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Review

## Turkey in Kenya and Kenya in Turkey: Alternatives to the East/West paradigm in diplomacy, trade and security

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Kenya and Turkey are natural partners but also an odd couple. Although both are fledgling democracies with rapidly growing economies and populations, and facing similar security concerns emanating from transnational terrorism, Turkey is a medium-size country while Kenya is a relatively small state. Turkish-Kenyan relations have grown rapidly over the last two decades raising three questions, which this study attempts to answer: What is the scope of this relationship and how does it offer a viable alternative to East/West partners? ; What explains the burgeoning relationship between Kenya and Turkey? ; What can both countries do to strengthen this budding relationship, or, in the alternative, what can undermine it? This study argues that a combination of domestic factors and leadership in both countries undergird increasing Turkish-Kenyan relations. These factors help explain Turkey's spearheading of a diplomatic, economic and strategic charm offensive that dovetailed with Kenya's search for alternative geo-strategic and trade partners. Kenya's and Turkey's search and their accompanying "discovery" of one another has led to a robust relationship based on shared interests in diplomacy, trade and security. However, both countries will need to gain a greater understanding of one another and compromise in areas such as tariffs and export quotas for this relationship to prosper and to be sustainable.

**Key words:** Kenya, Turkey, international political economy, diplomacy, trade, international relations, terrorism, security, east and west alternatives, emerging powers.

### INTRODUCTION

The history of Kenya's and Turkey's substantive diplomatic and economic engagement is relatively short, dating only back to the late 1990s, but is one that has produced benefits for both countries. These include trade and access to markets that were previously beyond the

reach of both countries, increased visibility for both on the international stage and prospects of partnering in international fora, notably at the United Nations. This research study seeks to answer three questions, whose answers would help shed light on the geo-politics of the

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Turkey-Kenya relationship:

1. What is the scope of this relationship and how does it offer a viable alternative to East/West partners?
2. What explains the burgeoning relationship between Kenya and Turkey? And,
3. What can both countries do to strengthen or, alternatively, what can undermine this budding relationship?

Turkey and Kenya's relationship is best explained through an analysis of both countries' foreign policies and, in particular, a combination of international factors and domestic constraints rather than systemic variables as dominant realist orthodoxy claims (Waltz, 2010). It is submitted that domestic factors including economic, demographic, leadership and geo-politics provide a better rationale for Turkey's budding relationship with Kenya, and vice-versa, than the pure struggle for power in an international system characterized by anarchy and autarky (Snyder, 2002). International relations cannot be de-linked from domestic politics (Bueno de Mesquita and Smith, 2012), and the two always work in tandem in shaping foreign policy (Adnan, 2014). The most compelling explanations for Kenya's relationship with Turkey therefore lie somewhere at the intersection of international relations and comparative politics—and this study draws upon that literature in elucidating that partnership.

The study uses qualitative and quantitative data culled from variety of English and Turkish sources to demonstrate that Kenya's and Turkey's search for alternative trade and geopolitical partners outside the East/West paradigm is borne of both parties conscious and deliberate efforts. These actions and reactions provide the rationale and calculations of both parties in this engagement including, perceptions of each other and the shaping of their goals and long-term prospects. As such, this study does not fall into the trap whereby African states are deemed as lacking agency and merely being "acted upon" by powers or regional blocs outside the continent. To be sure, both countries are considered developing democracies that have exhibited strong, authoritarian tendencies in past (Karpas, 2015; Maxon, 2014). And both seem to be in need of new partners outside their respective regions probably as potential counterweights to traditional "choice" of the East or the West (Mwangi, 2016; Fidan, 2013).

As important and instructive as this nascent relationship is, few scholars, if at all, have analyzed growing international cooperation and collaboration between Kenya and Turkey. Much more scholarly effort has been spent attempting to explore Kenya's pivot towards the East; that is, China versus its more traditional economic and political partners in the West, such as the United States, the United Kingdom and the European Union (Onjala, 2010; Renard, 2011; Barton and Men, 2013).

In Turkey's case, the few articles available in English or

Turkish focus generally on Turkey's diplomatic, economic and political actions in Africa as a whole (Özkan, 2008, 2010, 2012, 2014; Sıradağ, 2013; Bacik and Afacan, 2013; Genç and Tekin, 2014), or more exclusively on Somalia, which has been the major target of Turkey's foreign policy in Africa since 2011 (Mesfin, 2012; Akpınar, 2013; Bingöl, 2013; Özkan and Orakçı, 2015).

Özkan (2010) has highlighted that, unlike other countries, Turkey foreign policy has focused on promoting trade with African countries rather than extraction of resources such as oil because Turkey is a mid-sized country with a developing economy. While not focused on Africa specifically, the work of Bown (2014) is instructive as to how Turkey exercised trade policy flexibilities during the global economic crisis of 2008 to 2011. Akel (2014), however, has contested the rosy assumptions about Turkey's economic and trade forays into the continent. Karagül and Arslan (2013) provide an excellent primer on Turkey's developing relationship in Africa for the fifteen years stretching from 1998 to 2013. The recent work of Aras and Akpınar (2015) on Turkish humanitarian non-governmental organizations (HNGOs) has showcased the successes of international HNGOs in Turkey's peace building.

### Part I: The Scope of the Turkish-Kenyan cooperation

Turkey's involvement in Kenya and indeed Kenya's involvement in Turkey is part of a broader strategy initiated by Turkey's policy of opening up to Africa that dates back to the Action Plan adopted in 1998 (Özkan and Akgün, 2010; 530). One decade later, Turkey hosted the First Africa-Turkey Summit in Istanbul in April 2008. Forty-nine Africa countries were in attendance and participated. Prior to the Summit, the relationship gathered momentum with the election of the Justice and Development Party (*Adalet ve Kalkınma Partisi*; known by its Turkish acronym AKP) in 2002, which catapulted Recep Tayyip Erdoğan to power, first as prime minister and then as president. Turkey began participating in African Union (AU) summits as a guest country in 2002, and obtained "observer status" in the AU in 2005.

This status provides Turkey with permanent, institutional contacts in Africa, and vice versa. Because of this status, both Turkey and AU member states, including Kenya, potentially possess the ability to gain an understanding of each other, realize their mutual potential and establish a foundation for relations. The permanent contact assured through this observer status may also assist in changing perceptions in both Turkey and Africa. Turkey also became a non-regional member of African Development Bank (AfDB) in January 2013. As a result, Turkish companies are eligible to undertake projects funded by the AfDB and this has given Turkish contractors the opportunity to become more involved in African infrastructure development, one of the region's greatest needs ("Kenya, Turkey to sign", 2013).

In addition, Karagül and Arslan (2013) highlight the importance - symbolically and politically - of the Africa-Turkey Summits as well as the formation of the Africa Strategic Coordination Committee. The Committee was formed in 2010 and the Turkish Ministry of Foreign Affairs was assigned as the coordinator institution, arguably lending weight and credence to its mission.

Demonstrating the importance of Africa in Turkey's foreign policy and trade agenda, the Second Africa-Turkey Summit held in Malabo, Equatorial Guinea in November 2014 was led personally by President Erdoğan. It resulted in the adoption of the Joint Implementation Plan of Africa-Turkey Partnership for the period 2015-2018. The Joint Implementation Plan focuses on the execution of key projects and priority areas of cooperation between African countries and Turkey, including trade and investment, agriculture, health, peace and security, infrastructure development and tourism ("II. Türkiye-Afrika Ortaklık Zirvesi", 2014).

In 2002, Turkey had only nineteen representative offices in Africa. It now has thirty-nine embassies and ten consulates. In 2014 alone, Turkey and various African countries organized over twenty high-level visits with one other. Turkish Airlines began operating direct flights between Istanbul and Nairobi in 2010 and between Istanbul and Mombasa in 2012. Signifying the importance of Kenya in Turkey's Africa strategy, in 2009, Turkey's former president, Abdullah Gül, visited Kenya in the first official visit by a Turkish president. Kenya reciprocated with its first official presidential visit in 2014 when Kenyan President Uhuru Kenyatta visited Turkey. During his visit, President Kenyatta opened Kenya's embassy in Ankara. He also praised the schools run in his country by the *Hizmet* (Service) network, backed by U.S.-based Islamic preacher Fethullah Gülen ("Kenyan president hails Gülen", 2014).<sup>1</sup> A total of ten agreements and memoranda of understanding were signed during Kenyatta's trip to Turkey. Both countries agreed to prioritize trade, industrialization, transport, agriculture, tourism, education, health, immigration, science and technology as well as the development of arid lands such as those around the Tana River in Kenya.

Just as Kenyatta's visit to Turkey was reciprocal, so Kenya's entrée to Turkey has been largely been a positive reaction to Turkey's efforts in Kenya and Africa. The presence of Kenya's ambassador in Ankara and an honorary consul in Istanbul indicates that successive Kenyan governments view Turkey as a serious partner. Kenya has attempted to coordinate its trade and investment opportunities with Turkey via the establishment of contacts between Turkish and Kenyan business communities and the respective Chambers of Commerce.

<sup>1</sup> It should be noted President Kenyatta's comments occurred just after to the cataclysmic falling-out between Erdoğan's AKP and the Gülenist movement, which AK accused of infiltrating the police and the judiciary of plotting against the government. It is possible President Kenyatta was unaware of this when he made his comments.

As of early 2014, there were approximately 40 Turkish companies operating in Kenya and Turkish investment in Kenya was reportedly worth \$17 billion (Kagai, 2014).

Turkish companies and investments are concentrated mainly in the fields of construction materials, carpets, electronic devices, cosmetics, hotel equipment and tourism. This is the legacy of agreements on trade and economic cooperation signed by Kenya and Turkey in 2004, two years after the AKP swept to power. Six years later, the first session of the Turkey-Kenya Joint Economic Commission occurred in October 2010. The second session of the Turkey-Kenya Joint Economic Commission was held in Ankara in February 2014 ("Türkiye - Kenya Karma", 2014). The Turkey-Kenya Business Council had its first meeting in 2011 and the Turkish-Kenya Businessmen Association has operated since 2012.

Kenya's relationship with Turkey grew significantly during the presidency of Mwai Kibaki (2002 to 2013). In 2009, President Kibaki and Turkish President Abdullah Gül removed visa and health restrictions on diplomatic passports holders. During a return visit to Kenya in 2010 by President Gül, Kenya and Turkey signed a Joint Trade Commission, which allowed the establishment of a Turkish export promotion and processing center in Nairobi. At the 2nd Joint Economic Commission (JCC) held in 2014 in Ankara, the two countries identified trade, industrialization, transport, agriculture, tourism, education, health, immigration, science and technology, and development of arid lands as priority areas for cooperation. They also agreed to establish the Export Promotion Council of Kenya. This Kenyan collaboration with their Turkish counterparts provides Small and Medium Enterprises (SMEs) assistance ("Technical Meeting", 2014).

Kenya's efforts under Kibaki's leadership have continued under President Kenyatta. In early 2015, a Kenyan business delegation traveled to Turkey to market existing and new opportunities in Kenya for Turkey's leather industry, which employs nearly 1.5 million ("Kenya team woos leather", 2015). The leather industry is also a major sector in Kenya that could expand employment opportunities should Turkey open its market to Kenyan products.

### Explaining Turkey and Kenya's relationship

A mixture of international and domestic factors best explains Kenya-Turkey cooperation, which is rooted in shared interests and can be characterized as reciprocal, reactive and straightforward. This relationship is driven, on the one hand, by desire of leadership in both countries to develop their economies through a search for international markets, development partners and to enhance domestic security and, on the other, to gain international clout and secure international partners outside the traditional East/West paradigm. As economic



powerhouses in their respective regions, Kenya and Turkey potentially have much to offer one another - if they manage their nascent relationship well. As discussed and analyzed below, opportunities exist for both to combine their respective, comparative economic and strategic advantages in order to improve their economies and security, and expand their diplomatic reach.

### Domestic factors

As noted, Turkey's interest in Africa began by most estimates in the late 1990s and has increased under the leadership of Recep Tayyip Erdoğan. During the first decade of Erdoğan's rule, Turkey experienced political stability and rapid economic growth. The accepted view in Kenya is that Turkey has accomplished a great deal in bringing a semblance of peace and stability to its problematic neighbor, Somalia (Harte, 2012). According to Kenya's Ambassador to Turkey, Julius Kiema Kilonzo, "President Erdoğan and his administration have done a lot for Somalia, and this is also welcomed by Kenya. Stability in Somalia both politically and economically will also be good for Kenya" (Çelik, 2015).

Turkey's foray into Kenya and East Africa is indicative of the Erdoğan government's approach to foreign relations, in general. That is, foreign relations and outreach are highly personal, often including state visits by Erdoğan himself, as well as the closely coordinated involvement of a whole suite of Turkish institutions, to include government, NGOs and businesses (Görener and Ucal, 2011). Indeed, Erdoğan is scheduled to make an official state visit to Kenya in the first half of 2016 ("Turkish President to visit", 2016).

As part of Kenya's interest in locating new alliances and alternative partners, Kenya has responded positively to Turkey's overtures under the leadership of both President Kibaki and President Kenyatta, attempting to establish or rejuvenate business ties with non-traditional partners and to attract investment to Kenya from countries like Turkey (Ochami, 2008). Both Kenyatta and Kibaki have also demonstrated a keen interest in finding non-traditional outlets for Kenya's exports (Dahir, 2014). Turkey correspondingly searching for new markets for its products and has developed a strategy of engaging key countries in Africa in order to do so (Doğan, 2014). The main stakeholders in this effort are Turkish business people, largely composed of the Anatolian bourgeoisie, the so-called Anatolian tigers. They were the main beneficiaries of the liberalization of Turkish market space under successive AK Party governments and are, in part, responsible for the continued electoral victories of Erdoğan (Aneja, 2012). In return for their support, Erdoğan and his government have been instrumental in locating new markets for their goods in countries like Somalia and Kenya (Lough, 2012; Korkut and Civelekoğlu, 2012).

Turkey has displayed a consistent and largely coherent policy of engaging African countries to this end. In Kenya's case, Turkey sees it as an entry point to the wider East Africa region and trade with Kenya complements Turkey's current investments and nation-building efforts in Somalia ("Turkish President to visit", 2016). By most estimates, Kenya is East Africa's trade, finance and logistics center, as well as a regional operations center for foreign multinationals. Because the port of Mombasa supplies the rest of East Africa with goods that are then shipped via Kenya's road and rail network, Kenya is a natural entry point and holds a key to unlocking Turkish trade in East Africa.

For Kenya, export trade plays the most important role in driving the relationship, with Kenya viewing Turkey as a potential large scale buyer of its tea, coffee and flowers, much as Europe already does. Kenya also views Turkey as a natural hub between three continents, and thus an ideal center for business at the intersection of Asia, Europe and Africa. Kenya hopes to sell more diversified goods in line with a revised export plan launched in 2012 (Mbogo, 2012).

Turkey also offers an alternative for Kenyans seeking higher education in a place that is closer geographically and less expensive than institutions in the West and East Asia. This is part of the Turkish government's interest, in accordance with its current foreign policy, in promoting and increasing the number of foreign students studying at Turkish higher education institutes (Erguvan, 2015). For example, the Islamic Development Bank (IBD), partnership with the Turkish government, is a major source of scholarships for students from only nine countries, among them Kenya ("Financial Aid and Scholarships", n.d.). At the end of 2014, over 350 Kenyans were pursuing higher education in Turkey ("Türkiye - Kenya Siyasi İlişkileri", 2015).

### International factors

In recent years, Turkey has emerged as an alternative strategic and development partner for Kenya, offering a fresh approach with arguably fewer strings attached than countries such as China and the U.S. Turkey's interest in Africa is informed by its interest in flexing its political and diplomatic muscles on the world stage commensurate with its new-found confidence and wealth (Harte, 2012). To this end, Turkey views Kenya as a unique and strategic launching pad for the expansion of its strategic interests in the Horn of Africa, East Africa and beyond. As Erdoğan noted in 2012, "We have chosen Kenya to be the natural hub and launch pad for our [Turkish] operations due to the country's physical and trade connectivity" (Ngigi, 2012).

In the arena of development, Turkey's focus in Africa on smaller-scale, lower profile development projects such as agriculture offers an alternative to mammoth

infrastructure projects grabbed up by more traditional partners from the East or West. This approach is generally welcome and potentially will have a greater effect on the lives of ordinary Africans, to include Kenyans (Daly, 2008). Turkey also tends to take a highly coordinated approach in development as well as trade and diplomacy. These efforts are largely coordinated by the Turkish Cooperation and Coordination Agency (TIKA) (Özkan, 2014). TIKA has developed various projects in Kenya, particularly in the fields of health, food, and livestock, often with Kenyan participation. Turkey's capacity-development programs in Kenya also often involve Kenyan experts and employees and cover the areas of security, agriculture and education. This is a breath of fresh air from expatriate-driven top-down development in which locals traditionally were spectators. Although, Western donors have toyed with participatory approaches to development, much of the aid since the end of the Cold War has been channeled through Western NGOs or Western-affiliated local NGOs. Turkey also has used NGOs in health and emergency aid, but the Turkish Ministry of Foreign Affairs indicates Kenya is an active partner ("Relations between Turkey and Kenya", 2014).

Turkey appeals to Kenya as it has increasingly been forced to choose between development and strategic partners such as China and Kenya's more traditional Western partners, to include the U.S. While Chinese investment and expertise have been welcome and positive in some instances, China's foray into Africa has also had negative consequences. Cheap Chinese manufactured goods have squeezed out African producers and overrun African markets (Patroba, 2012). The African textile industry, particularly in Kenya, was devastated by Chinese imports on account of higher labor costs in Africa and cheaper Chinese goods (Chege et al., 2014). Chinese multi-national corporations in construction and telecommunications operate in African countries, but refuse to employ locals, preferring to import workers directly from China (Gu, et al., 2016).

In this respect, Turkey serves as an alternative source of trade, tourists, education, industry and expertise without the baggage associated with Chinese investments that seems to pit the interests of the African political elite against those of the majority of Africans (Mahoney, 2010). More significantly, Turkey provides opportunities for Kenya to diversify not only access to markets, but also its strategic cooperation and development. Western aid has come to Africa with strings and has fluctuated over time. Kenya—at one point a darling of the West during the Cold War—has seen its access to development aid severely conditioned on undertaking Structural Adjustment Programs since the early 1990s (Nzomo, 1992). These required the liberalization of the economy and efforts at democratization. Formerly directly-provided aid was funneled through intermediaries, mainly NGOs, with seriously detrimental

effects (Rono, 2002).

At the beginning of Kenyatta's presidency in 2013, the West was slow to accept his leadership on account of pending indictments for crimes against humanity against him and his deputy president, William Ruto, at the International Criminal Court (ICC). Although the indictments against both Kenyatta and Ruto have since been withdrawn and relations with the West have warmed, the initial cold shoulder from the West does highlight the risks of depending on solely on Western partners for development and strategic cooperation (Blanchard, 2013). Turkey, for its part, even being a member of NATO, has been unequivocal on its relationship with Kenya and indeed Kenya probably can depend on Ankara for support (Okoth, 2015).

### **Towards a mutually-beneficial and sustainable relationship**

Kenya's and Turkey's search for and their accompanying "discovery" of one another has led to a robust relationship based on mutual or shared interests in diplomacy, trade and security. However, both countries will need to gain a greater understanding of one another and address certain constraints and risks in order to capitalize on a mutually-beneficial and long-term relationship, to include compromising in areas such as tariffs and export quotas.

### **Current risks, constraints to Kenya-Turkey cooperation**

#### **Trade**

It is difficult to quantify the volume of trade between Turkey and Kenya as data are often conflicting. According to the Turkish Ministry of Economy, in 2012 bilateral trade stood at \$156 million, an upward move of 1442 percent when compared to 2002 figures ("Countries and Regions – Africa", 2013). Yet, according to the Turkish Ministry of Foreign Affairs, bilateral trade volume was only \$145 million the following year, in 2013 ("Relations between Turkey and Kenya", 2014). If these estimated figures are taken at face value, it would mean Turkey's and Kenya's bilateral trade volumes have been dropping rather than improving. Yet a Turkish economy minister publicly stated Turkey aimed to increase its own trade with Kenya to over \$500 million in 2015 ("Turkey to boost trade", 2014). Turkey's trade with Kenya raises two issues. First, Turkey and Kenya need to do more to foment bilateral trade flows. Second, they must manage the current trade deficits between the two countries.

The current balance of trade favors Turkey, and Kenyan businesses face barriers entering the Turkish market. Turkish companies face few barriers to investing in Kenya and Africa, in general, when compared to their U.S. or European counterparts who tend to undergo

scrutiny at home in deals potentially involving bribes or other forms of corruption (Czinkota and Skuba, 2014). Furthermore, Turkish products are often in high demand in Kenya, particularly manufactured goods. The same cannot be said for Kenyans investing in Turkey. This is because many of the items Kenya plans to export are readily available in Turkey, to include fruit, produce, flowers and tea. In this respect, Kenya hopes to meet an increasing demand both inside Turkey and in Turkey's near abroad for produce and items that Turkey cannot meet given its current capacity (Mbogo, 2012). Kenya may also be able to sell its exports at relatively cheaper prices, adding to their demand. Kenya is also pushing Turkey to lower its import taxes to facilitate the direct export of Kenyan goods to Turkey. Kenya currently exports goods to Turkey via European hubs, leading to double taxation. To avoid this double taxation, Kenya hopes to utilize the direct Turkish Airlines flights between Kenya and Istanbul for its exports and as an alternative trade hub (Çelik, 2015).

### **Tariffs and trade barriers**

Turkey generally eschews something many Africans resent: free market capitalist baggage aimed at securing the best agreement, regardless of cost (Özkan, 2010). However, it has not been innocent of participating in corrupt tenders or further contributing to the entrenchment of corrupt practices on the African continent, as the case of Turkey's involvement in Somalia has so vividly illustrated ("İçi para dolu bir kutu", 2014). Furthermore, Turkish exports face stiff competition with other international competitors in Africa. "Although Turkey's Africa Strategy has been successful in creating awareness among Turkish SMEs to direct their attention to Africa, Turkish exporters cannot survive in the African market" (Akel, 2014). This is, in part, because increasing interest and the activities of Turkey's competitors in African markets, such as those from the East like China and India, make it more difficult for Turkish exporters to thrive. Turkey has attempted to address some of these deficiencies. First, Turkey made changes to both its applied Most Favored Nation and preferential tariffs that cumulatively affect nearly nine percent of manufacturing imports and ten percent of import product lines. Second, Turkey's cumulative application of temporary trade barrier (TTB) policies – antidumping, safeguards and countervailing duties – are estimated to have impacted an additional four percent of imports and six percent of product lines (Bown, 2014). These changes were made at the same time Erdoğan's government was aggressively pursuing new markets for Turkish exports in places like Kenya, Nigeria, South Africa and Ethiopia.

There are other barriers facing Turkish investors in Kenya, and by extension East Africa, including rampant corruption, stifling bureaucracy and changing political

actors, which leads to confusion and cancelled contracts. Turkish investors also must deal with relatively high energy costs and tax rates. Kenyans wanting to do business in Turkey face multiple hurdles, to include double taxation, high tariffs, a market saturated with goods resembling Kenyan exports (tea, produce, leather), and language barriers. Furthermore, Kenya's and Africa's relative unit labour costs (RULC), in general, have been very high when compared to export powerhouses like China and India, negatively affecting bilateral trade and cost competitiveness. However, these have declined over the 2000s as wages in China and elsewhere have risen faster than productivity. The reverse has been true for the Sub-Saharan Africa (SSA) countries in question, to include Kenya. In a cautionary note and one that should inform Kenya's policies towards other trading partners - to include China and Turkey - generally high RULC along with weaknesses in the business climate suggest that most SSA countries are unlikely to be competitive in labor-intensive manufacturing in the near future (Ceglowski, et al., 2015; 18).

### **Prospects for further cooperation**

#### ***Oil and mining***

Kenya and Turkey could assist one another in mining and mutually benefit from the discovery of oil in Kenya in commercial quantities in 2012. Turkish companies, from construction to pipeline manufacturing to oil exploration and refining, could assist Kenya in capacity-building as well as acting as alternative partners to larger European, North American, Australian or Chinese extractives industry stakeholders. The Turkish Petroleum Company (*Türkiye Petrolleri Anonim Ortaklığı* -TPAO) is arguably well-placed in this regard. It operates primarily in the upstream sector, particularly in oil exploration, drilling, well completion and production, and has operations in Azerbaijan, Russia and Iraq. An expansion of operations to Kenya would give TPAO and Turkey, by proxy, a wider international reach and enhanced reputation in the petroleum sector.

Kenya stands to gain much from its oil reserves - should they prove existent in the estimated commercial quantities. This is because Kenya is in a stronger position to benefit from its oil than many African states. "With a solid bureaucracy and taxation base, the [Kenyan] state has a strong connection with its citizens. It has a relatively effective set of institutions that are well placed to handle the stresses oil will bring" (Stott, 2015). However, the general level of excess characteristic of rentier states, corruption and weak institutions – especially the weak Kenyan judiciary – are all factors that leave Kenya potentially exposed to the economic risks of Dutch disease, oil price volatility and a potential increase in the risk of civil conflict. These factors, along with low

oil prices, may inhibit outside investment by countries such as Turkey.

Kenya and Turkey have also agreed to cooperate in the field of mining, given Kenya's largely untapped mining resources and Turkey's more experienced and developed mining industry. However, the nascent mining agreement between Kenya and Turkey may have suffered given that it occurred just one month prior to the Soma mining disaster in Turkey that killed 311 people in May 2014.

### ***Manufacturing***

Kenya could benefit from Turkey's strong manufacturing sector, particularly its steel industry. In 2012, a delegation of 25 Turkish steel companies visited Kenya with the aim of exporting Turkish steel to Kenya (Nkirote, 2012). Given the construction boom in Kenya, particularly in Nairobi, there is a huge potential market for Turkish steel. Turkish steel could also be exported to Kenya's East African neighbors through the port of Mombasa. Numerous companies from Turkey - especially those involved in construction - have operations in Kenya (Mbogo, 2012).

### ***Renewable energy***

Kenya is particularly strong in the area of developing and tapping renewable energy, particularly geothermal power, and could greatly assist Turkey in developing its own renewable energy sources. Kenya has quickly and impressively developed its geothermal power potential within the last decade. With the opening of the world's largest geothermal power plant at Olkaria in Kenya's Great Rift Valley in 2015, Kenya became the world's eighth largest producer of geothermal energy (Bayar, 2015). Turkey has ample geothermal power though it remains largely untapped. However, Turkey's new renewable energy action plan has received a significant boost via a favorable feed-in tariff (FiT) program and a \$125 million early stage geothermal support framework developed in collaboration with the European Bank for Reconstruction and Development (Gözen, 2014).

### ***Agriculture***

Agriculture remains the backbone of the Kenyan economy, contributing 25% of gross domestic product (GDP). About 80% of Kenya's population of roughly 42 million work at least part-time in the agricultural sector, including livestock and pastoral activities. Over 75% of agricultural output is from small-scale, rain-fed farming or livestock production (FAO, 2013). Kenya is therefore, keen to find other export markets for its agricultural products such as Turkey. However, Kenya has argued that some of the current imbalance in trade between the

two countries is a result of high export tariffs imposed by Turkey. For example, in 2014 Kenya's Foreign Affairs and International Trade Cabinet Secretary Amina Mohamed argued that the 145% tariff imposed on Kenyan tea by Turkey was restrictive (Limo, 2014). While Turkey had been supportive in Kenya in many areas including agriculture, health, education and security, Turkey should also consider investing in Kenya in irrigation, agro-processing, manufacturing, ICT, mining, energy and infrastructure development. Turkey is also an agriculturally-rich country and an export powerhouse, with agriculture contributing 8.03% to its GDP in 2014. During the period 2003 to 2013, Turkey's agricultural exports, to both to the Middle East and other markets, tripled and were valued at more than \$16 billion in 2013 ("Turkish Agricultural Exports", 2014). As such, Turkey will be a difficult market for Kenya to break into even if Turkey's high export tariffs are cut.

### ***Security and counter-terrorism***

Kenya and Turkey both face threats from transnational terrorism and violent extremism. They are also both longstanding allies of the U.S., with Turkey being a member of the North Atlantic Treaty Organization (NATO). Since 2011, Turkey and the US have co-chaired the Global Counter Terrorism Forum (GCTF), an informal, multilateral counterterrorism (CT) platform (Kimunguyi, 2010). Turkey also co-chairs the Horn of Africa Working Group of the GCTF with the European Union (EU). There are 30 founding members, though Kenya is not included in the list. However, the GCTF's Horn of Africa Working Group launched a capacity-building assistance co-ordination platform in Nairobi in May 2013, and Turkey hosted a workshop on countering violent extremism in the Horn of Africa in Ankara in February 2014, which was attended by Kenyan representatives (Kimunguyi, 2010). Prior to U.S. President Obama's visit to Kenya in mid-2015, a three-day workshop was held for judicial officials to advance the implementation of the GCTF's Hague Memorandum on Good Practices on the Role of the Judiciary in Adjudicating Terrorism Offences within a Rule of Law Framework ("East Africa Regional Workshop", 2015).

Kenya's proximity to Somalia positions it as a potential launching pad for the expansion of Turkey's reconstruction efforts in Somalia. It also offers the opportunity for the two countries to share intelligence and, potentially, cooperate militarily given Kenya's presence in Somalia since late 2011. Although Kenya probably will not be able to assist Turkey with its internal terrorism problems, its engagement with Turkey provides opportunities to share lessons learned and best practices in countering violent extremism, for example. Turkey, as an Islamic country, probably has more credibility and insights into extremist mindsets and could share strategies and tactics with

Kenya. Besides, Kenya could also benefit from Turkey's evolving strategy in fighting terrorism inside and outside its borders. Over the past decade, rather than using "hard" military power, Turkey emphasized its counter-terrorism units to combat terrorist organizations. These units are supported by counter-terrorism institutions, such as TEMAK (Counter-Terrorism Academy) and the Intelligence Academy (ISAK) which provides training to the intelligence department. However, the ruling party has never heeded calls to make the necessary legal changes to empower law enforcement agencies or establish a fully-functioning counter-terrorism center (Yavuz and Özcan, 2006; 104). With the recent flare-up in violence between Turkey and the Kurdistan Workers Party (PKK) as well as the Islamic State (IS), Turkey has increasingly reverted to the heavy-handed, "hard" military tactics it used in the 1980s and '90s (Romano, 2015).

In respect to Turkey and Kenya's security cooperation, the two countries signed a memorandum of understanding in 2014 on cooperation between the Kenya Police Service (KPS) and the Turkish National Police (TNP) whereby the TNP will support programs to improve the capabilities of the KPS, especially in the fight against terrorism (Adan, 2014). This agreement is part of a wider field of cooperation between the two countries on security and defense and reportedly includes closer cooperation Somalia-related matters.

## CONCLUSION

Kenya and Turkey are arguably natural partners given their status as emerging powers and regional power-houses in their respective neighborhoods. Yet just twenty years ago, Kenya and Turkey were largely unknown to one another. The burgeoning relationship between Kenya and Turkey is one of coincidence and logic. Domestic factors including economic, demographic, leadership and geo-politics provide the best rationale for Turkey's budding relationship with Kenya, and vice-versa. In the past 15 years, Turkey, under the leadership of Erdoğan and the AKP, has pursued an economic and diplomatic charm offensive in Africa. This has lately coincided with the search by both Kenya and Turkey for alternative geo-strategic and trade partners outside their respective regions. This search also entailed looking for alternative partners to China and the U.S. as well as others exemplifying the East and West. Kenya's and Turkey's search and their accompanying "discovery" of one another has developed into a rather robust relationship given their similarities and needs.

The scope of Kenya's and Turkey's relationship does offer a viable alternative to more "traditional" partners from the East and West, namely China and the United States. Currently, the two countries have the solid potential to combine their comparative advantages to expand and deepen their relations, improve their economic potential and their diplomatic clout. By doing so they will

strengthen their own hands regionally and assist each other in the quest to locate alternatives to those offered under the reigning East/West paradigm. Kenya stands to gain a lot from Turkey in regards to security and engineering expertise. On the other hand, Turkey could learn a great deal from Kenya's successes in tapping sustainable energy reserves, particularly geothermal resources.

Yet all is not rosy. Certain external and internal factors will either strengthen or undermine this budding relationship. In order to successfully capitalize on their burgeoning relationship, both countries need to gain a deeper understanding and mutual-respect for one another via the establishment of viable bilateral and multilateral institutions. They will also need to compromise in areas such as tariffs and export quotas.

## Conflict of interests

The author has not declared any conflict of interests.

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Full Length Research Paper

## The portrayal of Sino-African relations in the Western Media: Who is actually neo-colonializing Africa?

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The aim of this article is to contribute in a reflexive way to the hot debate about China and Africa relations. The criticisms that China has received for her activities in Africa usually come from western countries that have their own interests in the area. Specifically, as it will be seen, countries like France and the United States have developed a deep military, political, economic and cultural influence in Africa that makes them the actual neo-colonial powers in the region. Paradoxically, the western media plays an important role in emphasizing some negative news related to China's activities in Africa, accusing it to have neo-colonialist behaviours; while they strategically cover and underreport activities from their own countries in the continent. Actually this media strategy can turn to be really effective considering the emphasis and efforts that China makes in improving its own international image.

**Key words:** Neo-colonialism, media, China, Africa, waves of misinformation.

### INTRODUCTION

*"Aid is a method by which the United States maintains a position of influence and control around the world....*

*I put it right at the top of the essential programs in protecting the security of the free world"*

John F. Kennedy

This article will start in a non-orthodox way, by presenting the following scenario to its readers: In our days, a very important company from a powerful country opens a factory in a developing country to take advantage, among other things, of its cheap labor. The working conditions are deplorable and some workers have declared to have

worked for more than 12 h a day without any free days. Even the suicidal rate among the workers is increasing. The workers are local, but the leaders of this company are not; they do not make any effort to learn the local language and they do not look really interested in making any effort to integrate into the new country where they are living in. Of course most of the benefits from the company will go to its motherland, but the pollution problems and other social negative side effects will remain in the developing country. What countries are we talking about? The example corresponds to a factory that makes products for the American company Apple in Shanghai, which in the last decade has recorded among its workers increasing cases of suicide (Lau, 2010), and

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worsening working conditions:

*“Exhausted workers were filmed falling asleep on their 12-h shifts at the Pegatron factories on the outskirts of Shanghai. One undercover reporter, working in a factory making parts for Apple computers, had to work 18 days in a row despite repeated requests for a day off. Another reporter, whose longest shift was 16 h, said: “Every time I got back to the dormitories, I wouldn’t want to move. Even if I was hungry I wouldn’t want to get up to eat. I just wanted to lie down and rest. I was unable to sleep at night because of the stress”” (Bilton, 2014).*

The suicides scandal took place in 2010 and “the top managers of Apple escaped blame because these deaths happened in factories in another country (China) owned by a company from yet another country (Hon Hai, a Taiwanese multinational)” (Chang, 2013). In 2010, Apple did say that they would try to improve the working conditions, but as we can deduct from the last paragraph (from December 2014), still nowadays, the conditions have not improved that much.

Let us consider another case that helps to brake stereotypes: A democratic developed country “holds the national reserves of fourteen African countries in its central bank, it has a web of military bases across West Africa, unparalleled to any other foreign power, and it exercises deep political and commercial influence on the continent” (Bishara, 2014). What country are we talking about? To answer this question, we might easily be tempted to think about the United States and its interventionist style. But, this is not the case; we are talking about France, the same country that paradoxically condemned the United States intervention in Iraq. Doesn’t it sound like neocolonialism?

After these reflexives examples, this article will be organized as it follows: in its second part the characteristics of neocolonialism will be presented; in the third part, these characteristics will be related to the case of China, France, and the United States relationship with African countries. In the fourth part we will focus on how the Western media has strategically reported, or underreported, the activities of China in Africa. And finally some conclusions and considerations will be presented.

## MATERIALS AND METHODS

This article will mainly use western (especially from the United States) journalistic, academic articles and literature regarding China-Africa Relations to analyze what is the general idea that they project into their audiences about this relationship, which is usually labelled as neo-colonialist.

According to an early definition of it, from 1965, the essence of neocolonialism is: “(...) the state which is subject to it is, in theory, independent, and has all the outward trappings of international sovereignty. But, in reality its economic system and thus its political policy is directed from outside” (Nkrumah, 1965).

Another interesting way to explain neocolonialism (especially considering that this definition comes directly from the countries

affected by this phenomenon), is the definition from the “Resolution on Neocolonialism All- African Peoples’ Conference” that took place in Cairo in 1961.

*“The survival of the colonial system in spite of formal recognition of political independence in emerging countries which become the victims of an indirect and subtle form of domination by political, economic, social, military or technical, is the greatest threat to African Countries that have newly won their independence or those approaching this status” (Resolution on Neocolonialism, All African Peoples’ Conference in Cairo, 1961).*

This declaration is really useful, because it also includes and points out directly who are the agents driving the neocolonialist activities (mainly “Colonial embassies and missions serving as nerve center for espionage” through civil servants or military technicians, military personnel and police, puppet governments, radio, press and literature propaganda controlled by the neocolonialist countries, the “so-called foreign and UN technical assistants who ill advice and sabotage national, political, economic and educational social development” and the representatives from imperialist countries under the cover of “religion, Moral Re- armament, cultural, Trade Union and Youth and Philanthropic organizations”)(Resolution on Neocolonialism, All African Peoples’ Conference in Cairo, 1961), and also goes further on denouncing the ways how neocolonialism manifests in Africa:

- “1. Puppet governments represented by stooges and even fabricated elections (...).*
- 2. Regrouping states, before or after independence, by an imperial power in federation or communities lined to that imperial power.*
- 3. Balkanization as a deliberate policy of fragmentation of states by creation of artificial entities such as Katanga, Mauritania, Buganda, etc.*
- 4. The economic entrenchment of the colonial power before independence and the continuity of economic dependence after formal recognition of national sovereignty.*
- 5. Integration into colonial economic blocks which maintain the underdeveloped character of African economy.*
- 6. Economic infiltration by a foreign power after independence, through capital, investment, loans and monetary aid, or technical experts under unequal concessions, particularly does extending for long periods.*
- 7. Direct monetary dependence, as in those emergent independent states whose finances remain directly controlled by colonial powers.*”(Resolution on Neocolonialism, All African Peoples’ Conference in Cairo, 1961)

This definition will be complemented with some other characteristics of neocolonialism that some researchers from Fudan University used to develop an empirical analysis about China’s behavior on Africa.

- “1. The neocolonialist imports resources, raw materials and unprocessed products in a very low price, and simultaneously exports manufactured goods and daily necessities to colonized regions and countries.*
- 2. The colonized countries cannot at all compete with those similar goods from the colonial powers whose competitive advantage in price and quality will seriously undermine the traditional or fledging industries of colonized countries. Under this condition, the colonized don’t have any other options except for embracing the floods of colonizing power’s goods.*
- 3. Colonized country’s economic relationship with the colonial power is only related to several goods, fields and industries (especially those regarding colonized countries’ economic lifelines), which makes the colonized countries highly rely on foreign colonists.*
- 4. Due to the political control, cultural penetration and economic*

*exploitation in colonized countries or regions, the colonial power always economically or financially controls those key areas, industries, institutions of the colonized countries and regions” (Junbo et al., 2014).*

Neocolonialism is commonly perceived as an economic phenomenon, but as we can see from these definitions above it is composed by four dimensions:

1. *Economic dimension: This dimension would mainly embrace the last characteristics mentioned by Junbo and Frasher, plus, the “economic infiltration (...) through capital, investment, loans and monetary aid, or technical experts under unequal concessions, particularly does extending for long periods” (Resolution on Neocolonialism, All African Peoples’ Conference in Cairo, 1961) and the direct monetary dependence of countries whose finances are controlled by foreign powers.*

2. *Political dimension: This dimension would refer to any attempts of neocolonial powers trying to undermine the political independence of the country and trying to interfere in its internal political affairs, for example, conditioning aid to certain specific governmental conditions and political changes. Other manifestation would be: puppet governments, fabricated elections, reagroupation of states and “balkanization as a deliberate policy of fragmentation of states by creation of artificial entities.” (Resolution on Neocolonialism, All African Peoples’ Conference in Cairo, 1961).*

3. *Military dimension: The emergence and origin of this dimension is linked to the last two ones, according to Rouves et al., African elites were “shielded from the impetus to develop economic resources to pay for national security. (...) By shielding their clients from financing their own security concerns, ex-metropoles and superpowers offered protection, but at the price of continued dependence from the periphery on its former or new patrons” (Rouves et al., 1994). This dimension has evolved adopting other manifestations in time: direct military interventions or the establishment of military bases using them as a control system “disguised as protection.” (Scott, 2014)*

4. *Cultural dimension: It mainly refers to the efforts of foreign powers to influence and shape, reshape or undermine the cultural, social or religious values of other countries according to their own vision, or “in order to justify the (...) political economic system” (Scott, 2014) that they have created for their own benefit. The major means used to develop this dimension would be media, but also the already mentioned “religion, Moral Re-armament, cultural, Trade Union and Youth and Philanthropic organizations” (Resolution on Neocolonialism, All African Peoples’ Conference in Cairo, 1961). The attempts to influence the curriculum and educational system of other countries would also be included in this dimension.*

## RESULTS

### China, the United States and France in Africa

China’s increasing relations with Africa have been one of the most debated topics from the last decade, between 2002 and 2003, two ways trade climbed 50% “to US\$18.5 billion, the fastest growth China has seen in any geographical area” (Mooney, 2005). In 2009 the PRC had surpassed the United States as major trading partner, and in 2015 bilateral trade between China and Africa reached 220 US\$ (FOCAC, 2016). Besides economic relations, the PRC does not have any military bases in the continent and from a political point of view, it holds a “no strings attached” policy.

Some voices in the United States, like Secretary Clinton, have warned that developing countries, such as African countries, should be wary of China and its neocolonial interests in the region (The China Times, 2014). This campaign to discredit China in Africa reflects the United States fears to lose influence in the region. And also, while pointing China as a neocolonialist power, with the excuse of the war against terrorism and promotion of democracy, the United States military has expanded in the continent, for example, it “has built a base in the strategic location of Djibouti (...), and has earmarked 100\$ million a year to support counterterrorism efforts. The U.S. used Camp Lemonier to train Ethiopian forces in the lead-up to December 2006 invasion of Somalia” (Weinstein, 2008).

Also the United States intervention and help in African countries has not been really successful in attaining its apparent main objectives, as Glennie points out referring to Clinton’s warnings:

*“It is hard to imagine a more absurd statement from a U.S official, given the countries role in previous scrambles for Africa – not to mention its weak record (with other donors) of building capacity over more than 50 years of aid giving. From the cold war to aid conditionality supporting its own interests, to the pouring of money into the Horn of Africa after the 9/11 attacks, the US pretty much wrote the book on how to use aid to ensure strategic interests. Clinton should remember John Kennedy’s assertion in 1962: “Aid is a method by which the United States maintains a position of influence and control around the world....I put right at the top of the essentials programs in protecting the security of the free world” (Glennie, 2012).*

Of course besides a power factor, the United States is also concerned about its own economic interests in Africa that somehow overlap with Chinese operations in Africa:

*“It is instructive to compare hard American interests in Africa with those of China. First, the United States wants to maintain access to natural resources, especially oil. Second, it seeks to maximize its exports to Africa. Third, it desires to obtain political support in international forums of as many African States as possible. Do these interests sound familiar?” (Shin, 2011)*

Other rising countries have also increased their role in Africa, such as India, Brazil or Saudi Arabia. But no criticisms have been raised against them by the United States and that is probably due to the fact that their global power doesn’t look as challenging for the United States as China’s power does.

But why are we including France in this article? This apparently exemplar old European democracy, since the independence of African states in 1960, has intervened militarily more than 30 times in Africa (Marcoux, 2004). Actually, nowadays, France has military bases in Gabon,

Senegal, Djibouti, Mayotte and Réunion (Weinstein, 2008). And the “French Army is also deployed in Mali, Chad, Central African Republic, Somalia and Ivory Coast” (Weinstein, 2008). And, for example, we might have heard about the attacks to Chinese citizens in Africa, but is less reported that:

*“(...) the former colonial power (France) sees itself as at risk of becoming a target for terrorist attacks. Since 2010, radical Islamists have held four French employees of the Areva energy company captive in Mali. And the terror network al-Qaeda is now threatening further kidnappings and attacks in France and against the approximately 5,000 French citizens living in Mali” (Baig, 2013).*

France is one of the biggest exporters of raw materials in the region. And as we have seen in the introduction, even if underreported, France’s influence in Africa is really important, and it even has a specific name “*Françafrique*”. This term, in the initial moment it had a positive meaning (Marcoux, 2004), but nowadays, is usually related to the complicated military, economic and diplomatic relations between some African countries and France (Bishara, 2014), and therefore it involves a less positive meaning. The French language is spoken by 96.2 millions of people in Africa, and that makes it a *lingua franca* that allows speakers from different African countries to communicate with each other. Language not might seem like a big deal, but it actually is in terms of intelligence and espionage (Bishara, 2014) and in the impact that the French media can have in the region.

If we have a look back to the characteristics and dimensions that have been used to define neocolonialism in the second point of this article, we can see which ones of these three powers have had a more neocolonialist attitude towards the African continent during the last decade.

As we have mentioned before, both the United States and France have intervened into internal affairs of African countries, especially the second. Five years ago there was a strong anti-French movement in Francophone Africa, but the actors speaking against France have been suspiciously replaced. For example, in Ivory Coast, France military intervened to establish a ruler more favorable to France (Bishara, 2014). In Mali, France military intervened to stop a popular indigenous movement in the north and established a southern pro-French leader “through what you can barely call, real elections” (Bishara, 2014). A final example is Niger. A former employee of the French Uranium is now the president of Niger and “has signed a concession giving away Niger’s only natural, non-renovable resource, Uranium” (Bishara, 2014).

France is also still trying to keep its cultural legacy and media influence in African speaking countries.

*“(...) France strives to maintain its cultural legacy, with a*

*significant portion of development funding going towards education, scholarships and cultural institutes. Various inter-governmental organizations and conferences have operated under the hub of the Agence de Cooperation Culturelle et Technique in an effort to institutionalize the linguistic, cultural and educational links between France and francophone Africa, and even the dedicated Ministère de la Francophonie was set up in 1988. Promotion of the French language is a priority, not only for encouraging conditions conducive to positive economic relations within la francophonie, but also, its(...) Mission Civilisatrice [Civilizational Mission], because of the strong French connection between their language and the values and culture of the ‘Latin’ world, distinct from the English speaking Anglo-Saxon world and its less-than-admired traits. As the originator, France plays a significant cultural role and places great importance on maintaining that legacy in Africa, especially the resulting identity-construction encouraged within la francophonie (...)” (Marcoux, 2014).*

As Martin points out, “to the extent that it implies the inclusion of people outside France in the culture of France itself, *francophonie* is a truly neo-colonial concept” (Martin, 1995).

As mentioned before, France also “holds the national reserves of fourteen African countries in its central bank” (Bishara, 2014) and the number of military bases across West Africa, cannot be compared to the ones of any other foreign power in the area (Bishara, 2014).

Therefore, in the case of France we can identify that its neo-colonialistic influence in the region has economic, military, political and cultural dimensions.

Regarding the United States government, besides its well-known and already mentioned interventions in the horn of Africa, has other ways to influence in African internal affairs:

*“The government of the United States asked its envoys to gather intelligence on African United Nations representatives, including South Africa’s Baso Sangqu and Uganda’s Ruhakana Rugunda; that Libyan leader Muammar Gaddafi was prepared to risk a nuclear disaster because he was angry with the UN, and that Kenya in 2008 covertly transported Ukrainian tanks to south Sudan. (...) Cables published by Wikileaks also reveal that Washington has instructed US diplomats to gather information on various countries’ UN delegates – including African UN representatives - and collect their email passwords, credit card account numbers, frequent flyer account numbers and work schedules” (Taylor, 2010).*

In the case of China, on the other hand, its cooperation with Africa has been led by the seven principles of equality, mutual benefit (the so-called Win-Win Co-operation), real results, efficiency, sincerity, credibility and

no strings attached. But there have been some accusations of neocolonialism, on the bases of what Deborah Brautigam calls “waves of misinformation” (Brautigam, 2009) in China – Africa relations (if these waves are intentional or unintentional, that is another debate) that have developed some stereotypes regarding this cooperation. For example, one of the criticisms done more often is that China is just interested in maintaining contacts with those African countries that have abundant natural resources; but when being properly investigated this criticism has been proved to be wrong (Brautigam, 2009). China is also often criticized because its companies working in Africa usually rely on Chinese workforce and not on the local people, regarding this point Brautigam says:

*“The reality is that the ratio of Chinese workers to locals varies enormously, depending on how long a Chinese company has been working in a country, how easy it is to find skilled workers locally, and the local government’s policies on work permits. In Sudan, where Chinese companies have been working in the oil industry for over a decade, 93 percent of workers in China’s oil operations were said to be Sudanese. Research by Tang Xiaoyang in Angola and the Democratic Republic of Congo showed that Chinese companies resident for five years had halved their ratio of Chinese employees compared with newly arrived Chinese firms” (Brautigam, 2009).*

But Brautigam does agree with one of the negative effects of China’s cooperation with Africa that is usually mentioned in the media: “Concerns about Chinese exports crushing African manufacturing are very real” (Brautigam, 2009). But in this point, China, being aware of this fact in 2006, for example, “put a self-imposed quota to restrict the total exports of textile and garment products to South-Africa” (He, 2007), one of the countries more affected by China’s exports<sup>1</sup>.

Indeed it is really difficult to develop in a short article, an accurate analysis of the impact of each power in Africa. At the same time, each country in this continent is a case of study by itself. But, in general terms, in this short presentation of some examples of activities conducted by France and the United States, we can denote: puppet governments, fabricated elections, the continuity of economic dependence after formal recognition of national sovereignty, economic infiltration through capital, investment, loans and monetary aid, or technical experts under unequal concessions and direct monetary dependence.

China’s influence in the continent cannot be compared to this deep control that France and the United States have developed in Africa. Maybe in an economic way, but definitely not comparable in the political, military and

cultural control and influence in internal affairs that these two western countries have in the region.

In conclusion, China may present some characteristics of the economic dimension of neocolonialism that have been pointed out before, but as we will see, it’s trying to find ways to relief the negative impacts that their economic activities can have in the region. But the US, and especially France, activities in Africa include all the dimensions that compose neocolonialism, the economic plus the cultural, political and military ones, which converts them in the real Neocolonialist Powers in Africa.

### **China and Africa relationship in the western media**

To develop this point we could start with this question: Is the western media reflecting the actual feeling in Africa regarding this relationship? Of course Africa it is a huge region, and it is impossible to consider its perception of China’s activities in the continent as a whole, but it could be possible to represent the different points of view that it includes. But usually, in the western media, just the most negative points of view are presented. Let us see an example:

*“Jacob Zuma, South Africa’s president, who long cultivated Chinese contacts, was forced last year by domestic critics to change posture. In Nigeria the central-bank governor recently excoriated the Chinese for exuding “a whiff of neocolonialism” (The Economist, 2013).*

But what is not mentioned is that, when China received the criticisms from Nigeria’s Central Bank governor, its point of view was that this shows that African powers are empowering themselves and showing freely their own points of view. Probably, other countries like the United States wouldn’t be as receptive to criticism as China has showed to be.

In a world like ours, where media and information are power, strategically reporting or underreporting some facts can be more crucial than we think, is actually an important and soft weapon. The media, especially in the United States, usually promotes and reflects the interests of the economic elites and of the government. As Noam Chomsky (2002) has argued, “The major media-particularly, the elite media that set the agenda that others generally follow-are corporations “selling” privileged audiences to other businesses” (Chomsky, 1989). By the same token, the journalists are affected by this system since it is difficult for them “to make their way unless they conform to (...) ideological pressures (...)” (Chomski, 1989).

The already mentioned “waves of misinformation” regarding China-Africa cooperation, are also one of the elements that affects the partiality of Western Media when reporting about this topic. Here is an example:

*“In 2004, The Economist reported an erroneous figure of*

<sup>1</sup>According to HeWenping, the flood of Chinese merchandise has forced to close down in South Africa an important number of business, an impact that has led to high unemployment rates (He, 2007).

\$1.8 billion for China's "development aid" for Africa in 2002. This was repeated in a *Boston Globe* article, which became the source for an article in *Current History* that said the 2002 figure of \$1.8 billion was the "last" time "official statistics" on Chinese aid to Africa were released. The *Current History* article was subsequently cited by researchers at the World Bank, who repeated soberly that "The last officially reported flows are for 2002. For that year, China's government reported that it provided \$1.8 billion in economic support to all of Africa." An International Monetary Fund study cited the World Bank report as its source for the same figure. Apparently, no one checked to see if there had actually been any official statistics reported by China in 2002 or at any point before or since for its annual aid to Africa (there were not)" (Brautigam, 2009).

How the information regarding Sino-African relations is also an important factor to consider. In the West, media is one of the actors that, with some exceptions, like to question China's relations with African countries. Titles like the following ones are pretty common: "China's Challenge in Africa: Avoid Blame of Neocolonialism" (Chin, 2014), "China: a neo-colonialist country?" (Molette, 2012), "Into Africa: China's Grab for Influence and Oil" (Brookes, 2007), "Chinese Colonialism?" (Grammaticas, 2012), "China's involvement in Sudan: Arms and Oil" (Human Rights Watch, 2003), "China in Africa: A close Friend or a Neocolonialist?" (Deepak, 2014), "The New Neo-Colonialism in Africa" (Tiffen, 2014), "Mbeki warns on China Africa Ties" (BBC News, 2006), "China's African Safari" (Mooney, 2005) or "China Focuses on oil, not Sudanese Needs" (Harman, 2008). More specialized literature and research also presents some examples of this tendency: "A New Scramble for African Oil? Historical, Political, and Business Perspectives" (Frynas and Paulo, 2007), "China's Global Hunt for Energy" (Zweig and Bi, 2005) or "China's Oil Diplomacy in Africa" (Taylor, 2006).

How titles can influence the reader can be understood through the importance of "framing", that is, "to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation" (Entman, 1993).

Even if some of these articles tend to point out the positive and negative elements of China – Africa relationship, their titles, are already being partial and focused on some stereotypes making them more salient, and moving the reader to perceive some neocolonialist dimension in China and Africa relations and promoting a moral evaluation of this relationship based on a neo-colonialist frame, a rhetoric that is not spread regarding other powers that operate in this continent.

Other important voices regarding China and Africa's are less well-known and not commonly mentioned in the West. For example, the African researcher Aubrey

Matshiqi says: "I did not experience China as a hegemon. It is America and Europe that imposed themselves to us. (...) My experience of the hegemony of the West has largely been that of a gap between its liberal democratic aesthetic and the moral content of its relations with the "Third World"" (Matshiqi, 2012). Djibuti's Health Minister affirmed: "China offers unconditional donations while asking us for nothing, which few countries do. Countries that never helped us but point fingers at China's cooperation with us might just be jealous" (Wang, 2014). Also China is promoting tourism in Africa, and cancelling debt (China had altogether canceled 20 billion yuan by the end of 2013) (Wang, 2014), something barely mentioned.

Some western researches that hold a positive image of China's role in Africa and have raised strong criticism against the accusations that the United States has been presenting against the PRC, such as Deborah Brautigam, that has been studying *in situ* China and Africa relations since the 80s, are not really well-known.

Of course China's presence in Africa has caused some negative impacts, but there has been the desire to change and improve. Actually the PRC is concerned about the main criticism that has received from its activities in Africa, and has shown a really receptive attitude to them, trying to improve its work and discourse regarding Africa. France and the United States, on the other hand, after several decades of non-successful intervention in Africa have never shown any kind of receptivity versus the discontent of African people. We should ask ourselves: Which attitude is more democratic and sympathetic?

## DISCUSSION

China's relationship with Africa is probably perceived by African people (and has been proved to be) as more fair than the one they have with countries like the United States or France, who are criticizing and using the media to present China as a neocolonial power, even though they keep developing and strengthening political, cultural and economic neocolonial ties with Africa, and their aid system has been proved not to be successful since the formal independence of Africa started.

Why this is happening is probably due to the perception of China as a "threat" or "competence" in what these *status quo* powers consider their own sphere of influence. They are aware that China's strategy in Africa is being more effective, and they know how China cares about its own image as a developing country and as the second economic power in the world, and its emphasis on stating that her relations with Africa are South-South and mutually beneficial based (a Win-Win cooperation model). So, especially the United States by presenting China in their media (more worldwide spread the Chinese media) as an imperialist and dangerous country, and

recommending African countries to be aware of China's growing influence in the area, is developing a soft deterrence strategy against what the United States considers the "China threat". While the activities of other countries, that are actually acting like real imperial powers, like France (that its establishing puppet governments, manipulating elections, developing military bases, trying to maintain their cultural colonial legacy through different institutions, realizing espionage activities and strengthening the economic and resources control of some African countries), are clearly underreported and not condemned.

To counteract this media strategy the generic recommendation would be to keep investing and promoting China's soft power.

First, being more transparent in some key elements of Sino-Africa cooperation, such as foreign aid, would help to reduce the flow of "misinformation waves" and to end some of the stereotypes that surround this relationship.

A second recommendation is to keep spreading and making more available the Chinese media around Africa, especially TV channels coverage. It is also important to consider that "the extent of China's success will be constrained by the amount of journalistic and editorial legitimacy it can build in the eyes of African" (Day, 2013). Therefore regarding its content, it could be interesting to increase the spaces in the different media in which Africans could "tell their own story" (Day, 2013), and to invest "in local knowledge and local partnerships, going beyond the token presence of African faces on television screens and engaging in greater depth with local worldviews and unusual perspectives on the developments reshaping Africa" (Galiardone and Verhoeven, 2012).

In third place, it is important to find ways to counteract the common framing that the western media has used in China-Africa relations (usually related to neocolonialism) and the impact that it has caused in its audience. Regarding this point, it is important not to negate the frame, therefore is better not to use defensive sentences like "China is not a Neocolonialist Power", because "when we negate a frame, we evoke the frame" (Lakoff, 2004). This idea is related to the "Suppression Thought Theory" or "The White Bear Problem" formulated by the psychology professor Daniel M. Wegner, that refers to the "psychological process whereby deliberate attempts to suppress certain thoughts make them more likely to surface" (Wegner and Schneider, 2003). It is usually exemplified with Dostoevsky's sentence: "Try to pose for yourself this task: not to think of a polar bear, and you will see that the cursed thing will come to mind every minute" (Dostoevsky, 1955). Another clear example of how this psychological process works is the following one, included in George Lakoff famous book "Don't Think of An Elephant":

*"When Nixon addressed the country during Watergate and used the phrase, "I am not a crook," he coupled his*

*image with that of a crook and thereby established what he was denying. This example embodies another important principle of framing: when arguing against the other side, don't use their language because it evokes their frame (...)." (Lakoff, 2004).*

Therefore, in our case instead of negating the neo-colonialist frame usually used for Sino-Africa cooperation in the western media; the best strategy is to use and emphasize other frames that actually define Sino-African Relations, like "Win-Win Cooperation" or "Mutual Benefit Relationship".

Last, but not the least, if China's alternative and creative policies and cooperation approach continue to achieve good results in Africa, helping the continent to develop and to improve in a successful and sustainable way, showing that, indeed, there is a successful alternative to the western model; this will be the best and ultimate legitimating soft power that China can project to the world.

## Conflict of Interests

The authors have not declared any conflict of interests.

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*Full Length Research Paper*

# **New constitution-making in Tanzania: An examination of actors' roles and influence**

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On 9th December, 2011 Tanzania celebrated its 50th anniversary of independence. This was later followed by the anniversary on 26th April, 2014 of a diamond jubilee for the union between Tanganyika and Zanzibar which led to the birth of the United Republic of Tanzania. During these celebrations, there was what seemed to be the popular view that Tanzania needed a new constitution for the next 50 years. It was on the basis of this recognition that the country embarked on the process of making that constitution whose ending through a referendum is in limbo. Using ten labels to discuss the involvement of various actors in the process, this study shows that elitism was predominant thus making the role of other actors, particularly the general public, seasonal and insignificant. The study further shows that while the proposed new constitution ought to have reflected the interests of various constituencies for legitimacy purposes, parochial and partisan interests (orchestrated by elites) eclipsed the process hence immersing it into a stalemate. It thus concludes that the success or failure of the process of making the new constitution still depends much on elite consensus.

**Key words:** Constitution, democratization, labels, constituent assembly, actors.

## **INTRODUCTION**

Since 1992 when Tanzania reintroduced<sup>1</sup> multiparty politics, the country has witnessed various developments purporting to facilitate the consolidation of democracy, one of which is the conduct of multiparty elections. Nevertheless, there have been concerns over the existence of obstacles to democratization; particularly the constitution of the United Republic of Tanzania of 1977. Critics are particularly directed at article 74-(1) (a)-(c) of this constitution which gives powers to the president, who is also the chairman of the ruling party to appoint top

officials of the National Electoral Commission. Similar concerns are directed at article 41-(7) which forbids presidential results to be enquired in courts.

It is on the basis of dissatisfaction with Tanzania's main law that opposition parties persistently advocated for the change of the 1977 constitution, triggering the then president of the United Republic of Tanzania, Jakaya Kikwete, to initiate the process of making the new constitution. The process officially began on 31st December, 2011 when the then president declared his

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intent to initiate this process. On 6th, April, 2012, the president appointed 32 members of the Constitution Review Commission under the chairmanship of Judge Joseph Sinde Warioba; who once served as Tanzania's prime minister and first vice president. This commission collected public opinion regarding the new constitution throughout the country and submitted to the vice president and the prime minister the first draft of the proposed constitution on 3rd, June, 2013. The commission submitted to the president of the United Republic of Tanzania the second draft of the proposed constitution on 30th September, 2013. This submission was followed by president's appointment of 201 members of the constituent assembly to join the members of the parliament of the United Republic of Tanzania, thus forming a total of 629 members. The constituent assembly commenced its work on 18th February, 2014 and was boycotted by the Coalition for the Defenders of People's Constitution (popularly known in Swahili language as *Umoja wa Katiba ya Wananchi- UKAWA* on 16th April, 2014. On 2nd October, 2014 a draft constitution proposed by the constituent assembly was adopted after obtaining the constitutionally required threshold of two-thirds majority votes from the members of the constituent assembly representing Zanzibar and Tanzanian Mainland. The next step is the holding of a referendum, whose fate is still unclear.

Despite passing through such stages, the process of making the new constitution was sometimes characterized by a standoff stemming from disagreements between the ruling party and the opposition parties. It was on the basis of these tensions that in September 2014 the then president of the United Republic of Tanzania, Jakaya Kikwete, met in Tanzania's capital city Dodoma with members of Tanzania Centre for Democracy (TCD)<sup>2</sup> to try and resolve such tensions.

In that meeting, four main issues were agreed upon namely:

1. That the constituent assembly cannot produce a constitution to be used in the 2015 general elections given the limited time that was remaining before the elections.
2. That the referendum on the new constitution be held in 2016 after the 2015 general elections.
3. That the constituent assembly would last in 4<sup>th</sup>, October, 2014 as per the government notice number 254.
4. That amendment had to be made to the 1977 union constitution to facilitate the conduct of free and fair elections. It was also agreed that these amendments were to specifically focus on facilitating the presence of free electoral commission; the winner of the presidential seat to win by absolute majority; allowing an independent candidate; and having a provision within the constitution which legalizes challenging presidential results in the courts of law<sup>3</sup>.

The process of making the new constitution involved various actors playing different roles. Apart from sharing a common vision of ensuring that Tanzania gets the aforesaid, the nature of actors' participation had a bearing on constitution-making processes. It is thus imperative that actors' roles be put in a perspective; a task that this study seeks to accomplish. On the basis of the foregoing, the descriptions and discussion in this study seek to answer the following question:

*“How can actors' involvement in constitution-making processes in Tanzania be characterized and which effects did it have on the envisaged output?”*

The discussion in this study covers the period from 2011 when the process of making the new constitution commenced to the passing of the proposed constitution by the constituent assembly in 2014. It thus focuses on the proposed constitution which was adopted by the constituent assembly and which awaits final approval by the general public through the referendum, on a date yet to be set.

## METHODOLOGY

This study uses documentary analysis to discuss the role of actors in constitution making. The main sources of information include newspapers, books, journal articles and some online sources. In order to have an in-depth coverage of the progress of the constitution-making process, the study uses government, private and political parties' affiliated newspapers. Government papers covered include the *Daily News* and *Habari Leo* whereas private ones are *Mwananchi*, *the Citizen*, *Mawio*, *Nipashe*, *Mtanzania* and *the Guardian*. Newspapers owned by political parties which are covered by this work include *Uhuru* (CCM) and *Tanzania Daima* (CHADEMA). Information obtained from the above sources are aggregated and organized using ten (10) labels developed by the author that are assigned to various actors depending on the roles which they played during constitution-making processes. Prior to presenting and discussing these labels, next is highlights of the key features of constitution-making processes.

## CONSTITUTION-MAKING: ITS CHARACTERISTICS

Since 1787 when the constitution of the United States of America was made, constitution-making has been one of the key issues in democratization discourse (Howard, 1993; Hart, 2003). The significance of the constitution stems from the fact that it is the higher law that defines the nature of relations among members of a given society (Van Cott, 2000; Hart, 2003; Mbonenyi and Ojieda, 2013; Media Development Association-MDA, 2012). It is also a long-term national strategy for socio-economic and political development of a country (Weingast, 1997; Odoki, 2002; Widner, 2005). Making the new constitution is a complex process that involves several practices such as setting the principles regarding the phases of constitution-making processes, formulating an interim

constitution, civic education and media campaigns, establishing communication channels, elections for constituent assemblies, and drafting and approving the proposed constitution (Hart, 2003). It also involves struggles and conflicts that revolve around identities, power and rights of groups which eventually complicate the possibility of reaching a consensus (Hart, 2003).

Constitution-making and democratization are intertwined and as Bannon (2007) argues, the two have been regular bedfellows. While constitution making is presumed to be a democratization process, its genesis is multifaceted. In some instances, leaders especially in developing countries initiate this process for the sake of legitimizing their leadership and it is on the basis of this drive that constitutions in these countries are written and re-written (Okoth-Ogendo, 1991; Hart, 2003).

In recent times there has been an increasing urge for popular participation in constitution-making process (Elkins et al., 2008; Khanal, 2014; Brandt et al., 2011). Participation is considered important as it is credited for developing democratic characteristics of the general public, including the support for the political system (Moehler, 2006; Banks, 2008). Nevertheless, there are variations on the extent to which citizens can participate in this process. Participation can thus take the form of election of members of constituent assemblies, a referendum and direct engagement during the drafting period (Moehler and Marchant, 2014). The significance of participation remains debatable as despite increasing constitutional legitimacy, it might also contribute to sectarian debates that might negatively affect the content of the constitution (Elster, 1995; Elkins et al., 2008; Moehler and Marchant, 2014;).

It is worth-noting that for a long time, constitution-making was an elite affair that was separated from other political processes as it was mainly the politicians and legal experts who dominated this process (Moehler, 2006). For instance, the US and post WWII German constitutions were written by elites in closed sessions while focusing on compromise by those who took part in this process (Hart, 2003). The conventional view was that a constitution should be judged democratic according to the nature of its provisions, not by the manner in which it was created (Hart, 2003). This norm was however broken when liberal democracy adopted during the second wave of democratization failed to institutionalize liberal democratic governance thus necessitating the need for more popular participation in constitution making (Moehler, 2006).

On the basis of elite-mass divide in constitution making, this study is anchored on the elite theory. The choice of this theory is based on the need to examine the role and influence of elites and the mass in the process of making the new constitution. Elite theory rests on a belief that societies are divided into two groups namely the elites and the mass (Anderson, 1994). It assumes that it is only

the elite who influence political processes especially given that the mass is considered to be politically apathetic (Cloete and Deconing, 2011). Elite theory also provides that political undertakings depend on elite consensus and not on popular or mass interests (Dye, 1987). As pointed out earlier, constitution-making is the process which needs to be inclusive. Inclusivity is considered necessary so as to ensure that the constitution made represents all voices in a given society. Against this backdrop, this theory helps in shedding light on the role of elites versus other actors in this process.

### **Constitution-making: An Experience from East Africa**

Since 1960s to date, constitution-making has been very topical across Africa, notwithstanding country-specific political developments that have unfolded over five decades. Besides Tanzania which is the main focus in this study, constitution-making experience can also be drawn from Kenya and Uganda as highlighted hereunder.

#### **Uganda**

Having passed through decades of instability since independence in 1962 up to 1986, Uganda began a formal consultative process for constitution-making in 1986 following the establishment of ministry of constitutional affairs (Oloka-Onyango, 1995; East African Centre for Constitutional Development-EACCD, 2013; Odoki, 2013). This was followed by the formation of a 21-member Ugandan Constitutional Commission in 1988 (Waligogo, 1994). This commission had several tasks such as stimulating public discussions and awareness of constitutional issues, collecting public views regarding the new constitution and formulating proposals for the new constitution (Moehler, 2006; Tripp, 2010). After completing its task, the commission suggested in its report the establishment of a constituent assembly directly elected by the people (Odoki, 2002).

The earlier mentioned recommendation was accepted by the government and the formal process for constituting the constituent assembly began thereafter (Odoki, 1993; Tripp, 2010). As per the Constituent Assembly Act of 1993, political parties' activities were banned and candidates for this assembly were to run as individuals (Nelson, 1994; EACCD, 2013). After the election of constituent assembly members, this body was opened in February 1993 and it consisted of directly elected delegates and representatives from different interest groups such as women, the army, active political parties, the disabled, youths and presidential nominees. The assembly concluded its task by adopting the new constitution in August 1995 which was enacted in September 1995 and promulgated by the president in October in the same year (Tripp, 2010; Odoki, 2013).

The process of making the new constitution in Uganda faced several challenges such as: the perception that members of the constitutional commission were not independent given that their appointment procedure was not systematic (Tripp, 2010). Likewise, most of the members of this commission were said to be strong supporters of the movement system (Moehler, 2006). A related challenge was too much reliance on existing regime's administrative structures for purposes of civic education and collective views (Tripp, 2010). Other challenges included minimal involvement of political parties; sectarian debates in the constituent assembly and multiple representation of the ruling regime by different groups such as presidential nominees and the army (Tripp, 2010).

### **Kenya**

Since independence, there were concerns that Kenya's constitution which dates back to 1963 was a symbol of both British colonialism and internal oppression (Bannon, 2007). It was on this basis that demands for a new constitution were high. From 1990, calls for the new constitution, together with other demands such as multiparty politics, presidential term limits and more political freedom increased (Mutunga, 1999; EACCD, 2013). The official process of making the new constitution began with the formation of the Constitution of Kenya Review Commission (CKRC) consisting of 27 members in accordance with the Constitution of Kenya Review Act of 1998. This commission represented several interests such as the top leadership, political parties, civil society and religious groups. It had several tasks namely: conducting and facilitating civic education; collecting and collating the views of the people on proposals to alter the constitution, to draft a bill and to carry out research concerning constitution-making (Moehler and Marchant, 2014; Bannon, 2007; MDA, 2012).

Using a participatory approach, CKRC collected views from various stakeholders and presented a report together with a draft constitution in 2002 (Bannon, 2007). This draft was to be debated and adopted by the National Constitutional Conference (NCC). NCC consisted of all members of the CKRC who were ex-officio members; all members of the national assembly, three representatives of each district, one representative from registered political parties, representatives of religious and the civil society. In total, NCC had 629 delegates (EACCD, 2013).

NCC debated and adopted a draft constitution which was popularly known as the BOMA draft. This draft did not proceed to the parliament due to a stalemate regarding who had to approve the constitution (MDA, 2012). This debate was intensified by a court ruling in 2004 that it was the people through the referendum who were to approve the draft constitution, not the parliament.

This initiative was thus called off and the government made its own draft in 2005 popularly known as the WAKO draft which was however rejected in a referendum in the same year. After the referendum, a committee of Eminent Persons consisting of 15 members was formed and it was tasked to review the progress of the constitution review process and suggest the way forward. It completed its task in 2006 (Bannon, 2007).

The drive for having the new constitution gained momentum in 2008 especially after the appointment of an eleven member committee of experts. The committee reviewed the BOMA and WAKO drafts and came out with a harmonized draft constitution. This draft was published and the public was invited to make comments (Maxon, 2009). Based on public views, the committee of experts prepared a proposed constitution of Kenya which was later reviewed by a parliamentary select committee. This draft was approved by the Kenyans in a referendum in 2010 (EACCD, 2013; MDA, 2012).

Like in Uganda, the process of making the new constitution in Kenya had several challenges which included: over-politicization of the process particularly in the composition of NCC; direct involvement of politicians in NCC activities; ambivalence in either opting for the National Conference or a Constituent Assembly (EACCD, 2013). Other challenges included the large size of NCC which made it difficult for effective discussions; initial skepticism of the committee of experts; polarization and sectarianism especially on issues such as gay rights, ethnicity and abortion; and the influence of USA, Britain and Germany (EACCD, 2013).

### **Evolution of constitution-making in Tanzania and the context for the new constitution**

The history of constitution-making in Tanzania starts from 1961 when the country adopted the independence constitution (Maina et al., 2004; Liviga, 2009). This constitution provided for, among others, a Governor General representing the queen as the head of state and an executive prime minister from the majority party in parliament. It was formulated and adopted without a broad consultation of stakeholders, particularly the general public (Shivji, 1991; Mukangara, 1998).

The next phase of constitution-making was in 1962 when the republican constitution which combined the powers of head of state and government was adopted (Nchalla, 2013; Nassoro, 1995). The earlier mentioned epoch was followed by the interim constitution of the United Republic of Tanzania in 1964 which marked the union of Tanganyika and Zanzibar (Bakari and Makulilo, 2014; Sheriff, 2014). This union was formalized by signing a treaty called the articles of the union by the presidents of both sides and it is these articles that form the legal base of the union (Bakary, 2006).

In 1965 the interim constitution was modified in order to formalize the one party state- Afro-Shirazi party for Zanzibar and Tanganyika African National Union (TANU) for Tanganyika (Dourado, 2006; Othman, 2006). In 1977, the permanent constitution of the United Republic of Tanzania was adopted and it has remained in force to date. Having been in force for more than three decades, this constitution seemed unable to cope with multiparty politics. It was on this basis that the process of making the new constitution became inevitable (Fimbo, 1995). This process was much influenced by the country's political context as explained by aspects such as the legal framework, the nature of relationship between opposition parties and the incumbent party and the perceived partiality of the police.

The legal framework which guided this process consisted of two laws namely the constitution of the United Republic of Tanzania of 1977 and the Constitution Review Act of 2011. The 1977 constitution has since with the reintroduction multiparty politics in 1992 been challenged by opposition parties particularly for granting too much power to the president. Despite such said weaknesses, this constitution provides for civil and political liberties that were expected to facilitate popular participation in the process of making the new constitution. The second law was the constitution Review Act of 2011. This was the law specifically dedicated to the making of the new constitution. Prior to its amendment, this Act was challenged by opposition parties and other groups for limiting the freedom of the members of the constituent assembly. This act had barred any debates on items such as the presidency and the existence of the United Republic of Tanzania. The pressure from opposition parties and the civil society against these provisions culminated to the amendment of the Constitution Review Act in 2012.

Besides the legal framework, there was distrust between the main opposition parties and the incumbent party. As the two sides were the major players, there were signs that this process would be polarized along party lines. The genesis of this mistrust was linked to the fact that since 1992 Tanzania's political context has been dominated by the ruling party- Chama Cha Mapinduzi (CCM), particularly during elections which has ensured its majority in the national assembly for three decades. Given that all members of the parliament automatically became members of the constituent assembly, it was most likely that CCM would use its majority to set the tone of the discussions.

Lastly, the process of making the new constitution commenced within an environment that was characterized by perceived impartiality of state apparatus such as the police. Given that this process brought together individuals and groups of people with different political orientations, it was obvious that protests and demands would be part of this process. Given this state of affairs,

maintaining political tolerance was of paramount importance. The existence or absence of tolerance could, for instance, be examined by looking at the nature of relationship between the police and opposition political parties. Since 1995 to date, opposition parties have been accusing the police of being partisan in favour of the ruling party. While the opposition effectively participated in the process, they had mistrust against the police especially in letting them organize rallies and demonstrations for or against the process. Under this environment, the process of making the new constitution took off and culminated to the adoption of the proposed constitution which however lacks support from the major opposition parties. The next discussion below presents labels that explain actors' involvement in the process.

## **ACTORS' ROLES AND LABELS**

As earlier shown, the process of making the new constitution involved several actors who played various roles. Their participation is discussed using ten labels, which include:

1. The materialists,
2. The unpredictable,
3. The betrayers,
4. The chosen and lucky,
5. Belated resurrection,
6. The national enemy,
7. The misplaced,
8. The opportunists and coward,
9. The doubted; and
10. The arrogant and ambitious.

### **The Materialists**

This was the label used to describe members of the constituent assembly who decided to continue attending constituent assembly sessions after the coalition of main opposition parties pulled out from the process. The basis of this label was the argument that proceeding with the debates on the draft constitution with only members and supporters of CCM was a waste of time. The view in support of this position was that constitution making is a process that has to involve bargaining and consensus building. On that regard, a neglect of the concerns by opposition parties, which were the originators of the process, was interpreted as undemocratic. The challenge directed at the members of the constituent assembly was that their reluctance to put the process on hold was due to their materialist motives for daily subsistence allowances, which these members were not ready to miss, had the constituent assembly been adjourned.

This label became bold especially after the meeting between the then president of the United Republic of

Tanzania and TCD members in which it was decided that the referendum stage for the new constitution will be pushed forward to 2016 so as to give way to preparations for 2015 general elections. Following this decision, there were appeals from opposition parties, the academics, religious organizations and civil society organizations for the constituent assembly to be adjourned so as to save public money.

Other critics went as far as trying to compare the amount of money spent in the constituent assembly and possible projects such money would have funded. For instance, the chairman of Chama cha Demokrasia na Maendeleo (CHADEMA), Freeman Mbowe argued that if the constituent assembly was to proceed with sessions for the remaining 19 scheduled days after the consensus reached between the president and TCD, three billion Tanzania shillings would be spent. This amount of money was said to be equal to the amount of money needed to construct 195 classrooms<sup>4</sup>. It was likewise alleged by a member of the constituent assembly from CHADEMA<sup>5</sup> that the country was in the danger of losing 120 billion Tanzanian shillings (Tshs) should the country fail to get the new constitution. This amount of money was estimated to suffice serving as loans to 80,000 students from higher learning institutions. Other estimation was that the same amount of money would be enough to construct 600 modern dispensaries. It was also estimated that 120 billion Tanzanian shillings would buy 857,000 desks; while other estimation was that such amount of money would drill 4,800 wells<sup>6</sup>.

It is worth-noting that the critics against the materialist behavior of the members of the constituent assembly were voiced even before the official opening of the constituent assembly. Following the appointment of 201 members of that assembly, there were rumours that every member of that body would be paid a daily subsistence allowance of 700, 000 Tshs. However, when it turned out that they will be paid 300,000 Tshs, they became furious, pushing hard for the earlier anticipated ransom. That push included a demand that each member be given an Ipad (Kamata, 2014).

This label treats these members, to use Ayi Kwei Armah's formulation<sup>7</sup>, as Chichidodo; a bird that hates human excretion but is fond of worms from this waste. This analogy stems from the views that were advanced by UKAWA that despite CCM's awareness that without the presence of the former the adopted constitution by the constituent assembly would be a sham, pro-CCM members were ready for whatever outcome provided they continued receiving their daily subsistence allowances.

It is difficult to refute or pass this label and this difficulty stems from two facts. In one hand, pro-CCM members were exercising their democratic rights and all that they were doing in the constituent assembly were in accordance with the Constitution Review Act. As there was no provision within that Act providing for the

adjournment of the assembly in case a particular "potential" group of members pulled out, having the opposition members outside the constituent assembly was none of their business.

On the other hand, irrespective of any critiques against the decision of major opposition political parties to quit the constituent assembly, CCM members ought to have been concerned about the legitimacy of the proposed constitution that was passed without the inputs from the country's main opposition parties. This was especially so given that it was the opposition that strongly championed the new constitution before this agenda was supported by the then president of the United Republic of Tanzania. Given the uncertainty on the possibility or impossibility of getting the required majority to pass the proposed new constitution that existed before voting for the proposed constitution in the constituent assembly, neglecting UKAWA was indeed a big risk.

### The Unpredictable

This label was used to describe two prominent figures in the process of making the new constitution namely; the then president of the United Republic of Tanzania, Jakaya Mrisho Kikwete and the chairman of the Constitution Review Commission (CRC) Mr. Joseph Warioba. The unpredictability of the ex-president was linked to the following aspects:

1. His decision to initiate the process of making the new constitution irrespective of the fact that this was initially not an agenda of the ruling party. It is worth-noting that having the new constitution was not in CCM's priority list as it even was not mentioned in the party's election manifesto of 2010. Supporting the demand for the new constitution left some CCM members in a dilemma, and it was not possible to exactly tell what pushed him to this position. However, there were conspiracy theories one of which was that he decided to initiate the constitution making agenda so as to minimize the popularity of opposition parties who had taken the new constitution agenda at the centre stage of their political rallies and movements against the government.
2. His decision to allow for the amendment of the constitution review Act which had initially treated some matters such as the presidency and the union between Tanganyika and Zanzibar as sacrosanct. Following a lot of pressure especially from the opposition, a ban on debating these issues was lifted and it is the debate on the structure of the union that brought the constituent assembly into an impasse.
3. His speech to the constituent assembly on 21st, March, 2014 in which he seemed to take position by openly criticizing some provisions of the draft constitution submitted to him by the CRC instead of letting it be decided by the constituent assembly members.

Immediately after that speech, there were questions regarding the president's commitment to having the new and legitimate constitution. Some of the provisions of the proposed draft constitution that the president challenged included: a proposal that a member of parliament shall lose his/her post if he/she fails to perform his/her responsibilities due to illness or imprisonment; a provision for the member of parliament to serve for three terms; a recall of a member of parliament in case he/she fails to deliver; and the proposed three governments union structure.

Labeling the then president as unpredictable was realistic given his reactions to various constituencies in the process of making the new constitution. However, a question that needs to be asked is whether that unpredictability had consequences on the process. Looking at his role, the unpredictability of the then president had both positive and negative consequences. On the positive side, being unpredictable by initiating the process of making the new constitution but also by supporting the call for the amendment of the Constitution Review Act demonstrated his understanding of the intricacies that often characterize constitution-making processes. Given that there were various constituencies with different interests, creating room for consensus building among these factions was of paramount importance. Therefore, the president positively made appropriate interventions that were sometimes not partisan thus giving room for the views and voices of different groups to be heard. He demonstrated his awareness of the fact that like in any bargaining context, constitution-making required the negotiating parties to be ready to lose in some scenarios but gain in others; including their readiness to change positions after being convinced by other sides.

Similarly, during the process of making the new constitution, the ex-president sometimes distinguished himself from conservative actors who always wanted their viewpoints to prevail; while not tolerating alternative views. Opposition parties seemed to partly fall to this category given that throughout the process of making the new constitution they never relaxed their stance on contentious issues. Therefore, being unpredictable and ready to accept others' viewpoints in some situations was at least a positive gesture in keeping the process going.

Nonetheless, in certain cases this unpredictability brought negative consequences. This was particularly the aftermath of his speech to the constituent assembly. While the ex-president, like any other Tanzanian citizen had the right to express his views, it was difficult to certainly distinguish whether what he articulated in that speech were his viewpoints as an individual or as a president and chairman of the ruling party. On this basis, his position stood as the position of the ruling party and it was most likely that his speech influenced much the

orientation of members from his party towards the draft constitution submitted by the CRC. It was therefore not a surprise that the proposed constitution eliminated or changed all the provisions which were challenged by the then president.

Similarly, it was after his speech that the debate on the structure of the union intensified. It is however worth noting that the position of upholding the existing union structure had been earlier pointed out by CCM as it issued a circular challenging the first draft of the constitution submitted by the Constitution Review Commission, which provided for, among others, a three tier government structure. Irrespective of CCM's earlier stance over the preferred union structure, the speech by the president triggered more heated debates and polarization regarding the union. His speech thus did not help in solving controversies that had emerged since the first draft of the proposed new constitution was presented.

Like the then president, the chairman of the CRC was unpredictable especially from most CCM supporters and leaders. Given his longtime membership to the party and his service to the CCM-run government at different portfolio; including serving as a prime minister during the first phase government<sup>8</sup>, no CCM supporter expected Warioba to "deceive" the incumbent party. Following his appointment as the chairman of the commission, it seemed the party was certain that the commission could not touch the sacred valuables; especially the structure of the union. The fact that his commission came up with the draft constitution providing for a three tier government union structure was indeed an abomination. It is worth noting that Article 60-(1) of the draft constitution proposed by the CRC provided that the United Republic of Tanzania will be a federal state with three governments namely: the government of the United Republic of Tanzania; the Revolutionary Government of Zanzibar and the government of Tanganyika. To those supporting a two tier government union, Warioba was seen as a traitor who did not respect the roots of the government and the party he served for many years.

Irrespective of such accusations, treating the chairman of the CRC as unpredictable was baseless and unfounded. The naivety of this labeling rest on the fact that Warioba was erroneously singled out from the rest of other members who were part of this Commission; a majority of whom were CCM members and supporters. Despite being the figurehead of the commission, his relationship with the rest of members of the Commission was on the basis of first among equals. He thus had no power to impose his will or the will of his party on all members of the Commission.

In addition, the CRC had a task of collecting public opinion and using such opinion to draft, propose the new constitution. Blaming Warioba for going contrary to the ruling party raised concerns on the willingness of the government and the ruling party to let people's views be

the main inputs in preparing the draft constitution. It is worth-noting that Tanzania's constitution making history has been characterized by limited involvement of the citizenry. Therefore, having the commission that toured all parts of the country to collect public opinion was seen as a beautiful beginning to having the new constitution that is anchored on the views from all segments of the society. Storming the commission's chairman for producing "unexpected" proposals questions the spirit and commitment of top decision makers in pushing for an inclusive deliberative process.

### The Betrayers

This label was mainly used to refer to those individuals who dismembered themselves from the groups to which they belong due to having contrasting positions and mostly involved leaders and members of political parties. A first group of betrayers included some members of the constituent assembly representing the ruling party whom at some point stood contrary to the position of CCM. These included individuals who boycotted the constituent assembly sessions namely Kangi Lugola, the late Deo Filikunjombe and Hamis Kagasheki<sup>9</sup>. It also comprised members who were participating in constituency assembly sessions but held a position different to that of the party to which they belong. This was particularly the case with Ally Keissy Mohammend (a CCM member) who consistently stood firm in support of a three tier government union structure. Nevertheless, he relinquished his stance and voted in support of the proposed new constitution. The list of betrayers also included Mr Mwigulu Nchemba and other CCM members whom at a certain point had a position that the constituent assembly should be adjourned and resume only when members of the coalition of defenders of people's constitution<sup>10</sup> resumed their attendance in the constituent assembly.

The second group included members of opposition parties who took independent positions contrary to the stance of their parties. These included Mr. John Shibuda and Hamad Rashid Mohammed from CHADEMA and Civic United Front (CUF) respectively. These constituent assembly members were treated by their parties as betrayers given that they refused to boycott the constituent assembly sessions as decided by their parties' top leadership. For instance, Shibuda was quoted by the media saying that he did not see the reason why UKAWA was outside the constituent assembly. He however was afraid of the consequences of such betrayal to the extent that he declared not to vie for Member of Parliament seat under CHADEMA's ticket in the 2015 general elections on the argument that he was being ridiculed and threatened by some CHADEMA leaders<sup>11</sup>. The third group involved other opposition parties deciding not to join UKAWA. Parties represented by this label included

Tanzania Labour Party (TLP) and United Democratic Party (UDP). It is imperative to note that the stance of TLP and UDP chairmen was a prolongation of separation between the leaders of these parties against Tanzania's main opposition party-CHADEMA as in several occasions; the two parties were not supportive of movements such as walkouts initiated by the opposition camp in the national assembly.

The betrayers label also included Zanzibar members who cast a "No" vote to the proposed new constitution, particularly Zanzibar's chief attorney. It is worth-noting that one day before the end of the voting exercise, nine members of the constituent assembly from Zanzibar had openly voted 'No' to the proposed draft constitution whereas other 30 members were said to have opted for a secret ballot. Following Zanzibar's chief attorney decision to reject some articles of the proposed draft constitution, there were anger and outrage from other members of the assembly who regarded the 'No' voters as betrayers. Zanzibar's chief attorney, who had earlier pulled out from the constitution writing committee voted against article 2, 9, 86, 37, 70, 71,72,73,74 and 75. He also cast a 'No' vote to Chapter 11 which contains articles 158, 159, 160 and 161. The chief attorney also voted against Chapter 16; including an addition to a list of union matters<sup>12</sup>. As a result of Zanzibar's chief attorney openly voting against many provisions of the draft, there were fears that the required threshold for passing the draft might not be reached as it was still unclear as to whether those who opted for a secret ballot supported the draft.

Given that there were a total of 629 members of the constituent assembly; 412 members from Tanzania mainland and 217 from Zanzibar, securing the required majority needed to obtain 145 'Yes' votes from Zanzibar. The good news to the proposed new constitution was that almost all those who opted for a secret ballot voted in favour of the proposed constitution. This paved way for the much anticipated two-third majority of the votes for members of the constituent assembly from the two sides of the union to be obtained. The results of the votes indicated that while the total number of members of the constituent assembly from Zanzibar who voted was 156, the required majority for all 289 articles of the proposed constitution was obtained with those in support of that constitution ranging between 146 and 147 thus hitting or slightly exceeding the required two third majority of 146 members. Likewise, on the side of Tanzania mainland, those who supported the proposed constitution ranged between 332 and 334 members, thus surpassing the required two-third majority of 274 members<sup>13</sup>.

Given what transpired during constitution-making, it can be said that this label represents different realities. In one hand, it signifies an element of indiscipline as members and supporters of either the ruling party or the opposition were to abide by the position of their camps. Going contrary to this expectation suggested the betrayal. On

the other hand, this label suggested that the process of making the new constitution was a test of tolerance for both the incumbent party and the opposition. As the foregoing has shown the incumbent party and opposition parties did not tolerate divergent opinions from within their camps as each side immersed in a blame game instead of lobbying and persuading those who seemed to take different positions. It was on this basis that for instance members of the constituent assembly from CCM who challenged the legitimacy of the constituent assembly in the absence of main opposition parties were called agents of UKAWA<sup>14</sup>. It was also along the same line that Zanzibar's state attorney general Mr. Othman Masoud was fired.

### **The Chosen and Lucky**

This label represents some members from the 201 group of the members of the constituent assembly who were appointed by the president. A lot of accusations, mostly from opposition supporters, were leveled against these delegates from the date they were appointed. The main accusation was that CCM hijacked the process of appointing these members by making sure that those appointed were its allies. On the basis of this accusation, most of the members in this group were said to masquerade their allegiance to CCM by pretending to represent various groups such as pastoralists, farmers and traditional doctors. For instance, these allegations were made by Mr. Ezekiel Wenje (a member of the constituent assembly representing CHADEMA) who alleged that some of those members were bribed by government officials so as to make them play an agency role. He made these accusations on 27<sup>th</sup> March, 2014 during the debate on the use of sections 37 and 38 of the Constitution Review Act regarding the adoption of either an open or secret ballot system by the constituent assembly. This member of the constituent assembly accused CCM and top government officials of inviting some members from the 201 group for dinners and that these members were also given envelopes with money. While it might be difficult to certainly establish whether or not these members were 'the chosen and lucky', it is however true that most of them seemed to share CCM's stand point regarding the content of the proposed constitution. They thus had little to prove their representational legitimacy, especially in advocating for the interests of the groups through which they secured the tickets of being appointed members of the constituent assembly.

### **A belated resurrection**

Since the commencement of the process of making the

new constitution, some civil society organizations were very active. Some of the active organizations included; Legal and Human Rights Centre (LHRC), Tanzania Gender Networking Programme (TGNP); and the the Constitutional Forum (popularly known is Swahili language as *Jukwaa la Katiba*), just to mention some. On the other hand, some organizations were dormant at some point before they became vibrant. This was particularly the case with Tanganyika Law Society (TLS). This society of lawyers was for a long time silent and had not distinguished itself as an influential actor. Its inactive role was evident even in cases where there were serious quarrels regarding the interpretation of some laws. It only came to "resurrect" after the outbreak of a heated debate regarding the jurisdiction of the constituent assembly. The critique over the dormancy of TLS was reiterated by a renowned public speaker, Professor Patrice Lumumba from Kenya at a conference on the new constitution organized by TLS on 2nd, August, 2014.

During that conference, Professor Lumumba challenged the lawyers' society for being silent while the process of forming the new constitution was facing legal-related challenges that needed court interpretation with a push from organs such as TLS. He challenged TLS to seek for court interpretation of some contentious sections of the Constitution Review Act regarding the jurisdiction of the constituent assembly and the CRC. It was from that conference that TLS increased its involvement in constitution-making process. Such active role was manifested by two developments. The first one was the filing of a case seeking for court's clarification. In that case, TLS asked the court to declare that the ongoing processes within the constituent assembly were null and void. It also sought for court's interpretation of section 25 (1) of the Constitution Review Act of 2011 which provided that the Constituent Assembly shall have the powers to make provisions for new constitution of the United Republic of Tanzania and to make consequential and transitional provisions to the enactment of such constitution and to make such other provisions as the constituent assembly may find necessary. It also sought for the clarification of section 25(2) of the same act which provided that the powers of the constituent assembly to make provisions for the proposed constitution shall be exercised by a draft constitution tabled by the chairman of the commission and passed by the constituent assembly<sup>15</sup>. The second belated intervention was the airing of advertisements in TV stations calling for the involvement of all actors in the process of making the new constitution.

This label realistically captured the role of TLS in the process of making the new constitution as this society was largely inactive compared to other civil society organizations. Limited involvement of TLS was a reflection of the level of activism on several issues that other civil society organizations such as TGNP, LHRC, and



Tanzania Women Lawyers Association (TAWLA) have been advocating for. Since the adoption of liberal politics to date, TLS has had very little influence in the country's socio-economic and political matters. The fact that it later tried to influence constitution-making process was indeed the belated resurrection.

### **The National enemy**

The phrase "national interest" is very contentious. The contention stems from the process through which national interests are identified; including the extent to which there is a consensus within a given society over such interests. However, in most cases it has been that national interests are a prerogative of the ruling elites. In this case, whoever goes contrary to the interest of the ruling class stands to be accused of threatening national interests.

During the process of making the new constitution, some actors were labeled as national enemies. This label represented those who either challenged the existing union structure or the legitimacy of the union. It was mostly applied to two individuals namely Tundu Lissu from CHADEMA and Joseph Warioba; the then chairman of the Constitution Review Commission. With regard to Lissu, he acquired this label following his presentation of minority opinion in the constituent assembly on 12th, April, 2014 in which he questioned the legitimacy of the union; arguing that the articles of the union were nonexistent. This claim forced the government, through the chief secretary, to make the articles of the union public so as to disprove Lissu's allegations. Even when the articles of the union certificate were made public, still Lissu argued that the unveiled articles of the union document were not genuine.

Given his presentation in which he strongly challenged the legitimacy of the union, there were accusations directed at Tanzania Broadcasting Corporation (TBC) following what was described as its decision to deliberately stop live TV broadcasting of Lissu's speech<sup>16</sup>. He had to present his speech for the second time the next day. The national enemy label also applied to the Warioba Commission for coming with the proposal of a three tier government union structure. Whether this label was realistic or not is a matter of debate. However, it indicated the struggle by the ruling elites to maintain the status quo. The label also suggested an existence of double standards as despite the said freedom of members of the constituent assembly in discussing any issues, including the nature of the union, there were limits on the extent to which this debate could be extended.

### **The Misplaced**

Since Tanzania's independence in 1961, religious

organizations (both Muslim<sup>17</sup> and Christian) have been influential actors on various socio-economic and political matters. It is no wonder that the government has always maintained close contact with these organizations; including maintaining cordial relations with them. Religious leaders have been issuing statements and sometimes calling press conferences to discuss some matters which they consider to be of public interest. During the process of making the new constitution, these organizations, particularly Christian organizations tried to influence the process. However, unlike in the previous when these organizations commanded a lot of respect from the government, the process of making the new constitution saw them being treated as misplaced actors. Despite being vocal and publicly challenging the trend of constitution making process, they were neglected by the government and this neglect was evident on several occasions as shown below.

Since April, 2014 when the opposition quit the constituent assembly, religious leaders repeatedly called for the adjournment of the assembly to no avail. For instance, on 28<sup>th</sup> August, 2014, Tanzania's Christians Forum<sup>18</sup> (known in Swahili language as *Jukwaa la Wakristo Tanzania*) issued a press statement in which it congratulated the CRC for collecting public opinion on the new constitution; including the preparation of key documents containing public opinion. That statement condemned the evil innuendos to sabotage public opinion as presented in the draft constitution which was submitted by the commission. Some of the evil acts mentioned included: a closure of the website of the CRC while the process of making the constitution was ongoing; excessive use of power by CCM members to oppose public opinion; and the use of abusive language in the assembly.

On the basis of these weaknesses, the forum made several recommendations namely: that the website of the CRC be reinstated; that the constituent assembly should not distort public opinion; that the constitution-making process should be put on hold so that a consensus is reached among competing factions within the constituent assembly. Other recommendations included a call that once the constituent assembly resumes, its chairperson should cease using excessive force, arrogance and the dominance in number of constituent assembly members from CCM to distort the process. The statement also recommended that the CRC be reinstated and given legal mandate to respond to questions stemming from the draft it submitted.

It is imperative to note that prior to this joint statement, the Christian Council of Tanzania (CCT) had issued a statement on 14th, July, 2014 in which it challenged the president's speech to the assembly; accusing it of downplaying the draft constitution presented by the CRC. This statement called upon the constituent assembly to respect public opinion; members of the constituent

assembly to focus on national interests than party interests; and it rebuked the use of abusive language by the assembly's members<sup>19</sup>.

The issuance of statements by religious organizations did not change the manner in which the constituent assembly was managed. The views of religious organizations were thus blatantly neglected. The neglect of the views of these organizations by the government gave an impression that decision makers just regarded religious organizations as misplaced. Being misplaced was explained by what appeared to be the position of the government that religious bodies were to focus on spiritual matters while giving space for other actors to deal with politics; including the choice of a direction to which the process of making the new constitution had to take. For instance, this position was made clear by the chairman of the constituent assembly who criticized the circular issued by the Christians Forum on the process of making the new constitution. In his critique to that circular, the chairman challenged some bishops whom he dubbed UKAWA agents and claimed that what these bishops were doing were not spiritual but political and that such bishops ought to be derided<sup>20</sup>.

It was thus obvious that unlike in the previous where religious organizations had a commanding influence in the country's socio-economic and political affairs, the process of making the new constitution put them in the periphery. Their attempt to influence the constitution making process seemed to be interpreted by the governing elites as an invasion of their territory.

While not condoning the critics directed at the involvement of religious organizations in the process of making the new constitution, it is the view of this study that the intervention of religious leaders was a bit too much. This was especially so given that much of what they advanced had already been echoed by political parties and other civil society organizations. While there was no scale to which the involvement of religious leaders in political matters should be limited, there was overstepping in the way religious organizations reacted to the progress of the constituent assembly. The weakness in their intervention was their being specific instead of adopting a generic approach that would call for harmony and consensus among conflicting groups while ensuring that such rival groups continue to perceive spiritual organizations as neutral. It was thus improper for the circulars issued by these groups to mention the names of individuals or organizations which they thought to have been constraining the process of making the new constitution that is supported by all factions.

### **The Opportunists and coward**

In modern societies, universities and other institutions of higher learning have distinguished themselves as the

fountains of knowledge. With the power of expertise, they have established themselves as centres of excellence with distinguished skills over socio-economic and political matters affecting societies. In Tanzania, the University of Dar es Salaam, which is the most renowned and oldest university in the country has for many years been playing a pivotal role in various issues. Apart from focusing on core activities such as teaching, research and consultancy, university academics through their assembly- University of Dar es Salaam Academic Staff Assembly (UDASA) has for the past five decades been outspoken over critical matters affecting the country. It thus used to issue press releases pointing out its position over a particular issue of concern and organized conferences and symposia for discussing pertinent issues affecting Tanzania.

Contrary to this commitment, UDASA was largely a passive actor in the process of making the new constitution. Even when it tried to organize conferences to discuss the trend of this process, there were accusations and claims that it was biased in favour of the status quo. This bias was said to be on controversial issues such as the structure of the union. For instance, in the symposium organized by UDASA on 27th July, 2014 to discuss what needed to be done to ensure that the country got its new constitution, there were allegations that the symposium was infiltrated by members and supporters of the ruling party. These people were said to have been ferried *en masse* by commuter buses to the University of Dar es salaam where the symposium was being held. UDASA leadership later admitted these allegations but denounced to have had prior knowledge about such underground movements<sup>21</sup>. The critics were however that UDASA seemed to have been part of the arrangements on how the symposium was to be managed as exhibited by the arrangement of speakers and the chairman of the discussions.

There were also concerns over the representational legitimacy of UDASA given that some of its top leaders who were appointed members of the constituent assembly did not seem to take a neutral position towards the two competing sides in the constituent assembly- (UKAWA and Pro-CCM members). The accusation was that supporting the incumbency was based on opportunism, on the basis that its leaders did not want to antagonize with the government and the ruling party. Not willing to antagonize with the ruling party and the government was linked to some of them having aspirations to vie for political posts in the 2015 elections via the ruling party. One of these leaders was said to have tried his luck in intraparty nominations within CCM in previous elections but was not fortunate.

### **The Doubted**

Throughout the process of making the new constitution,

Zanzibar's autonomy was a contentious issue as a lot was said regarding the fate of these islands continuing to be part of the United Republic of Tanzania. It is imperative to note that there have been attempts to demand for more Zanzibar autonomy from the union government which is blamed of mainly representing the interests of Tanzania mainland. A source of this worry was the 2010 tenth amendment of the Zanzibar constitution of 1984 which intensified the union debate due to its controversial provisions. Among other issues provided for, this amendment redefined the status of Zanzibar which to a great extent contradicted with the constitution of the United Republic of Tanzania of 1977. It is imperative to note that article 2-(1) of the constitution of the United Republic of Tanzania provides that the territory of the United Republic of Tanzania consists of the whole of the area of mainland Tanzania and the whole of the area of Tanzania Zanzibar and includes territorial waters. Article 2-(2) provides that for the purpose of the efficient discharge of the functions of the government of the United Republic or of the Revolutionary Government of Zanzibar, the president may, in accordance with the procedures prescribed by law or provisions of such law as may be enacted by the parliament divide the United Republic into regions, districts and other areas; provided that the president shall first consult with the president of Zanzibar before dividing Tanzania Zanzibar into regions, districts and other areas.

Similarly, article (1) of the 1984 Zanzibar constitution before the 2010 tenth amendment provided that Zanzibar is an integral part of the United Republic of Tanzania. Article 2-(2) provided that for the purpose of the efficient discharge of the functions of the government, the president of the United Republic in consultation with the president of Zanzibar may divide Zanzibar into regions, districts and any other areas in accordance with the procedures prescribed.

However, the 2010 amendment of the 1984 Zanzibar constitution changed the above provisions and gave Zanzibar more autonomy. Article 1 of the amended Zanzibar constitution provides that Zanzibar is a state whose territorial boundaries include the whole of the territory of Unguja and Pemba islands; including surrounding small islands and territorial waters which before the union between Tanganyika and Zanzibar was called People's Republic of Zanzibar. Article 2A of the same constitution provides that for effective execution of government functions, the president of Zanzibar may divide Zanzibar into regions, districts and other areas.

Nevertheless, these amendments seem to have been quashed by the proposed new constitution which reinstates the hegemony of the government of the United Republic of Tanzania. Article 1-(1) of the proposed constitution provides that the United Republic of Tanzania is a sovereign state which originated from the union between two states- the republic of Tanganyika and

People' Republic of Zanzibar, which before the articles of the union of 22<sup>nd</sup>, April, 1964 were sovereign states. Article 2-(1) (a) of the proposed constitution provides that the territory of the United Republic of Tanzania includes the whole territory of Tanzania mainland; including territorial waters which before the union was known as Tanganyika. Article 2-(1) (b) also provides that the United Republic of Tanzania includes the whole of the territory of Zanzibar; including territorial waters. Article 2-(2) of the proposed constitution further provides that the president of the United Republic of Tanzania shall have the power/authority to divide the United Republic into regions, districts and other areas and that for the case of Zanzibar the president may delegate such powers to the president of Zanzibar.

It is on the basis of the earlier mentioned constitutional developments that the position of Zanzibaris (both CCM and CUF) members attending the constituent assembly seemed to have been doubted by the top leadership of the ruling party and government of the United Republic of Tanzania. This doubt was reflected in the heated debate over the modality of voting in the constituent assembly. Conspiracy theories suggested that a push for open balloting that was supported by most CCM members meant to control members from Zanzibar who were doubted to use the secret ballot to push for the agenda on Zanzibar autonomy. Despite the fact that it was CUF members and other sects such as Uamsho (awakening) that openly advocated for the autonomy of Zanzibar, there were uncertainties as to whether CCM members from Zanzibar did not share the same viewpoint. This uncertainty was supported by the fact that the amendment of Zanzibar constitution in 2010 was blessed by the representative assembly and representative council which are composed of members from both CCM and CUF.

Conspiracy theories suggested that CCM members from Zanzibar attending the constituent assembly did not want to openly divert from the mainstream CCM's viewpoint. There were worries that they could push for Zanzibar's autonomy through secret ballot. However, given that the two-third majority required from Zanzibar was obtained during voting and that most of those who opted for a secret ballot cast a "Yes" vote, such doubts seemed to be baseless.

### **The arrogant and ambitious**

This label was used to describe individuals playing inexplicit multiple roles within the constituent assembly. Specifically, this label better described Mr Samwel Sitta, the chairman of the constituent assembly who was criticized of being too arrogant and unwilling to listen to alternative views. He was the main person blamed by UKAWA members and other critics such as Christian organizations. Some religious leaders equated him with

the story in the Holy Bible about the mighty Goliath who was defeated by a tiny David due to his arrogance and insults to God<sup>22</sup>. His label as an arrogant person, especially from Christian religious leaders became bold following his bitter exchange of words with some religious leaders who are part of Tanzania's Christians forum. As a response to Sitta's critics, some bishops condemned his arrogance and disregard of public opinion. Other bishops went as far as pitying him that his arrogance was due to the stress he had been going through following the bumpy progress of the constituent assembly<sup>23</sup>. Yet other bishops questioned his level of wisdom, pointing out that his deeds will be judged by history<sup>24</sup>. The view about the arrogance of the chairman of the constituent assembly was regularly featured in newspapers as well, with some columnists calling him a national disaster<sup>25</sup>.

Nevertheless, Sitta's said arrogance needs to be examined using different lenses. From those who had hoped that he will only facilitate cosmetic changes to the draft constitution proposed by the CRC, he is worth-calling arrogant. However, one thing that seemed to be overlooked was his political affiliation. Given that he was nominated and endorsed by CCM to vie for the chairmanship of the constituent assembly, it was obvious that he was going to remain allegiant to the position of his party.

Apart from being labeled as arrogant, Sitta was also said to be very ambitious to becoming the next president of the United Republic of Tanzania. Since the commencement of the constituent assembly, Sitta was accused of using this assembly as a podium to increase his popularity given that he was linked to vying for presidency in 2015 general elections. These allegations gained momentum when Mr. Sitta declared during one of the constituent assembly sessions that he was a right candidate for the presidency in the next general elections. On 2nd, September, 2014, during the assembly's session he said that if Tanzanians wanted a dedicated leader with a clean record they should consider him as a right candidate. He was quoted saying:

"...others are claiming that this job as a chairman of the constituent assembly demonstrates that I am not a good enough leader to become president of Tanzania"<sup>26</sup>.

## CONCLUSION

The foregoing has shown the roles which were played by various actors in the process of making the new constitution. The study has elucidated that this process was marked by various developments one of which was the unity of opposition parties. It is worth-recalling that before the commencement of the constitution making process there were no signs that the country's main opposition parties namely the CUF and CHADEMA would form a coalition. This was especially so due to open

differences between the two that were evident during the 2010 general elections. The formation of UKAWA proved to have a significant impact on the 2015 general elections as it was in these elections that for the first time since 1995, CCM's presidential candidate Mr John Magufuli failed to secure 60% of the votes. It was also during these elections that for the first time the opposition candidate Mr Edward Lowassa secured about 40% of the votes<sup>27</sup>.

The second development was an ambivalence of the centre. Since the commencement of the constitution-making process, the centre<sup>28</sup> was at the crossroads. In one hand, it was indicating its commitment in ensuring that Tanzania got the new constitution that was supported by all groups. On the other, it was bowing down to the forces and pressure from the ruling elites who sought to maintain the status quo. Consequently, instead of serving as the engine of change, the centre found itself in a quandary of seeking to please every voice; thus failing to maintain harmony and common understanding among rivaling groups. A related development was the active involvement of opposition parties, religious and civil society organizations in influencing the process. Despite the fact that their voice was overshadowed by the influence of the governing elites, these organizations proved to be essential in pushing for the new constitution.

The dark side of the process of making the new constitution was the infringement of individual freedom which was, for instance, marked by the harassment of members of the constituent assembly who vowed to cast a "No" vote to the proposed constitution. Those who voted to reject it were reportedly threatened by colleagues, raising doubts as to whether the process would be fair and objective<sup>29</sup>. It was a disgrace that the members of a body that was charged with the responsibility of making the new constitution would be directly or indirectly coerced to take a certain position. The decision of the then chairman of the constituent assembly to form a nine-member consultation team to discuss with those who voted against the proposed constitution was indeed an outrageous act.

From all these developments it can be learnt that as the push for the new constitution was mainly elite-driven, successful completion of this exercise still depends much on elite consensus. As the proposed constitution awaits the referendum, frictions between UKAWA and the incumbent party suggests the possibility of endless constitution-related debates and struggles even if the proposed constitution were to pass the referendum test. Against this backdrop, ironing out differences between the two rivaling camps is very crucial for a successful ending of this process.

## Conflict of interests

The author has not declared any conflict of interests.

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**Notes**

<sup>1</sup> When Tanzania (then Tanganyika) got her independence in 1961 it had a multi-party system that was however abolished in 1965 after the adoption of single-party rule

<sup>2</sup> This is an association of political parties which have representatives (members of parliament) in the parliament of the United Republic of Tanzania

<sup>3</sup> *Mwananchi*, 10<sup>th</sup>, September, 2014; *Daily News*, 10<sup>th</sup>, September, 2014, *The Guardian*, 10<sup>th</sup>, September, 2014

<sup>4</sup> *Mwananchi*, 11<sup>th</sup> September, 2014.

<sup>5</sup> Tundu Lissu

<sup>6</sup> *Nipashe*, 15<sup>th</sup>, September, 2014

<sup>7</sup> Ayi Kwei Armah (1968) *The Beautiful Ones Are Not Yet Born*. Boston: Houghton Mifflin

<sup>8</sup> Since independence in 1961, Tanzania has had five phases of presidency. The first phase president was Julius Nyerere who led the country from 1961 to 1985. The second phase president was Ali Hassan Mwinyi who served from 1985 to 1995. The third phase president was Benjamin Mkapa who reigned from 1995 to 2005. The fourth phase president is Jakaya Kikwete whose tenure began in 2005 and lasted in 2015. The fifth phase is under John Magufuli who came into office in 2015.

<sup>9</sup> *Tanzania Daima*, 1<sup>st</sup>, October, 2014

<sup>10</sup> Members of this coalition include Chadema, CUF, NCCR-Mageuzi, National League for Democracy (NLD) and Democratic Party (DP)

<sup>11</sup> *Nipashe*, 11<sup>th</sup>, 08, 2014; *Uhuru*, 11<sup>th</sup>, 08, 2014; *Habari Leo*, 11, 08, 2014.

<sup>12</sup> *Mwananchi*, 3<sup>rd</sup>, October, 2014

<sup>13</sup> *Tanzania Daima*, 5<sup>th</sup>, October, 2014; *Daily News*, 5<sup>th</sup>, October, 2014; *Uhuru*, 5<sup>th</sup>, October, 2015

<sup>14</sup> *Tanzania Daima* 1<sup>st</sup>, October, 2014

<sup>15</sup> *Mwananchi*, 23 September, 2014

<sup>16</sup> *Mwananchi*, April 13, 2014

<sup>17</sup> However, Muslim organizations maintained a low profile in the process of making the new constitution. This seemed to have been a calculated strategy because they did not want to dilute their main demand of having the Kadhi courts recognized by the new constitution. While the proposed new constitution does not contain a provision for these courts, Muslim religious leaders taking part in the constituent assembly were promised by top government officials that a law will be enacted in 2015 to officially recognize Kadhi courts.

<sup>18</sup> Its members include: Tanzania Episcopal Conference (TEC), The Council of Pentecostal Churches of Tanzania (CPCT), Christian Council of Tanzania (CCT) and the Seventh Day Adventists (SDA)

<sup>19</sup> *Mwananchi*, 15<sup>th</sup>, July, 2014

<sup>20</sup> *Tanzania Daima*, 2<sup>nd</sup>, October, 2014

<sup>21</sup> *The Citizen*, 8<sup>th</sup>, August, 2014

<sup>22</sup> *Tanzania Daima*, 2/October/2014

<sup>23</sup> *Mwananchi*, October 2, 2014.

<sup>24</sup> *Mwananchi*, October 2, 2014.

<sup>25</sup> *Mawio*, 25 September -1<sup>st</sup> October, 2014

<sup>26</sup> *Mwananchi*, 3<sup>rd</sup> September 2014

<sup>27</sup> During the 2015 general elections, CCM's presidential candidate Mr. John Magufuli obtained 58% of the votes while UKAWA candidate got 39% of the votes.

<sup>28</sup> Top leadership of the government

<sup>29</sup> *The Citizen*, 2<sup>nd</sup>, October, 2014



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