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# HUMAN RIGHTS AND DEMOCRACY IN AFRICA

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Two conceptions of human rights exist today. The universalistic conception argues that certain rights are the due of every person purely by virtue of their being human. The relativistic conception argues that human rights can be realized only after certain other contingencies are met.<sup>1</sup>

## The Universalistic Conception of Human Rights

The universalistic conception is based on the view that every human being is entitled to live in dignity. This right to live in dignity is not related to economic status or level of education or property holding. It is conferred because a person is a human being and as such has the capacity to achieve moral excellence and feel pain and affection.<sup>2</sup> In order to make possible the enjoyment of human rights, governments must respect the rights contained in the 1948 United Nations Universal Declaration of Human Rights and devise institutions that will secure them.

Wherever institutions designed to protect human rights do not work, explanations are to be found not in the race of the people concerned or the stage of development these people have reached, but, *inter alia*, in poor institutions, individual moral failure, and hostile national and international environments. The universalistic conception supports the notion that affirmative action can be used by the international community to ensure the enjoyment of human rights. While in many Western societies human rights are protected in this way, throughout Africa such protection has not been achieved, and much work remains to be done.

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1. Marxists believe that human rights are achieved only after the political economy of a nation advances to an optimum stage of development; consequently authoritarianism must be tolerated until that optimum stage is reached. Conservatives see human rights as a standard of moral achievement attained by individuals on the basis of their education and property ownership. There are other, non-Marxist Africans who believe the most important human rights are economic rights and therefore argue that rapid development, vaguely defined, should be fostered by authoritarian regimes. To all three groups the failure of African people to achieve democratic pluralism is understandable given the low stage of development throughout Africa.
2. Bernard Williams, "The Idea of Equality," *Philosophy, Politics and Society*, ed. Peter Laslett and Walker Runciman (Oxford: Blackwell, 1967), 120.

The universalistic conception of human rights views the coming of independence to former colonial countries in Africa, which began in the 1950s, as an initial recognition of the humanity of those who were colonized. The democratic constitutions of these new countries were regarded as the instruments for the protection of human rights. Yet they were conceived at a time when certain elements in the national and international environment were somewhat hostile to human rights. Hostility to democracy and human rights in the new African states stemmed from five major factors: (a) the absence of a well-developed political theory which protected democracy and human rights; (b) the absence of persons sufficiently schooled in human rights jurisprudence and ethos; (c) deep-seated skepticism about Western institutions which had previously denied human rights to the colonized; (d) fatigue stemming from the long struggle against oppression; and (e) the new African leaders' memories of the "efficient style" of the former colonial rulers.

In addition, while the understanding at the time of independence was that the democratic constitutions would work together with market economies, events in the international arena shook the African nations' faith in the market system. They saw socialism being established in the Soviet Union, China, and Eastern Europe, and the growth of welfare states with a preference for big government throughout the West. In the subsequent Cold War between capitalism and communism-socialism, the African nations found that the superpowers expected them to take an ideological stand. The West, from which the new constitutions and the market economy derived, had colonized Africa. In contrast, Marxist Russia, China, and Eastern Europe, with their authoritarian practices, were much more attractive because they carried no baggage from Africa's colonial past. Consequently, variants of these latter forms of government were imported shortly after independence by a number of African countries.

Included in the new polities were the one-party system and the belief that authoritarianism is justified to foster rapid development. However, the absence of a well-developed political theory led to the exclusion of such institutions as trial by jury which would have enabled ordinary people to share power with the executive in punishing offenders. In addition, those democratic institutions, such as a bill of rights, that prevent a legislature from effecting changes in the constitution without the approval of the governed, were also absent. No attempts were made to ensure that the constitutions would be implemented by people educated in constitutional jurisprudence, and only a small number of Africans were qualified for appointments to the national judiciaries that were to adjudicate cases of contravention of human rights. Moreover, no measures were taken to ensure that the appointed judges would be independent.

In other words, the necessary conditions for big government were created, and justifications for departures from the democratic constitutions were plentiful. Authoritarianism became fashionable. Even scholars argued that dictatorship was essential for rapid development in Africa. By the late 1960s, as

civilian governments became fewer and less democratic, it was apparent that government in its present state could not be expected to protect human rights. However, the philosophies and practices inimical to human rights protection did not shake the faith of those who believed in the universalistic conception of human rights. Among these individuals were human rights activists who continued to act as visionaries, much like their counterparts in Eastern Europe. Their activities gradually restored the confidence of ordinary people who had previously believed that authoritarianism could not be questioned. They demonstrated that authoritarianism, which marked a departure from the original position agreed upon at the time the constitutions were drafted, was wrong in law.

To Africans, the collapse in late 1989 of one-party communist-socialist regimes in Eastern Europe, from which many African models had been adopted, was proof that models which do not permit democracy and the enjoyment of human rights can be curbed and abolished. Dissatisfaction with the socialist model in Africa had been expressed even before the collapse of communism in Eastern Europe, and moves to depart from it had already commenced. But the events of 1989 added to the impatience with one-party regimes and the clamor for a return to the original independence constitutions characterized by multiparty politics and market economies. In countries such as Algeria, Angola, Benin, Ethiopia, Côte d'Ivoire, Somalia, Zaire, and Zambia, the principle of a return to multiparty practices has been advocated and nominally accepted.

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While Kenya opposes the return of the original multiparty system, and Zimbabwean leader Robert Mugabe says his party is still determined to make Zimbabwe a one-party state by constitutional amendment, it appears that the tide of multiparty politics cannot be stemmed. The international climate today favors democracy. The United States, Great Britain, West Germany, France, and the Nordic countries have all indicated their wish to require African and other countries to promote democratization and respect for human rights as a condition for foreign aid. The World Bank, which reasons that democratic governments promote economic development, supports this movement. The end of the Cold War could lead to the pursuit of democracy and the enjoyment of human rights by all. However, most of the factors which militated against the achievement of human rights and the growth of democ-

racy still exist. These hostile factors and philosophies have to be removed. A new strategy is needed to hasten the movement toward governments that support human rights and democracy.

### Factors Hostile to Democracy and Human Rights

Jackson and Rossberg observe that the universal extension of the human right to self-determination "was the moral and political achievement of the anti-colonial revolution."<sup>3</sup> Independence was brought about partly by the African resistance to colonialism<sup>4</sup> and partly by the realization on the part of the former colonial powers that the unequal relationship between the colonized and colonizers could be maintained in a cheaper and more internationally acceptable way. Kenneth W. Grundy argues that the colonial powers were acting in their own interests in "allowing" independence to come:

Early independence was not granted out of the same altruistic desire to allow majorities to be self-governing. The goal was to facilitate independence in order to modernize and prolong unequal relationships. Europe wanted to avoid protracted armed struggles that would be costly and could be expected to harden anti-imperialist demands and possibly shepherd to power individuals and organizations resistant to neocolonial manipulation and penetration.<sup>5</sup>

The pursuit and maintenance of the unequal relationship has and has always had a negative effect on the furtherance of democracy and human rights. In Africa and elsewhere, democracy and human rights will continue to be threatened as long as the West refuses to accept and act on a universalistic conception of human rights in its economic and other dealings. One wonders whether anything short of affirmative actions in international relations will do.

Two factors which inhibited the development of human rights and democracy were bitterness arising from colonization and fear about the sufferings which can attend an untamed market. The independence constitutions were bargains<sup>6</sup> struck by the parties who participated in the constitutional conventions prior to the independence of each state. As in any bargain, what a party gets depends on its bargaining strength and skills. Some scholars, as well as politicians, justifying departures from democratic institutions, have contended that the constitutions were imposed on the African people.<sup>7</sup> It is a convenient argument made by those who deny the equality of the African people and

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3. Robert H. Jackson and Carl G. Rossberg, "The Marginality of African States," *African Independence: The First Twenty-Five Years*, eds. Gwendolen M. Carter and Patrick O'Meara (Bloomington: Indiana University Press, 1985), 45.

4. *Ibid.*

5. Quoted by Jackson and Rossberg, 45.

6. Gary Wasserman, "The Independence Bargain," *Journal of Commonwealth Political Studies*, 1973: 98-120.

7. When the Kenyan constitution was being amended in 1988 (i) to take away the independence of judges, civil servants in general, and the auditor and controller-general, and (ii) to extend from twenty-four hours to fourteen days the period during which the police may hold a suspect before taking him to a court of law, Vice-President Dr. Josephat N. Karanja expressed this view.

who reject a good institution or idea simply because it comes from the West. It is a view colored by continued bitterness over colonization. There is force in the argument that some bargains were bad, but this cannot be a reason for failing to adhere to them. If it were, few contracts could ever be sustained.

Bitterness and fear caused the newly-independent people to view their democratic constitutions with a measure of skepticism. In his explanation of the attraction of socialism to Africa, Professor Ali A. Mazrui shows that skepticism toward democratic institutions came from a psychological linkage between capitalism and imperialism:

There is a sense in which we might say that Africa's infatuation with socialism is partly a case of "courtship on the rebound." Sometimes Africans are attracted toward socialism as a way of rebelling against the west. . . . Yet, as the historical alliance between capitalism and imperialism became clearer to many African leaders and thinkers, there was a predisposition to distrust capitalism almost as much as imperialism deserved to be distrusted. The forces of anti-imperialism began to merge with the forces of anti-capitalism.<sup>8</sup>

The forces of anti-imperialism began to merge with forces opposed to democracy, human rights, Anglo-American jurisprudence, and constitutional theory.

The third factor hostile to democracy and human rights was the tension that developed between the twin demands of change and continuity. The former required that democracy immediately replace paternalism and authoritarianism, while the latter demanded that change come gradually. In response to the latter demand, provisions were made for existing laws to remain in force subject to constitutional modifications. The existing legislation included criminal laws that defined sedition in a way that prevented free expression.<sup>9</sup> Trial by jury did not exist in most countries,<sup>10</sup> which meant that the independent government could rule arbitrarily in criminal law trials. In *Wallace-Johnson v. R.*,<sup>11</sup> for example, it was held that the sedition law of Ghana was different from the English common law from which it was derived. Likewise in independent Kenya sedition laws were used to undermine free expression. In four sedition cases in 1983, the Kenyan courts rejected the view that the law of sedition was the English common law adopted after independence, and instead followed the court decisions of the colonial era.<sup>12</sup> Hence detention without trial, which was used by the colonial government to contain dissent,

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8. Ali A. Mazrui, "Africa Between Ideology and Technology," *African Independence: The First Twenty-Five Years*, 286-287.

9. J.F. Scotton, "Judicial Independence and Political Expression," *East African Law Journal* 1970: 1.

10. J.H. Jearey, "Trial by Jury and with the Aid of Assessors in the Superior Courts of British Territories," *Journal of African Law* 1963: 182.

11. [1940] A.C. 213.

12. Johnson Kitui, Thomas Mutuse, Kinyua Kiria, and Ongele Opala were University of Nairobi students who had been charged with sedition after allegedly participating in a demonstration in support of the 1982 attempted coup d'etat in Kenya.

has been used by independent governments to achieve similar results.<sup>13</sup> This continued implementation of colonial law coincided with authoritarian models of government in the minds of those who had previously been colonized.

The fourth factor hostile to human rights and democracy was the lack of understanding of the political theory which supports these ideas. Because of this, principles upon which many constitutional changes were based were not discussed before these far-reaching changes were introduced. At the time opposition to these changes was minimal; but the implications of these changes have now led to great opposition. As John C. Calhoun observed, governments everywhere tend to abuse power, and constitution-making is never easy:

[G]overnment, although intended to protect and preserve society, has itself a strong tendency to disorder and abuse of its powers, as all experience and almost every page of history testify. The cause is to be found in the same constitution of our nature which makes government indispensable . . . it is one of the most difficult tasks imposed on men to form a constitution worthy of the name, while to form a perfect one—one that would completely counteract the tendency of government to oppression and abuse and hold it strictly to the great ends to which it is ordained—has thus far exceeded human wisdom and possibly ever will.<sup>14</sup>

One of the problems which Calhoun identifies is the abuse of numerical majority. Many African nations have introduced the one-party system, and used to their advantage the supremacy of parliament, which initially entitles them to ignore the rights of minorities and over time enables them to establish absolute dictatorships. The decay of government in many African countries has followed this pattern.

The first and leading error which naturally arises from overlooking the distinction referred to is to confound the numerical majority with the people, and this so completely as to regard them identical. . . . they are in the next place forced to regard the numerical majority as in effect the entire people, that is a greater part as the whole, and the government as the government of the whole. It is thus the two come to be confounded and in part made identical with the whole. And it is thus also that all the rights, forms, and immunities of the whole people come to be attributed to the numerical majority—and among others, the supreme, sovereign authority of establishing and abolishing at pleasure.<sup>15</sup>

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13. Inoti Kathurima, "Emergency Powers in Kenya," (LLM thesis, University of Nairobi, 1989). See also Inoti Kathurima, "Detention Without Trial is Abhorrent," *Nairobi Law Monthly* Vol. 24 (1990): 21-22.

14. John Caldwell Calhoun, "A Disquisition on Government and Selections from the Discourse," Reprint. (Indianapolis: American Heritage Series, 1953), 7-8.

15. Calhoun, 23-25.

It naturally followed that in adhering to the concept of numerical majority, the government next became impatient with the constitution itself. What Calhoun wrote in the nineteenth century has proved true of the Kenyan African National Union, Kenya's sole political party for the last ten years. For example, he stated:

{T}his misconception of the true elements of constitutional government does not stop here. It leads to others equally false and fatal. . . . For they who fall into these errors regard the restrictions which the organism [read constitution] imposes on the will of the numerical majority as restrictions on the will of the people and therefore not only useless but wrongful and mischievous. And hence, they endeavor to destroy the organism under the delusive hope of making government more democratic.<sup>16</sup>

{T}he end of the contest would be the subversion of the constitution either by undermining the process of construction—where its meaning would admit of possible doubt, by substituting in practice what is called party usage in place of its provisions, or finally, when no other contrivance would serve the purpose, by openly and boldly setting them aside. By the one or other the restrictions would ultimately be annulled and the government be converted into one of unlimited powers.<sup>17</sup>

In 1982, the Kenyan constitution was amended to prevent the existence of any political party other than the one in power. In 1986, the attorney general's security of tenure was removed from the constitution, and in 1988 the independence of judges and public servants was abolished. In June 1990 the president of Kenya suspended parts of the constitution guaranteeing freedoms of association, expression, and rights under the law in cases of discrimination. Police carried out these suspensions.

Such a government in Africa and elsewhere will be removed only by force. As Calhoun stated:

{A}bsolute governments of all forms exclude all other means of resistance to their authority than that of force, and of course, leave no other alternative to the governed but to acquiesce in oppression, however great it may be, or to resort to force to put down the government. But the dread of such a resort must necessarily lead the government to prepare to meet force in order to protect itself and hence, force becomes the conservative principle of all such governments.<sup>18</sup>

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16. *Ibid.*, 24-25.

17. *Ibid.*, 27.

18. *Ibid.*, 38.

It is this phenomenon which explains the practice of removal of governments in Africa through coup d'état.<sup>19</sup> Departure from constitutional norms leads to a breakdown of the moral order. Again, one would have thought Calhoun was talking about Africa when he said:

That which corrupts and debases the community politically must also corrupt and debase it morally. The same course in governments of numerical majority gives to party attachments and antipathies such force as to place party triumph and ascendancy above the safety and prosperity of the community, and will just as certainly give them sufficient force to overpower all regard for truth, justice, sincerity, and moral obligations of any description.<sup>20</sup>

The weakness in African political theory led to two further errors. The first was a failure to ensure that the new written constitutions would be interpreted by those versed in constitutional jurisprudence, as is usually the case. In the countries which were former British colonies the theory of English jurisprudence, which usually functions alongside an unwritten constitution, was adopted. Its adherents found it difficult to accept the proposition that a constitution would fundamentally alter the structure of the society. In *Republic v. Ellmann*,<sup>21</sup> the Kenyan High Court asserted that the constitution was to be interpreted like any other piece of legislation.<sup>22</sup> Attempts to use American jurisprudence in human rights cases in the 1980s also met with hostility from the High Court. No effort was made to ensure that the judges who would interpret the constitutions would be competent.

The second error was employing judges on contracts renewable every two-and-a-half years. In addition, many of the judges hired were British lawyers experienced in the former colonial legal service.<sup>23</sup> The result was that the independence of the judiciary was compromised by judges who had both the wrong ethos and the wrong jurisprudential background to interpret the constitutions. As Eugene Cotran, a British subject who served in Kenya as a High Court judge between 1977 and 1982, stated when the Kenyan government refused to renew his contract because of his assertion of judicial independence:

I've explained that I was regarded as an anti-government judge and a "difficult" man. The Kenyan government was not keen to request

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19. While coups d'état have been the usual way of bringing down authoritarian regimes, the human rights lawyer works to uphold the rule of law, to assist in the return to democracy, and to adhere to the preamble to the Universal Declaration of Human Rights, which asserts that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." United Nations General Assembly Resolution 217 A (III) of 10 December 1948.

20. Calhoun, 38.

21. [1969] E.A. 356.

22. Calhoun, 360.

23. G.K. Kuria and J.B. Ojwang, "The Rule of Law Within the Framework of Politics," *Public Law* Vol. 254 (1979), and Special Interview with J.R. Otieno in conversation with Dr. Eugene Cotran, *The Nairobi Law Monthly* 1989, No. 17: 17.



the British for me for another tour. As far as I was concerned I was not prepared to change my ways. I was angry and disillusioned.<sup>24</sup>

The fifth factor hostile to democracy and human rights was international opinion. The Cold War embodied the competition between capitalism and socialism, the merits of which were being discussed by the new nations. The great powers were concerned with their own interests, and Africa was one of those interests only to the extent that it furthered superpower objectives. Support for democracy and human rights did not and could not further the interests of the former colonizers. Authoritarian regimes were a better safeguard for their interests, as is still the case today.

The sixth hostile factor was the general fatigue following the resistance to colonial rule, and the desire to give government a chance to deal with its problems itself. Until government abuses became excessive, the majority of people in Africa did not take any action against their respective governments. The people were overindulgent.

The final factor was the confusion as to the source of colonial oppression. To Africans, colonial oppression was connected with racism. This confusion did not exist in the American independence movement because the colonizer, like the colonized, was white. The Africans took a long time to accept the truth that oppression is perpetrated by human beings irrespective of their color, and that the rational response to oppression is resistance, irrespective of the relationship between the oppressor and the oppressed. The removal from power of the Ugandan dictators Idi Amin and Milton Obote in 1979 and 1986, respectively, will have positive effects on the Africa of tomorrow. The precedents for removing a civil government which has ceased to serve the purposes for which it was created have been initiated.

### Developments in Human Rights and Democracy

From the late 1950s to about 1980 most African countries opted for a socialist or Communist economy over a market economy, and adopted political and legal measures to achieve that goal. The political measures included the legal adoption of the one-party system. Initially, one-party systems were established in Ghana, Malawi, Tanzania, and Zambia. Later, countries such as Algeria, Congo Brazzaville, Libya, Madagascar, Somalia, Sudan, and Uganda also opted for single-party socialism in forms ranging from African socialism to Marxism-Leninism. In Kenya, a one-party system was agreed upon in 1964, but that agreement fell through in 1966 when an opposition party was formed. In 1969 the one opposition party was banned, but the remaining political party was supposed to function as if it were many parties, allowing any person to join and contest elections under its umbrella. There were exceptions, however. For example, after they were forced to join the ruling party, ten members of the former opposition party were not allowed

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24. Cotran, 17.

to participate in elections. In 1982 the Kenyan constitution was amended to prevent certain individuals who had declared their intention to register as an opposition party from doing so. As a result, George Anyona was detained without trial and Oginga Odinga was placed under house arrest under the law which permits the president to exercise emergency powers during peacetime.

Kenneth W. Grundy ascribes the reformist nature of the first generation of African leaders to "a relatively peaceful transition to independence . . . and colonial powers that sought alternative ways of retaining influence and power in the face of global commitment to ending formal colonial rule."<sup>25</sup> The new leaders were keen to ensure that they either remained in office or were succeeded by equally safe people. When the British Labour Party came to power in the mid-1940s, nationalizing some industries and introducing health

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insurance and a legal aid system, it became the model for African socialism in such countries as Kenya, Tanzania, Zambia, and Nigeria. Professor Ali Mazrui describes the socialism which was introduced during this phase as "laissez-faire socialism":

One distinctive factor about the decade of the 1960s in black Africa was that it was a decade of laissez-faire socialism. One African leader after another proclaimed himself a socialist, but they let economic forces and class formation take their own courses. Black leaders who claimed the label of socialist ranged in the ideological spectrum from Sekou Toure in Guinea to Leopold Senghor of Senegal, from Tom Mboya in Kenya to Kwame Nkrumah in Ghana. There was also a wide range of theorizing. Some of the works by Nkrumah and speeches of Sekou Toure are in the Marxist tradition, while Julius Nyerere romanticized about African socialism.<sup>26</sup>

At the same time changes in the political structures and constitutions were introduced. In Kenya, for example, the bicameral legislature was replaced by a single-chamber legislature, and the procedures to amend the constitution

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25. Quoted by Donald Rothchild, "The State in Ethnic Relations," *African Independence: The First Twenty-Five Years*, 102.

26. Mazrui, 285

were relaxed so that only a simple majority was able to rewrite the constitution. The absence of the second chamber and the relaxed procedure facilitated the introduction of a one-party system through constitutional amendments.<sup>27</sup> Over time, considerable powers were concentrated in the executive branch and particularly in the presidency. Generally speaking, the original independence constitutions had put restrictions on the exercise of emergency powers, but with new, relaxed procedures, limits on emergency powers were disregarded. Emergency powers have always been a useful tool in the hands of those bent on defeating democracy: the most commonly exercised is the power to detain leaders of the opposition without trial. In those countries where the one-party system was established through law, a majority of the people were denied the right to participate in the formation and management of the government.

During this time, socialism attracted great interest among intellectuals, and in the 1970s these intellectuals became increasingly radical. In such former Portuguese colonies as Mozambique, Guinea Bissau, and Angola, Marxism-Leninism was embraced by the liberation movements, which made it their aim to create Marxist states. A Marxist regime came to power in formerly feudal Ethiopia after overthrowing Emperor Haile Sellasie. When contrasting the Africa of the 1960s with that of the 1970s, Professor Ali Mazrui says:

[I]f the 1960s constituted the decade of laissez-faire socialism in Africa, the 1970s witnessed both the rise of Marxism among African intellectuals and establishment of significant Marxist and neo-Marxist regimes in Southern Africa and the Horn. The overthrow of Emperor Haile Sellasie in Ethiopia in 1974; the triumph of the Popular Movement for the Liberation of Angola in 1973-76, and the liberation of Mozambique in 1975 were all major steps in the apparent penetration of Marxism into important parts of black Africa.<sup>28</sup>

During these three decades, only Botswana and Mauritius did not manifest major political change. In Nigeria, Sierra Leone, and Uganda the first civilian governments rigged elections and as a result coups d'état occurred. The rigging of elections symbolized the moral decay of the regimes. In Swaziland and Uganda the traditional rulers, whom Britain had treated in a privileged manner, opposed the democratic constitutions from their inception, and this opposition contributed to the weakening of the constitutions. In Zimbabwe, independence in 1980 established the same kind of constitution as in the other new African nations. The party which took power wanted to establish socialism, but so far has not done so. Zimbabwe's constitutional history,

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27. Lord Scarman, a British jurist who has been advocating that Britain adopt a written constitution, says that British political parties do not want curbs on the parliament's powers. See Lord Scarman, "Scarman Speaks," *New Statesman Society*, 28 September 1990, 14-17.

28. Mazrui, 285.

nonetheless, has been traumatic. Its government has, on occasion, refused to obey certain court orders.

By the late 1970s and early 1980s, it had become clear to many African nations that socialism was providing neither economic development nor democracy. The one-party system and big government had led to authoritarianism and gross human rights violations. Since 1981 there have been attempts to move away from the socialist economy. The models of the centralized economy and one-party system which the states had imported from Eastern Europe, China and the Soviet Union were not working well in Africa. However, the apparent success of the Eastern European countries continued to be a hindrance, as it suggested that in certain circumstances socialism could work. All the same, unease with socialist structures continued until late 1989 when the fall of the communist states provided the proof Africa needed.

In addition, the gross violations of human rights in Africa between the 1950s and 1970s caused great embarrassment to the leaders who were vocal about apartheid. In 1981 the heads of state adopted the African Charter on Human and Peoples' Rights, which has yet to be ratified by all the African countries. In 1984, Tanzania, which had omitted a Bill of Rights from its 1961 independence constitution, amended its constitution to include one, and calls began for the abandonment of failed socialism in that country. President Julius Nyerere, who had been one of the leading philosophers of the one-party state and African socialism, resigned from the presidency in 1985 to permit the country to abandon some of its former policies. In Kenya, the way the one-party system had functioned in fact showed that there can be no democracy in a one-party state if the leader is ineffective. The rhetoric of the Organization of African Unity (OAU) leaders in July 1990 demonstrated that even the majority who are dictators now concede that it is "[politically] necessary to democratize further our societies and consolidate democratic institutions."<sup>29</sup>

Since late 1989, Algeria, Angola, Benin, Côte d'Ivoire, Ethiopia, Gabon, Mozambique, Somalia, Tanzania, Tunisia, Zaire, and Zambia have accepted the principle of multiparty democracy. There is impatience with the existing constitutions and political framework. In Kenya, there is a clamor for the introduction of a multiparty system and pluralism. Pro-democracy protests were crushed ruthlessly in July of this year. According to the government's own statement, twenty-eight people were killed in the course of the suppression, and on July 5, 1990, the chief of staff declared the armed forces' preparedness to assist the police in quashing the demonstrations.

### Conclusions

The call for the return to multiparty politics is a call for the return to the positions from which the African nations departed in the 1950s and 1960s in

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29. Michael Holman, "The Rules of Foreign Patronage in Africa are Changing," *The Financial Times*, 13 March 1990, 12.

their endeavors to create "good societies" through socialism or public corporations. It comes at a time when experiences in both Africa and the Communist world have shown that one-party dictatorship will encourage neither economic progress nor democracy. Because of this, Europe and the Soviet Union are introducing market economies and democracy. Although bitterness exists among the people of Africa about the West's former colonization of the continent and its refusal to support liberation movements, each country's experience since independence shows that departures from the constitutions adopted at independence were based on wrong ideas. Today a more somber attitude prevails.

It is clear that all countries will move toward democracy because there is no other remaining rational choice, but as in the case of the attainment of independence, different countries will establish democracy at different times. Most of the hostile factors which existed at the time the countries became independent are still present. They will have to be removed if democracy and human rights are to take root. The entire international community will have to accept the universalistic conception of human rights. Some current actions of the Western governments show that the relativistic conception of human rights, with its racial implications, informs their attitudes and actions. There are, however, indications that some Western nations are moving toward the universalistic conception. Unless the idea of equality is pursued by all nations, democracy and human rights in Africa will remain threatened no matter how effective the actions of Africans. Powerful nations will always be able to bully the weak; for real change to occur, the bully culture has to go.

The attitudes of such institutions as the World Bank and International Monetary Fund, as well as Western governments, toward human rights and democracy will influence the pace of changes being sought in Africa, since the African countries are dependent on the capital which comes from the West. Human rights organizations such as Amnesty International, Human Rights Watch, the Lawyers' Committee for Human Rights, the Robert F. Kennedy Memorial Human Rights Foundation, and the American Bar Association are supporting human rights endeavors. Their intervention may save human lives, shorten detention without trial, end harassment, and encourage human rights activists in the communities of which they are a part. It is equally clear that more could be achieved if more effective measures, including the monitoring of trends in human rights, were implemented. International standards protecting the independence of lawyers and judges, as well as enforcement procedures, are badly needed. There is no reason why sanctions of the kind which have been applied to the dictatorial regime in South Africa, former Southern Rhodesia (Zimbabwe), and Iraq should not be applied to dictatorial regimes in other parts of Africa.

Western governments, the World Bank, and the IMF have supported dictators in Africa in the past because (1) their interests were seen as well-protected by such regimes; (2) they feared being accused of interfering with the internal affairs of African nations if they demanded that human rights standards contained in the 1948 Universal Declaration of Human Rights and

the 1966 International Covenant on Civil and Political Rights and other instruments be respected by these nations; (3) there was the unspoken racist belief that African people are so different from other human beings that democracy and human rights could not be protected, and the only thing the West could do was continue to "civilize" Africa as they did during colonial rule; and (4) the Cold War encouraged the pursuit of survival rather than the pursuit of living in dignity as the ideal good for nations.

African dictators' understanding of this explains why they have criticized the West's proposed plans to link aid with democratization and respect for human rights. Even Nelson Mandela, speaking in support of Kenyan President Moi in early July 1990 in Nairobi, said, "What right has the West, what right have the whites, to teach us about democracy when they executed those who asked for democracy during the time of colonial era?"<sup>30</sup> Robert H. Jackson and Carl G. Rossberg observe that responsibility for the failure of democracy and respect of human rights must be apportioned between the African people and outsiders.

Some of the decay of African states—particularly of economic conditions—has undoubtedly been owing significantly to forces beyond the control of Africans, such as the rapid increase in world oil prices, the great inflation which followed the fluctuation and frequent decline of world prices for Africa's primary agricultural and mineral exports, the global recession in the 1980s and drought. But some decay is undoubtedly the result of actions by African governments.<sup>31</sup>

As the Kenyan experience shows, where governments are weak, only international pressures can save lives, shorten prison detentions and end torture. The endeavors of the Soviet Union and South Africa to democratize are already giving moral support to many nations. There is no longer any oppression which cannot be brought to an end. The model for authoritarianism has gone, hopefully forever.

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30. *The [London] Times*, 14 July 1990, 10.

31. Jackson and Rossberg, 47.

