



Rights & Democracy

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Towards A Reconstruction of State-Society Relations: Democracy and Human Rights in Tanzania

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Democracy and Human Rights in Tanzania

Summary of Findings and Recommendations

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1. The dominance of the single party state during the first thirty years of independence constricted the space for democratic participation and disrupted the balance between societal and individual fundamental rights. The Bill of Rights became justiciable in courts of law only in 1988;
2. Whereas by 1990, both internal and external conditions were ripe for democratic change, the undeveloped level of independent mass organisations allowed the party-state to assume sole leadership of the democratic transition;
3. A commission appointed by the government to inquire into the implications, modality, and content of change recommended that a liberal democratic form of governance (of the Westminster variant) evolve after a constitutional conference, and that a transitional government be established whose main task would be to create the legal and political foundation for the operation of plural democracy. A two-year time-table of change was also proposed;
4. The party-state accepted the main recommendation of permitting multiparty democracy, as well as the requisite legislative measures which have to be taken. It did not accept the proposal to convene a constitutional conference and to hand over power to a transitional government;
5. Whereas the composition of parliament has not changed since the democratic transition began, its institutional behaviour has changed significantly, albeit differently as between the execution of policy management and political decision-making. There is heightened dynamism in discharging the supervisory and advisory role on political matters, but parliament remains weak in supervising and enforcing the accountability of the executive apropos development management. It remains reticent to raise issues about the democratic transition;
6. Whereas the executive has been given the critical role of guiding the transition process, it lacks a specific coordinating institution

assigned to plan, monitor, supervise, and evaluate the progress of change. At the same time, while many of the Commission's recommendation have not been "accepted" (including the time-table for change) the executive has not produced a revised programme setting out its own vision of change. The executive still demonstrates some of the behavioural practices of the one-party era; it shies away from consultative decision-making, it withholds sufficient legal and political space to realise democratic practice, and it has yet to adapt to the basic rules of fair political competition;

7. Despite the institutional damage caused by thirty years of one-party rule, the judiciary as well as its supporting agency, the Bar, still retains a high degree of vigour, dynamism and autonomy. It can play a leading role in guiding the democratic transition;

8. The current re-dynamisation of the judiciary may, in the long run, enhance and consolidate the Rule of Law. However, this prospect is undermined by the executive's reluctance to rectify some of the institutional distortions which contribute to the breakdown of the Rule of Law. At the same time, the poor performance of the law enforcement mechanism has generated a tendency for citizens to take the law into their own hands and to mete out "justice" to suspected law-breakers in the form of mob lynching, banishment, confiscation, and other penalties. Besides exacerbating the general breakdown of the rule-of-law, such vicious responses violate the basic rights of the suspected law-breakers;

9. Compared to many countries Tanzania's record in respecting fundamental human rights is fairly positive. However, there are systemic factors which impair the state's capacity to improve the situation and, in some cases, to curb human rights violations. For example,

- The poor training given to police and other security agents leads them to resort to torture as a method of interrogation and investigation. Similarly, low morale and poor working facilities within the law enforcement agencies limit their capacity to protect the people.
- At the same time, there is a very low level of legal awareness among the people, not only in relation to litigation procedures, but also in terms of knowing their basic rights and freedoms;
- There are but few institutions within the civil society which can act against human rights violations, promote civic education, and assist in litigation. Most of them are in their infancy, and highly dependent on external assistance;
- The state maintains a highly truncated notion of culture which focuses mostly on its aesthetic and spiritual dimensions. Even these are given secondary importance (or even neglected) in the process of economic policy management. Consequently, those communities which maintain an organic linkage between their cultural life and their mode of material production - such as the pastoralists - have been subjected to persistent violations of their cultural rights when the state and its agencies encounter them in the course of planning and executing "development" projects;
- The problem of pastoralists is exacerbated by the failure of the government to formulate a coherent resource tenure policy, especially following the land conflicts generated by the villagisation exercise of the 1970s. Of late, the government has resorted to legislating the problem away, with little success;

10. The gains in sustaining welfare rights established during the 1970s have been eroded by the policy measures undertaken to implement structural adjustment programmes. Besides causing a major deterioration in the welfare of the people, the measures have generated administrative and political tension. At the same time they have contributed to the re-dynamisation of civil associations;

11. External support to the democratisation process has been directed towards the improvement of the election system, the strengthening of some democratic institutions, increasing democratic awareness and skills, and building civil associations. The amount of support has been small and largely symbolic;

12. The areas which need urgent external support include assisting the main organs of government (parliament, executive, and the judiciary) to surmount their political and institutional problems and to rectify the underlying defects;

13. Other areas include the promotion of civic and legal education within society. Besides increasing the level of awareness, the process requires the strengthening of the organisational capacities of the emerging civil associations;

14. Finally, assistance could be provided to improve the interfacing processes governing the relationship between the state and civil society. These include: improving election systems; strengthening political parties; improving legal systems; promoting mechanisms of participation, accountability, legality, and transparency.

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