that support once elected. Apart from the fact that this rule is likely to attract candidates simply for the party label, it means that all MPs have to toe their party lines. But where party lines are blurred, unstable and can be reduced to the whims and fancies of the party leader, it creates a situation of extreme uncertainty and blind loyalty to the leader. Security of tenure becomes threatened. In such situations issues and principles are likely to give way to imperatives of survival, and opportunism becomes the rule of the day.
- The composition and competencies of parliamentary oversight committees is also of the moment. A committee composed of a majority of people with some relevant competencies in the field is likely to be more effective than one with only a few competent people or none. By the same token a committee composed of a broad range of political views is likely to benefit more from debate and discussion than one composed of people with similar views. The oversight committees of the Parliament of Tanzania suffer from both deficits. Owing to the educational and occupational backgrounds of most MPs the committees do not enjoy a broad range of skills and experience to choose from. This lends them vulnerable to browbeating state bureaucrats, particularly when it comes to technical issues and complex socio-economic matters. Furthermore, owing to the small number of opposition party members the committees tend to have one or two opposition members out of a total membership of over 10 or 20 members. The Defence and Security Committee, for example, has two opposition members out of a total of 14. The Foreign Affairs Committee has only one opposition member out of 21.

## Conclusion

This paper has not analysed the work of the Defence and Security Committee of Tanzania's Parliament. Instead, it has looked at the broad range of tasks of oversight committees and described and analysed the conditions under which these committees can become effective. It has identified the critical elements which should constitute an effective parliamentary oversight framework and

pointed to the problems that are likely to confront Tanzania's Parliamentary Defence and Security Committee. On the whole, an examination of the legal, political and capacity conditions shows that effective parliamentary oversight particularly in the sensitive area of defence and security needs attention. In order to improve these conditions the following should be undertaken:

- Positive steps must be taken to fully professionalise the military by removing arrangements that seek to co-opt the armed forces into civilian positions. Tensions between the military DCs and Rcs and their constituency MPs are quite common.
- Although it was believed that the re-introduction of multiparty politics would enhance the position and role of Parliament, the opposite seems to have been the case, with executive power enhanced through party control over MPs. This problem can be addressed in the short run by reducing the powers of the Chief Whip and the number of issues brought under the whip. In the long run, however, it calls for the re-introduction of independent MPs in Parliament so that MPs who differ with their parties can run independently and those who do not belong to any party can also enjoy their constitutional right to vote and be voted for. This would also open the possibility of MPs crossing the floor without losing their seats or the right to contest in those seats, ensuring that security of tenure for representatives rests in the hands of their constituencies.
- The recent trend of opposition defections to the ruling party does not augur well for a strong and effective opposition in Tanzania and if it continues Tanzania could revert back to being a one-party state, and this time with a vengeance since it would have been sanctioned by the defections. The Nyalali Report and the Political Parties Act, 1999, resulting from it, both need to be revisited in the interest of establishing an environment in which the nascent opposition parties can grow and make a meaningful contribution to national transformation. The alternative is to maintain a symbolic opposition and an empty democracy.

## Notes

- 1 JK Nyerere, *Freedom and unity*, Oxford University Press, London, 1967, pp 157-58. For an incisive review of the period from independence to the reintroduction of multipartism in Tanzania, see M Baregu, The rise and fall of the one-party state in Tanzania, in JA Widner (ed) *Economic change and political liberalisation in sub-Saharan Africa*, Johns Hopkins University Press, Baltimore and London, 1994.
- 2 See M Baregu, The position and role of the presidency in Tanzania under one-party authoritarianism and multiparty democratization, in S Mushi & R Mukandala, *Multiparty democracy in transition: Tanzania's 1995 general elections*, TEMCO, Dar es Salaam, 1997.
- 3 See Mushi & Mukandala, op cit.

- 4 From the 2000 elections the other seats were held as follows: CUF, 22; CHADEMA, 5; TLP, 5; and UDP, 2.
- 5 The expulsion of CUF MPs from the House in 2001, the recent suspension of two CCM, one CHADEMA and one CUF MP on 10 June and the rampant expulsions and counter-expulsions among the opposition parties in particular all point to this trend of intolerance. Some MPs from the opposition parties have lost their parliamentary seats after being expelled by their parties.
- 6 Ambassador CSK Tumbo, Civic awareness and patterns of participation, in *Political culture and popular participation in Tanzania*, REDET Publication No. 2, Dar es Salaam, 1997, p 51.
- 7 P Msekwa, *The transition to multiparty democracy*, Tema Publishers Company/ Tanzania Publishing House, Dar es Salaam, 1995, p 48.
- 8 This is an interesting allegation suggesting that the Speaker has been granted the powers of Chief Whip by the CCM. The reference to the privatisation of companies should be read in conjunction with the recent controversy surrounding the appointment of Pius Msekwa to the chairmanship of Vodacom (Tanzania).
- 9 See J Pilger's article in *The Daily Mirror*, London, 3 June, 2003 in which he accuses Blair of the high crime of the invasion of Iraq with deceptions. See also <<http://pilger.carlton.com>>.
- 10 Reported by *World Bank Development News*, 21 December 2001, p 10.
- 11 *The East African*, 24-30 December 2001.
- 12 This discussion draws upon S Beynham, Civil-military relations in post-independence Africa, *South African Defence Review* 3, 1992.
- 13 EA Nordlinger, *Soldiers in politics: Military coups and governments*, Prentice Hall, Englewood Cliffs, 1977.
- 14 United Republic of Tanzania, Political Parties Act, 1992. (No. 5 of 1992) Government Printer, Dar es Salaam, 1992.
- 15 Empirical work needs to be carried out to verify what is now an impression derived from scholarly observation.
- 16 P Msekwa, op cit, p 52.