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Political development as social intelligence in constitutional democracy: The central place of dialogue in decolonization

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Regressions in the moral practical consciousness of politicians during decolonization in Sierra Leone created the precondition for a crisis-ridden post-Independence social order. Using the Discourse Theory of Law and Democracy, and the Critical Theory of Society, the paper analyzes epochal political discourses during decolonization to explicate normative deficits in the society's attempt to realize a constitutional democratic state. This research demonstrates why the discourse paradigm of law and democracy, and critical social theory overcome the limits of paradigms of law, democracy, and social development informed by individualism, or production. The paper argues that a modern (post traditional) society, which fails to institutionalize rational discourse (dialogue), impedes its own political development, and political autonomy.

Key words: Decolonization, constitutional democracy, constitutional state principle, private law, post-conventional moral principle, juridification.

INTRODUCTION

Sierra Leone became engulfed in the political struggle for a democratic constitutional stateⁱ since gradualism or decolonization.ⁱⁱ Since the decolonization of Sierra Leone was aimed at establishing a democratic constitutional state, this political struggle aimed at institutionalizing dialogue. Already a post-traditional society, which consisted of diverse political, cultural, and ideological groups without a shared ethos, Sierra Leone can ensure solidarity only through mutual (communicative) understanding (Habermas, 1998). Politicians during gradualism

embodied this moral intuition, namely that they can ground moral judgments or law, or build solidarity only through the use of impartial reasons. Because such impartial reasons can only emerge in rational discourse or dialogue, politicians' mastery of the discourse principle reflects their moral practical development or political development. Dialogue, or the *discourse principle*ⁱⁱⁱ is the basic answer to any modern pluralistic society; only it enables subjects make moral judgments in the absence of a shared ethos (Habermas, 1998: 39). In politico-legal

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forms of interaction, the discourse principle becomes the *democracy principle*.^{iv}

Since the legal order during gradualism was already positivized, legalized, and formalized, its legitimacy was already a serious matter.^v A positivized, legalized, and formalized law must reflect the shared interest or impartiality, making its legitimacy a basic necessity. With the separation of morality and legality in modern society, “there first emerges the idea that legal norms are in principle open to criticism and in need of justification (Habermas, 1987: 260).” Once juridified as a democratic constitutional state, the domain of legality as a whole is rendered in need of practical discursive justification (p. 360). For such a legal order to demand the compliance of subjects is to imply a claim to impartiality, that it can justify itself when called to do so. As a post-traditionally conscious state organ, Sierra Leone’s parliament during decolonization could only displace, rather than ignore justificatory problems in law or constitution-making. At this very foundational stage of democratic constitutionalism in the society, justification problems had already sharpened into a question of principle.

As rational discourse was the appropriate way to conduct politics, the legal ideology that this process merely involved administrative decision-making or legality is dangerous:

The fundamental misconception of decisionistic legal theory – which is itself subject to the suspicion of ideology – is that the validity of legal norms (or policies or orders) can be grounded on decisions and only decisions. But the naïve validity claims of norms refer (in each case) at least implicitly to the possibility of discursive foundation. This normative validity is based on the supposition that norms could, if necessary, be justified and defended against critique (Habermas, 1970: 101).

The separation of legislative, judicial, and executive branches of government during gradualism means the parliament must seriously take up the discourse of justification of law.^{vi}

This paper reconstructs decolonization as a political process of learning to understand dialogue as a key constitutive element of political autonomy or self-realization and self-determination. It does not interpret Sierra Leone’s claim or birthright to political Independence in terms of the spirit of the people or nationalism. The United Front the communities organized to agitate for political Independence consisted of people, who merely artificially bonded together, but lacked ethical commonality for that purpose (Nkrumah, 1967; Daramy, 1993; Kallon, 2004; Habermas 2001:9). Here, the *constructive character* of decolonization is considered a discursive political process of learning to balance the legality and legitimacy tension

in constitution-making. To be rational, the constitution-making process must go beyond merely stipulating or the mere observance of entrenched legal guidelines and procedures (legality or constitutionalism).^{vii} This process must admit of dialogue or unconstrained discourse to enhance its legitimacy (the worthiness of recognition or acceptance) for all stakeholders or those affected. To deny this liberal political culture (dialogue) is to impede political solidarity in a social transformative process: “The atrophy of national reality and the death throes of national culture feed on one another (Fanon, 1963: 172).” National culture is the outcome of internal and external tensions of society as whole and at all levels (p. 177). Decolonization is impossible without dialogue (O’Neill, 1985).

Considering that political debates during gradualism culminated in the 1961 Independence Constitution, it is deceptive to consider these norms as simply “stated” (Habermas, 1996: 129). Political discourse or agitation is what gives a constitution “technical priority” to or over ordinary laws, positioning it to function to systematically elucidate the rule of law. We must see the content of constitutional norms as relatively fixed, as a living project of “ongoing interpretation continually carried forward at all levels of the production of law (p. 129).” By subverting parliamentary dialogue, indigenous politicians betrayed improper grasp of the constructive character of decolonization, namely as a rational discursive law making process. This weak foundation of democratic constitutionalism in Sierra Leone was due to this learning failure, later rendering the society vulnerable to a crisis of constitutional interpretation almost immediately after Independence (1961), which in turn terminated in a dictatorship by the 1970s (Cox, 1976; Foray, 1988; Daramy, 1993; Kallon, 2004). The persistent political instability that resulted from this failure shows that the different ways a society considers legitimate for solving their cooperation problems lead them to evolve very different basic institutional practices.^{viii}

This paper shows that constitution-making in Sierra Leone (decolonization) - the repealing, amending or modification of the colonial legal order - unfolded within Hobbesian and Machiavellian orientations to politics, namely as a science of manipulation and domination.^{ix} This orientation hindered correct understanding of decolonization, as rational discursive process, hence the weak foundation and crisis-ridden nature of democratic constitutionalism in Sierra Leone.

METHODOLOGY

The paper draws on the communicative model of the discourse theory of law and democracy, and critical social theory to critically examine the level of political

development of Sierra Leone during gradualism. Using historical documents as data source of epochal debates and discourses,^x the study analyzes these epochal discourses by comparing the extent to which they deviate from practical discourse. In practical discourse, every subject with the competence to speak and act is allowed to take part in discourse. Everyone is allowed to question any assertion whatever. Everyone is allowed to introduce any assertion in discourse. Everyone is allowed to express his attitudes, desires and needs. No speaker may be prevented, through internal or external coercion, from exercising his right as laid down.^{xi}

Realizing practical discourse in politico-legal debates indicates the realization of freedom, equality, universality and legitimacy. Hindrances to practical discourse in the political debates during gradualism impeded politicians' capacity to rationalize (or critically examine) the colonial justificatory system, its problematic conception or belief in legitimacy as legality. The denial of the right to political participation *uno acto* denies political autonomy, the goal of decolonization.

Because repressing dialogue always produces solidarity problems, politicians always find it necessary to reconstitute repressed dialogue: dialogue is a "social fact" for modern or post-traditional societies.^{xii} This study explains politicians' turn to Marxist radicalism during gradualism as an example of the reconstitution of repressed dialogue, the dialectic of moral life (Habermas, 1971: 55; McCarthy, 1985: 36).

This paper is organized into three parts. Part (A) includes the forgoing introduction and methodology or approach. Part (B) argues that the debates and paradigms informing Sierra Leone politics during gradualism failed to realize the discourse principle or dialogue, hindering politicians' correct understanding of decolonization as constitution or law-making of rational constructive dialogue. Part (C) highlights insights gained from the discourse-theoretic reconstruction of decolonization that have methodological and institutional significance.

(B) Discussions: Lost Opportunities in Moral Practical Learning and Crisis Tendencies.

This paper assesses the extent epochal debates, issues, and events during gradualism deviated from practical discourse. These debates, issues, and events include: a) the 1955 workers strike; b) low political culture; c) Britain's promotion of the liberal paradigm of law in Sierra Leone; d) the Krios^{xiii} fear of losing their hegemony in Sierra Leone after Independence (1961); e) regional political party divisions; f) tensions in the United Front for Independence; g) the Radical Marxist Politics of the APC (All Peoples Congress), including threat of invasion; f)

strategic orientation to politics and divided sovereignty, and g) tension in the United Front. The study uses these debates, issues, and events to reconstruct the political development or initial moral practical evolutionary advance of Sierra Leone during gradualism.

a) *The Workers Strike of 1955 and the United Front for Independence:* The steady decline in the real wages of workers during British colonization led to the 1955 strike action, which further intensified the calls for self-rule.^{xiv} Siaka Stevens - the cabinet member for the Labor, Mines and Works Department of the Sierra Leone peoples Party (SLPP) that co-governed with Britain - was charged with setting up a Board of Inquiry to investigate the cause of the labor deadlock. Before the Board of Inquiry could release its finding, the Minister went ahead to appoint a parallel Commission of Inquiry to investigate the same matter, hence prejudicing the Board's deliberations. The government blocked the release or publication of the Board's findings, the *Marke Report*, but went ahead to publish the findings of the Commission of Inquiry contained in the *Shaw Report*. The latter acknowledged that widespread dissatisfaction among workers was due to the increase in the cost of living (p. 4 of the *Shaw Report* cited in Luke, 1984).

The Shaw Report gave clues into the possible intent of the colonial government in setting up the 'parallel investigation.' It marginalized labor leaders, attacking Marcus Grant, the Union Leader this way:

It is tragic that so much authority should be concentrated in the hands of a man as ambitious, as unscrupulous and worthless as Marcus Grant. So long as he remains where he is, the interests of the community at large will not be well served. No doubt... there are good leaders in Sierra Leone...While we do not exonerate Georgestone (the other leader of the workers) altogether, we do not attribute to him a major share of the responsibility for the strike and its consequences. Indeed, we do not exclude him from the number of potentially good trade union leaders.^{xv}

The report divided and marginalized the labor leaders by apportioning unequal responsibility for the strike. The government's parallel Commission served to systematically deformed and repressed dialogue on the legitimate labor dissent. The statement of the Shaw Report shows that the main thrust of Commission of Inquiry was anything but dialogue or practical discourse.

Notwithstanding these discursive manipulations, the Commission and Board of Inquiries show that the State recognized the need for mutual understanding with its subjects. While the Commission passed itself off as a democratic public forum, the public inquiries in reality manipulated the legitimate labor demands. The State's

blatant subversion of the democracy principle made *arbitrariness an institution* (McCarthy, 1985), institutionalizing the ideology that the State can stand above society with impunity (Habermas, 1996). The workers strongly opposed the Shaw Report, particularly its criticism of Marcus Grant, their leader. To show their support for him, the workers passed a vote of confidence in him.

On the other hand, the 1955 strike exposed the conservatism and detachment of union leaders from their base, the workers. Luke (1984) claimed that the cooperative posture of some labor leaders with the colonial State and economy was born out of the need to preserve their newfound respectability. It caused them to negotiate irresponsibly with firms, causing workers' wages to fall below the cost of living (Luke, p. 51). Workers and their supporters vandalized properties of SLPP Ministers – Siaka Stevens (Labor, Mines and Works); Albert (Education) and; Sanusi Mustapha (Transportation). Amidst the poverty of ordinary citizens, these elite flagrantly displayed their ill-gotten wealth, making them targets for mob action. This targeted violence illustrated subjects' resentment at the complicity of indigenous elite. The elite could have opted for dialogue on the legitimate wage demands with fellow citizens; they chose otherwise.

Ironically, these same leaders would become the prominent political leaders, behind whom ordinary citizens would rally in the post-1961 Independence period. This shows that a society unaccustomed to a liberal political culture amenable to public discourse cannot sustain the spurts of critical moral consciousness or discerning judgment they exemplify during sporadic outburst of anger or protests (Arendt's 1968; Habermas, 1996). Violent struggle does not necessarily produce autonomous democratic structures; revolt is not revolution. Only by institutionalizing a liberal political culture of practical discourse can a society stabilize its critical learning.

b) Low Political Culture (Constitutionalism without democracy and vice versa): In a 1953 parliamentary debate, Bankole Bright, the eloquent Opposition leader of Sierra Leone challenged the Governor General's excessive interference in parliamentary debates. The Attorney General at the time, Sir Albert Margai, rebuked Bright by arguing that: "the honorable speaker (Bright) seeks to apply to Sierra Leone certain practices which are appropriate to a colony with a more advanced constitution...My submission is that the rules which are applicable to the Governor General of a dominion are not applicable to the Governor General of this Colony ...The Governor is both in form and in fact, the Executive (Wyse, 1990: 184)." In defending the Governor General's involvement in legislative debates, Sir Albert Margai helped subvert the separation of power principle,

impeding the political learning to check and balance executive power. These hindrances to the right of discursive political participation impeded the political capacity for self-determination or political autonomy, hence violating the co-originality principle.^{xvi}

Reacting to this debate, Wyse (1990) argued that Bright failed to understand the fine points of colonial politics or rule as it applied to a colonial dependency: "Africans do not think like Europeans - no amount of education could make them understand European civilization - it is not a matter of intelligence, they are intelligent, it is just that they do not think as the European does (p. 184)." By subscribing to the belief that "Africans could not be assimilated, and so, therefore, they could not expect to have the same rights and privileges as obtained in Britain (Wyse, 1990, p. 184)," Wyse makes a metaphysical ontological claim. Cabral, 1965 warned against such ontological positions by arguing that Africans should, where appropriate, learn the lessons from epochal events like the French revolution, which produced democratic constitutionalism.^{xvii}

Though Wyse (1990: 170) is partly right in claiming that Sierra Leone's parliament at the time was not the center of decision making, he failed to show why rational parliamentary discourse could have enabled Sierra Leone gain its political autonomy, its capacity for self-determination or autonomous organization. The rebuttal of Bright represented a lost opportunity to define and scrutinize the Governor's powers, leaving him level of discretion. This failure to a large extent correct or limit the Governor's (executive) powers triggered the 1967 administrative constitutional crisis of Sierra Leone.^{xviii} Had colleagues taken Bright's challenge or concerns seriously, and responded to it respectfully, parliamentarians could have advanced democratic learning on how to check the state's executive powers. Dialogue would have enabled politicians adduce reasons for their objections, evaluate, and react to implicit validity claims (Habermas, 1984: 115-6; McCarthy, 1994: 184). Thus, practical discourse would have served to rationalize the states power.

c) Britain's promotion of the liberal paradigm of law: Another important historical background element is Britain's promotion of a liberal legal paradigm in Sierra Leone, and its other African colonies. With this legal approach, Britain abandoned its initial attempt to systemize and develop customary and indigenous law in favor of the "applied science" legal approach that was almost empty of moral principles.^{xix} Britain promoted this paradigm in the London Conference of 1959 by recommending that legal education in Sierra Leone, Uganda, Ghana and Botswana, and Lesotho focus more on 'practical training,' so that a 'law degree would be neither necessary nor sufficient for admission to the

profession,' even endorsing 'articled clerkship as complete alternative to formal legal education.'^{xx} Anthony Allot, among others, warned that this 'applied science' approach would create a generation of lawyers, judges and politicians who would trivialize legal principles at such a critical time when newly independent African states needed to consciously develop and adapt existing legal principles.^{xxi} The denial of moral and ethical principles, means this legal approach can inform politico-legal discourses that can mainly only admit empirical questions (the '*what is*'), rather than normative questions (*what ought to be*.).

By endorsing this unprincipled legal approach, indigenous African leaders became complicit in impeding the systematic development of customary and indigenous law. This approach nurtured a productivist orientation to social development that trivializes legitimacy:

Private law theory (as the doctrine of "subjective rights") got started with the idea of morally laden individual rights, which claimed normative independence from, and a higher legitimacy than, the political process of legislation. The freedom-securing character of rights was supposed to invest private law with a moral authority both independent of democratic law making and not in need of justification within legal theory itself. This sparked a development that ended in the abstract subordination of "subjective rights to objective law, where the latter's legitimacy finally exhausted itself in the legalism of a political domination construed in positivist terms (Habermas, 1996: 89).

The private legal approach conceals the real problem of private rights or subjective liberties, namely its inability to explain the source from whence enacted law may draw its legitimacy.

Furthermore, by ignoring public reason, the applied science approach facilitates the technical mastery of society (Habermas, 2001; 1996). Reflecting a modern natural law orientation, the liberal legal paradigm is generally divested of the catalogue of duties, allowing only for a "private sphere of personal choice, in which every citizen, as private person can egoistically follow goals of maximizing his own needs."^{xxii} It frees persons to pursue their interest, allowing only the state to limit this freedom (Habermas, 1974: 85). This law of freedom is a law of coercion, as it is solely sanctioned by the state's physical force. By divorcing legality from morality, this legal approach shunts aside the 'indissoluble tension' between capitalism and democracy (McCarthy, 1984), hence missing the co-originality principle: constitutionalism is impossible without democracy, and vice versa.

Without the capacity for political right of participation, politicians are left with their private liberal or negative

rights that serve to regulate the relationship among themselves as citizen (Habermas, 1996). Without political rights, these basic rights remain 'unsaturated,' unless a political legislature can interpret and give them concrete shape in response to changing circumstances, such as the constitution-making process of decolonization. Because public rights of political participation are self-referential, they can enable citizens' change and expand their various rights and duties, hence their material legal status and autonomy. The right to autonomy or freedom remains incomplete as long as it is subjective, or conceived exclusively in terms of subjective liberties; it must assume a public character, to realize its fullness as political autonomy, as a demonstrable political fact (Arendt, 2000). The stipulation that politics must adhere to the procedures and rules set by the system of rights (constitutionalism) is realizable to the extent that such politics admits of democratic rights of practical discourse. Thus, political right of participation enables the realization of popular sovereignty as well as human rights: the system of right and democracy reciprocally implicates each other.

d) The Colony Krio Fear Factor: As Independence drew imminent the Krios became increasingly anxious and concerned about what their role after political Independence would be. They had been very influential and close to the British colonial administration due to the 'undeniable fact of a much longer association with western education, which meant an ability to use a major world language... and had the education that enabled them play a role disproportionate to their share of the population (Wyse, 1990)." As Sierra Leone moved towards self-rule, it became clear that the protectorate majority will assume control of political power in the future. Thus, Britain began excluding Krios from positions of power and influence.

The Krios believed Britain had abandoned them by the turn of the century. "Given the imponderables of a developing democracy such as existed in Sierra Leone...Bright could not have become the leader of autonomous Sierra Leone (p.183)." The only institution left to them, the City council, had also already been taken from them in 1926 (Wyse, 1990: 188). With this loss of prominence, "their self-esteem and society suffered a major decline (Wyse, 1990: 185)." The prospect of playing a subordinate role was unsettling for them. Under a majoritarian democratic rule, they could not expect the special consideration they had enjoyed with the colonial government. Wyse argued that:

...there was an element of false reality in their [Krios] hopes, but it was a feeling based on visible evidence of the commanding positions the Krios seemed to hold – the illusion of power – in the colonial setting. And they were

too British to disbelieve the promises of their benefactors. Yet the signs were there; they failed to recognize the evidence that they have been disinherited. And when it finally dawned on them that they would not succeed the British Raj, they were shocked out of their dreamland (Wyse, 1990: 190).

Apart from what he called the *'et tu brute'* syndrome, Wyse claimed that the Krios had real fears about their future position in an Independent Sierra Leone. Attempts by Sir Milton Margai to allay their fears amounted to stop gap policies, according to Wyse. The Krio's desire to protect their former prominence and privilege position would have serious implications for law-making or politics in the post-Independence period. Their closeness to British education gave them commanding control of the bureaucracy, especially the judiciary. Since the latter remained the only non-majoritarian institution left under their influence, one would expect this institution to be central in their quest to maintain or regain their former prominence and privileges. The unprincipled applied science legal orientation constitutes the self-understanding of the judicial institutions, which will inform their discourses of application or interpretation. By forming political alliance with Siaka Stevens and the APC party, the Krios were able to use their control of the judiciary to interpret the election laws in a way that facilitated APC's seizure of political power (Daramy 1993; Kallon, 2004). The Dove Edwin Commission that followed the interruption of 1964 elections denied constructive interpretation, facilitating Siaka Stevens' *de facto* assumption of political power.

f) Radical Marxist Party Politics: Even before Independence Stevens' tactics of public propaganda and inconspicuous violence was evident as Minister of Lands, Mines, and Works. Charged with setting up public commissions to investigate the labor strike, Stevens was implicated in the brutal suppression of the labor demonstrations of 1955 (Wyse, 1990; Luke, 1984). The applied science approach to law seems to accord with Stevens' blatant disregard for legitimacy of the law in dealing with the strike action. Politics during colonial governance was more or less a strategic game:

Wyse (1990: 178) argued that Sir Milton Margai became Prime Minister only after "narrowly surviving a palace coup in the same year," and after dodging the "vicious swipes and blows Siaka Stevens aimed at him with his PNP (the Peoples National Party, which he co-founded with Sir Albert Margai), EBIM (Election Before Independence Movement) and his APC party." He argued that the party does not merit forming Sierra Leone government at Independence, because elections would not be conducted before Independence (Wyse, 1990). His EBIM

intensified the flames of opposition especially in the North, which believed 'they got the short end of the stick' in Sierra Leone politics before and at Independence (Wyse, 1990). It was little surprising, therefore, that Stevens and his supporters would threaten to invade Sierra Leone from their Guerilla base in Guinea (Cox, 1976; Daramy, 1993; Kallon, 2004).

The scary specter of losing influence at Independence seemed responsible for Stevens' public relations campaigns to discredit the SLPP. By declaring himself a radical Marxist populist, Stevens (and the APC) formed an alliance with the Labor Party, the Labor Movement and Sekou Toure. His marriage into the Krio community helped Stevens build a powerful political alliance with the Western Area population. The presence of militant socialist President Sekou Toure in Guinea raised the stakes, so that in October of 1960, there were rumors of troop movements on both sides of the border (Cox, 1976: 36). As the SLPP was set to gain power at Independence, Stevens and the APC became bitterly opposed to the Independence arrangements. At the London Constitutional Conference of April and May 1961, a joint British Sierra Leone military defense pact was recommended, because of revelations that an opposition group might not be willing to do democratic politics. The radical disruptive posture of APC leaders, such as M.O. Bash Taqi, was exemplified in their advocacy for violent means of persuasion, including urging APC supporters to attack SLPP ministers, stop traffic, sink launches, stop trains, and break up the meetings of SLPP supporters (Cartwright, 1978: 135).

The communist Revolutionary President Sekou Toure, who had undertaken similar militant action against those he called pro-French reactionary forces in Guinea, endorsed APC's radical posture. The increasing APC militancy, threats, rumors of invasion, vehement opposition to the proposed British/Sierra Leone Defense Pact and the British Naval fleet in Sierra Leone should have made the SLPP suspicious of the intentions behind APC's growing militant opposition. The party's alliance with the radical Guinean leader, Sekou Toure, emboldened Stevens to refuse signing the Independence Bill. Daramy (1993) believed that APC's plan to invade Sierra Leone from Guinea was actually carried out by proxy infiltration and control of the army. The populism associated with Marxism does not entail democratic reason; it stands in mutual exclusivity to the gentle persuasive force of reason or the moral point of view.^{xxiii} APC's radical Marxist violence prior to 1961 showed that the party would resort to force to gain power. At this initial stage, the politics of Sierra Leone was already rendered ridden with socially disintegrative tendencies because of the strategic or instrumental orientation of its key politicians. Communicative reason can produce

legitimate decisions, or stability-guaranteeing social order, it can neutralize the disintegrative tendencies produced by instrumental or strategically orientation politics (Dryzek: 1995).

g) Colonial Strategy of Divided Sovereignty: Cox (1976: 37) argued that the SLPP did not pay close attention to the military threat posed to it because of the 'absence of parliamentary discussion on military affairs during this period.' He argued that Sir Albert Margai, like Stevens, operated in the mode of strategic political dynamics. Albert responded to the APC military threat by disproportionately recruiting Mendes in the commission ranks of the army. Like the Governor General issue, the military question was exempted from discursive rationalization – thematization and critical examination - in parliament: "The acquisition and maintenance of political power and not the rather mundane affairs of the military - the connection between the two was as yet unperceived – became the prime focus of concern of the elite (Cox, 1976, p. 37)." No one challenged the view of the army as a selfless servant as long as the British were in control because the army was seen as non-partisan.

The avoidance of open political discourse on the neutrality of the military, was reconstituted into behind the scene 'interactions' and intrigues (Cox, 1976). Cox argued that Sir Albert's response to allegations of APC invasion plan and infiltration of the army was to increase the recruitment of Mendes in the commission ranks. The impediment to public discourse on the military represented a failure in rationalizing this executive power of the State. Thus, parliamentary discourses during gradualism failed to institutionalize the democratic learning that the executive should act only on the basis of reasons citizens' give it, rather than its own (Habermas, 1996). This failure made politics in Sierra Leone exclusively a strategic game.

By thwarting rational discourses on the Governor General and the military, key institutions of Imperial domino policy (Keane, 2002), indigenous politicians poorly prepared the society to check the vestiges of colonial logic in the state's executive powers. The colonial institutions of the Governor and the military emerged out of expediency and physical subjugation of the colonized. The legal codification of the colonial institutions merely served to provide *de facto* legitimation for what was hitherto established through force or manipulation. These institutions reduced the transaction and maintenance cost of colonial domination. According to Keane (2002), the seeming dual sovereignty principle of paramountcy or the indirect rule system, in reality accorded the Governor General a central place. Reno (1994: 29) argued that the "colonial authorities recognized the authority of indigenous chiefs to carry out local tasks that the colonial state could not perform...the cost of

imposing direct rule ensured that this alternative intermediary system would not be scrapped." Sierra Leonean Chiefs' complied with British colonial order not because of its legitimacy, but due to military subjugation or force: whosoever controls the reserve of force can make laws (Habermas, 1996).

Despite the appearance of civility the colonial order assumed, the Hobbesian/Machiavellian (brutal manipulative) orientation of the imperial policy of colonialism has been well documented. The strategic orientation of colonial politics was very evident in some politicians, such as Siaka Stevens and Sir Albert Margai, who were closed to the colonial administration. These two politicians wasted no time trying to establish a single party state almost immediately after Independence in 1961 (Cartwright, 1978; Foray, 1988; Daramy, 1993). The dual sovereignty constitutive of the indirect rule system or paramountcy was born out of rational choice pragmatism of British colonialism, rather than the need for genuine consultation with subjects through their chiefs. Through this policy, Britain reconstituted the consultation it denied colonial subjects into mutually beneficial exchange relations with chiefs and the elite.

h) Tensions in the United Front for Independence:

The United Front or the coalition of political parties and stakeholders organized in Sierra Leone to advocate for Independence from Britain, was a loose adhesion of cultural, political, and social groups. As the hastily formed coalition seeking self rule was not based on mutual understanding, the societies resulting from them could not lay genuine claim to nation states.

African countries are artificial, too, in the related sense that few of them constitute nation states. A nation, on the one hand, is a social group that develops solidarity on the basis of shared customs and institutions; on the other hand, a state is a political organization laying claim to power in a particular territory.^{xxiv}

Without using dialogue to build their solidarity, and to recognize it as the requisite social intelligence or problem solving mechanism, the fragile artificial solidary bonds these communities built to gain Independence would have to quickly disintegrate. A society without the initiatives of a population accustomed to political freedoms is highly prone to disintegration (Habermas, 1996: 130-1). Thus, nationalism or the cultural nation ideology that drove the United Front, served to reconstitute the discourse principle, which was required to build genuine solidarity.

The foregoing discussion of the public commission designed to resolve the 1955 labor strike; APC Marxist radicalism, violence and threat of civil war; impediments to debate on the Governor General and the Military; Britain's promotion of unprincipled legal approach; indirect rule system and general strategic orientation to

politics show systematic distortion and deformation of political discourse during gradualism. In as much as the denial of the democracy principle always produced social disunity and tension, the moral practical intuition that dialogue was the society's appropriate social intelligence or problem-solving mechanism was already latently available in world views. The politicians' failure at dialogue during gradualism represents the society's failure to undertake the requisite reflexive (evolutionary) learning, or social intelligence to effectively produce the stability-guaranteeing legitimacy of the politico-legal order.

The subsection below highlights insights discovered during the discussions that have significant methodological and institutional implications. Three main insights were discovered from the discussions. First, the strategic Marxist approach seems to compensate or complement dialogue or democratic opinion and will formation denied during decolonization. Second, the adoption of bureaucratic, manipulative, and privatistic orientation to politics show that colonization is not simply externally imposed, but feeds on the agency of indigenous actors and internal systemic dynamics. Third, the privatistic or egotistical complexes of interaction or orientation in decolonization politics helped to perpetrate the misconception that the institutional development of society has to do with production, rather than liberal cultural transformation.

(C) Post-Conventional Morality as Modern Political Development.

The discourse-theoretic reconstruction of decolonization undertaken in the discussion above shows that strategically oriented radical Marxism, the unprincipled private law approach, paramountcy, and prohibition of dialogue on the military and Governor General: (i) represent the dialectic of morality; (ii) help conceal the emerging contours of internal (indigenously orchestrated) colonization; and (iii) served to reconstitute social development in terms of production (as egotistical complex of interaction), rather than as political prudence and the development of virtues character.

(i) The turn to Marxism, or the unprincipled legal approach exemplify dialectic of morality: By opting for the radical Marxist approach, Stevens positioned himself as the champion of freedom during decolonization. Ironically, this Minister, who blatantly subverted the democracy or publicity principle in dealing with workers, was able to suddenly transform himself as a populist champion of freedom. From the perspective of the dialectic of morality, APC's turn to Marxism serves to reconstitute repressed political dialogue. In reality, as Marxism considers production (an instrumental reason) the key determinant or the base of societal development,

it trivializes dialogue, the liberal political culture or superstructure. By presupposing that politics rest on the economic base, Marxism tends to trivialize the legal institutional framework of society, and imbibed despotic tendencies that *colonize the* socio-cultural domain of communication.^{xxv} The violence to which APC subjected their opponents shows the despotic teleological nature of their Marxist orientation. Freedom serves as a regulative idea that guides political struggle for change in accordance to dialectical materialism, which understands this freedom as historical, empirical transcendence, hence prone to ignore the normative structures (values and institutions) of democratic constitutionalism (Marcuse, 1972). The Marxist political orientation APC's adoption of Marxism in the period running up to Independence led to its increasing neglect of dialogue in favor of violent radicalism. A legal order that trivializes normative principles provides a fertile soil in which Marxist politics can easily thrive.

Unlike other studies on Sierra Leone, the discourse theoretic reconstruction of decolonization shows that, far from being a beacon of freedom, Marxism denies political freedoms. This put the society on a developmental trajectory ridden with a crisis of social integration or crisis of political legitimation. Despite its seductions, the production paradigm of historical materialism (the Marxist theory of how society develops) precludes the centrality of the moral practical domain as *the pacemaker* of a society's development.^{xxvi} While one may construe Stevens' negative attitude to dialogue, threat of rebel invasion and APC's violent attack on the opposition as radical quest for freedom, the discourse-theoretic reconstruction undertaken here reveals Marxism as a fundamental impediment to political freedom, even as it professes to strive for it. The discrepancy between Marxist claims of political of freedom and its dismal failure in satisfying this claim in historical reality renders Marxism's critical emancipatory status ungrounded.^{xxvii} A few centuries of experiment with Marxism shows an ideology whose politics moves and tends towards despotism, deception or self-deception.^{xxviii} Denial of dialogue is at the heart of colonization: "silence is the special fate of colonial societies."^{xxix} Taking Marxism's emancipatory claims at face value conceals the ideological and methodological source of the APC Marxist dictatorship. The denial and reconstitution of communicative or public reason (dialogue) serves as a clear measure of colonization of Sierra Leone during and after the British colonial occupation.

(ii) The Intensified Internal Colonial Domination: The forgoing discussion shows that Sierra Leone remains colonized to the extent the state denies the society's capacity for ethical-political discourses of self-realization and moral discourse of self-determination.^{xxx} Without

clarity on these emancipatory discourses of self-realization and self-determination, the capacity of research to specify the complicity of indigenous elite in upholding the British colonial order and in colonizing Sierra Leone after 1961 is difficult. The single party debate in Sierra Leone immediately after Independence was not formulated in terms of colonialism. Sir Albert's rapid push for the one party dictatorship even against the advice of his party members (Foray, 1988) betrayed his Hobbesian predilections, which precludes the need for legitimacy.^{xxxix} As a rule by decree, the one party dictatorship Siaka Stevens set up does not respect the ethical category, such as parliamentary discourses of justification and judicial discourses of application. Constraints on political freedoms were more intense during Stevens' dictatorship than during British colonization.

This paper argues that if during gradualism indigenous elite impeded dialogue when they had limited power, then one could only expect them to place even greater impediment on dialogue after independence when they would have gained full political control. These politicians can only practice what they learnt. Memmi (2006: 59) claims that the European colonial legal order had potential for redress, since it was forced to consider citizens back home:

The absence of laws is worse than an unjust law. An unjust law is a reparable disorder; absence of law implies the rule of an arbitrary system, where anything can happen to anyone. ...democracy remains foreign to the (new African) political leaders...Even during the period of colonization, when the law was on the side of the colonizer, there were limits to illegality.

Stevens' paradoxical relationship to dialogue, his key role in setting up public commissions while simultaneously subverting them, better explains his Machiavellian tendency (Daramy, 1993). He betrayed a typical post-modern attitude to 'discourse,' which conceives the political domain as a mythical world in which powers influence one another without a normative element to transcend such struggle.^{xxxix} Their postmodern attitude stifled normative judgment on executive powers. With such attitude these politicians cannot make the necessary normative *devaluative shifts* from colonizing normative structures and enable the socio-evolutionary transition to new higher learning levels (Habermas, 1984: 68). This paper shows more intense colonization in Sierra Leone after Independence than before it, during the British colonial domination.

(iii) The Development of Society lies in the Political Domain: Marxist historical materialism does identify the structural limitations of capitalism's adaptive capacity, and grounds the *practical necessity* to change it. The

theory's logic, however, cannot effectively contribute to the practical questions it isolates (Habermas 1979:126). Marxism's uncovering of the practical problems associated with capitalism does not imply that its logic can enable it successfully respond to these problems. A socialist communist social formation is not the adequate response to the capitalism's adaptive problems because it cannot enable us determine the manner social reproduction unfolds (p. 124).

Stevens' Marxist orientation could have enabled him identify the possible imperial agenda behind Britain's ploy of wanting to leave its Naval Fleet in Sierra Leone to protect the country. Yet, his Marxist political orientation only led to a dictatorship that produced crises of political and social integration (Reno, 1994; Kallon, 2004). Sierra Leone's failure at institutionalizing the democracy principle denied the society the opportunity to learn the requisite social intelligence to resolve its problems. The inherent despotic tendencies of Marxist communist teleology means the ideology cannot admit of the moral point of view or moral justice discourses. APC's privatization of power and the economy of Sierra Leone was a logical outcome of an instrumental productivist Marxist ideology that served to engender egotistical complexes of interaction (Habermas, 1996). Marxism trivializes ethical and moral discourses, Marxism is rendered incapable of producing the stability-guaranteeing legitimacy in the development of a post-traditional society.

On the contrary, this paper shows that the liberal political culture of dialogue is what enables social integration or stability-guaranteeing legitimate social development. Dialogue enables modern societies learn to practice democratic counter-steering, to realize the formal circulation of power through which communicative power (discursive opinion and will formation) becomes administrative power (policy decision or law).^{xxxiii} To the degree that the denial of dialogue in a post-traditional society always produces solidarity problems, dialogue is a basic necessity for social development. If the democratic constitutional state of Sierra Leone "is not to disintegrate, this (rational discursive) potential must be mastered anew by every generation. Each must be able to recognize him or herself in all that wears a human face (Habermas, 1993: 15)." Thus, rational discourse is a reflection of the society's political development.

To the extent that political integration is at the core of social integration, the key mechanism of political integration (dialogue) becomes central to societal development. Since dialogue constitutes the appropriate mechanism a modern society requires to solve its problems and alter its social organizing principle^{xxxiv} is the key to Sierra Leone's quest to realize its status as a democratic constitutional state, and ensure the stability of its post-traditional society. The political maturity of modern Sierra Leone is reflected in its tolerance for dialogue, the only impartial

means through which diverse groups can successfully implement their available productive forces, or generates new ones.

Only a reason which is fully aware of the interest in the progress of reflection toward adult autonomy, which is indestructibly at work in every rational discussion, will be able to gain transcendent power from the awareness of its own materialistic involvements. It alone will be able to begin reflecting on the positivistic domination of the technical interest of knowledge...Only it (communicative reason) can seriously intervene in the complex of compulsive interrelations of history, which remain dialectical as long as it is not liberated so that the dialogue of mature, autonomous human beings can take place.^{xxxv}

As members of a post-traditional society are no longer bound and directed by traditional roles, they must fashion new commitments or political will formation on the basis of their discursively generated solidarity or communicative efforts.^{xxxvi} The failure of political actors at dialogue, which stems from their motivational structure (their self-interest or ideological orientation) also reflect instability of their general moral competence.^{xxxvii} Understanding constitutional development as a dynamic living project requires institutionalizing democratic interpretation or practical discourse in this law-making process. This research does not claim that politicians would adopt rational discourse; it only claims that they would have to, if they want to ensure stability or solidarity that arises from and guaranteed through discursive legitimate procedures (Habermas, 1994: 103-4). Since only dialogue can enable Sierra Leone rationalize its politico-legal orders, it remains the basic problem-solving capacity the society needs to *consciously make its own* history, namely to realize its status as a democratic constitutional state.

CONCLUSION

The discourse-theoretic approach of this paper illustrates dialogue as the correct means to balance human rights and popular sovereignty (democracy), the two basic ideas or “precipitate” behind for post-traditional (modern societies) to justify law.^{xxxviii} The failure to institutionalize led to the shaky foundation of democratic constitutional state in Sierra Leone. The discourse-theoretic reconstruction here provides the methodology to systematically evaluate the political development, and explicate constitutional administrative crisis. We can use dialogue as rational standard to assess virtuous character and prudence in politics, hence the extent it approximates the classical doctrine of politics (Habermas, 1974). The denial of this classical moral element in Sierra Leone politics led to the constitutional crises in the 1960s, APC’s privatization of the state and economy between the

1970s and early 1990s, and the civil war between the 1990s and early 2002. Efforts by the international community to return the society to democratic constitutionalism would prove futile, unless the society can consciously show tolerance for the post-conventional morality or institutionalize the democracy principle. It is a misnomer to say that democracy can be imposed by external powers. Only when post-traditional Sierra Leone can admit the post-conventional moral principle in social, political and legal discourse, will the society remain true to its logic of democratic constitutional state, and post-traditional stage of social development.

Conflict of Interests

The author(s) have not declared any conflict of interests.

REFERENCE

- Arendt H (1968). *Origins of Totalitarianism*. New York: Harcourt Brace Janovich pp.330-350.
- Arendt H (2000). What is freedom. In Peter Baehr (Ed) *The Portable Hannah Arendt*, Penguin Books, New York pp.438-461.
- Cabral A (1965). *The Nationalist Movement of the Portuguese Colonies: Opening address at the CONCP Conference*. Dares Salaam.
- Cartwright JR (1978). *Politics of Sierra Leone*. Zed Books, London.
- Cox TS (1976). *Civil Military Relations in Sierra Leone: A Case of Africa Soldiers in Politics*, Harvard University Press, Cambridge, Mass.
- Daramy SB (1993). *Constitutional Developments in the Post-colonial State of Sierra-Leone, 1961-1984*. Edwin Mellen Press, London.
- Dryzek J (1995). *Critical Theory as a Research Program*. In: Stephen White (ed.) *Cambridge Companion to Habermas*, Cambridge University Press, New York pp.97-119. <http://universitypublishingonline.org/cambridge/companions/chapter.jsf?bid=CBO9781139000727&cid=CBO9781139000727A011>
- Bernstein R (1994). Introduction. In Richard Bernstein (ed) *Habermas, and Modernity*, MIT Press, Cambridge, Mass pp.1-32.
- Foray CP (1988). *The Road to One Party State: The Sierra Leone Experience*. Center for African studies: University of Edinburgh Press
- Habermas (1970). *Legitimation Crisis*. Boston: Beacon Press.
- Habermas J (1971). *Towards a Rational Society: Student Protests, Science and Politics*. Trans. by Jeremy J. Shapiro. Beacon Press, Boston.
- Habermas J (1974). *Theory and Practice*. Beacon Press, Boston.
- Habermas J (1979). *Communication and the Evolution of society*. Beacon Press, Boston.
- Habermas J (1984). *The Theory of Communicative action vol. I: Reason and the Rationalization of Society*. Mass.: MIT Press.
- Habermas J (1987). *The Theory of Communicative Action II: Reason and Rationalization: Lifeworld and System*, MIT Press, Cambridge, Mass.
- Habermas J (1993). *Justification and Application: Remarks on Discourse Ethics*. MIT Press, Cambridge, Mass.
- Habermas J (1994). *The Past as Future*. University of Nebraska, USA.
- Habermas J (1996). *Between Facts and Norms: Contributions to the Discourse Theory of Law and Democracy*. MIT Press, Cambridge, Mass.
- Habermas J (1998). *Inclusion of the Other: Studies in Political Theory*. MIT Press, Cambridge, Mass.
- Habermas J (2001). *The Postnational Constellation: Political Essays*. In Max Pensky (ed) MIT Press, Cambridge, Mass.
- Harrington J, Ambreena M (2003). *The Emergence of African Law as an Academic Discipline in Britain in African Affairs*. Oxford University Press, Oxford 102(406):109-134.

- Held D (1980). *Introduction to Critical Theory*. Beacon Press, Boston.
- Hobbes T (1997). *Leviathan* (revised edition). In Richard Tuck (ed), Cambridge, London.
- Kallon K (2004). *The Political Economy of Corruption in Sierra Leone*. Edwin Mellen Press, New York.
- Keane E (2002). *Beyond the Anarchical Society: Grotious, Colonialism, and Order in World Politics*. Cambridge University Press, New York.
- Kolodny N (1996). The Ethics of Cryptonomativism: A Defense of Foucault Evasions. In *Philosophy and Social Criticism*. 22(5):63-84.
- Luke F (1984). *Labor and Parastatal Politics in Sierra Leone: A Study of African Working Class Ambivalence*. NUniversity Press of America, New York.
- Marx K, and Engel F (1846). *Classes and Ideology in The German Ideology*, In *Reader In Marxist Philosophy: From the Writings of Marx, Engels and Lenin*. Selected and Edited by Howard Selsam and Harry Martel. International Publishers, New York. pp. 39-41
- Marx KA (1970). *Contribution to the Critique of Political Economy*. ed. Maurice Dobb. New York, USA.
- McCarthy T (1985). *The Critical Theory of Jurgen Habermas*. MIT Press, Cambridge, Mass.
- McCarthy T (1994). *Reflections on Rationalization in The Theory of Communicative Action*, in Richard Bernstein (Ed.), *Habermas and Modernity*. Cambridge, Mass.: MIT Press.
- Memmi A (2006). *The New Citizens*, in *Decolonization and the Colonized*. University of Minnesota Press, London.
- Nkrumah K (1967). *Nationalism and Social Revolution*. Peace and Socialism Publications, Prague.
- O'Neill J (1985). *Decolonization and the Ideal Speech Situation: Some Issues in the Theory and Practice of Communicative Competence*. In John Forrester (ed.) *Critical Theory and the Public Sphere*. MIT Press, Cambridge Mass.
- Reno W (1994). *Corruption and State Politics in Sierra Leone*. Cambridge University Press.
- Reus-Smit M (1999). *The Moral Purpose of the State: Culture, social identity, institutional rationality in international relations*. Princeton University Press, Princeton.
- Sanbrook R (1985). *The Politics of Africa's Economic Recovery*. Cambridge University Press, London.
- Wyse AJG (1990). *H.C. Bankole-Bright and Politics in Colonial Sierra Leone, 1919-1958*, Cambridge University Press, New York.

ⁱDecolonization is used to refer to the period immediately prior to Independence in Sierra Leone (1961), during which indigeneous subjects of British colonized system strove for political autonomy. It is a politics, whereby African societies aim to achieve a democratic constitutional state, which reflects a wave of juridification in which constitutionalized power becomes democratized. Citizens are provided the right of political participation, and laws carry the democratically backed presumption of rational discursive foundation, and that they express the general interest, and the possible agreement of all those affected. See Jurgen Habermas, (1987). *Theory of Communicative Action: II*, MIT Press, p. 360. In the politics of democratic constitutionalism, the legitimacy of laws lies in democratic will and opinion formation, hence such a politics must guarantee citizens' rights of political participation, including politicians' right to parliamentary discourse of justification.

ⁱⁱThis study draws on John O'Neill's argument that decolonization is centrally a matter of communicative freedoms or political autonomy. See O'Neill, (1985). *Decolonization and the Ideal Speech Situation: Some Issues in the Theory and Practice of Communicative Competence*. In John Forrester (Ed) *Critical Theory and the Public Sphere*. MIT Press, Cambridge Mass.

ⁱⁱⁱ The discourse principle states that "only those norms can claim validity that could meet with the acceptance of all concerned in practical discourse." Habermas, J. (1998). *Inclusion of the Other*. MIT Press, Cambridge, Mass., p. 41. It expresses the meaning of post-conventional requirements of justification, and has a normative content to the extent that it explicates the meaning of impartiality in practical judgments. Also see Habermas, *Between n facts and Norms*. MIT, 1996, pp 107-108).

^{iv} When realized in the legal form of interaction, the discourse principle becomes the democracy principle. The latter results from specification of action norms that appear in legal form: it states that "only those statutes may claim legitimacy that can meet with the assent of all citizens in a discursive process of legislation that in turn has been legally constituted." Habermas, *Between n facts and Norms*. MIT, 1996, pp 108-110).

^v Habermas, J. 1984, *The Theory of Communicative action vol. I: Reason and the Rationalization of Society*. MIT, p. 260

^{vi} In the discourse through of law and democracy, the separation of the functions or powers is defined in terms of specific discourses. The administration undertakes discourses that must enable it implement policies and programs, while the judiciary undertakes discourses to interpret or apply the law, and the legislature undertakes discourses to justify the law. See Habermas, J. *Between Facts and Norms*, 1996: 172. That subjects during gradualism could protest unjust labor decisions and laws shows that the separation of powers principle, by which the state must legally organize itself was already relevant (Luke, 1984).

^{vii} Constitutionalism is the idea that the government's powers, and politics generally should be limited or constrained legally, that the legitimacy of authority must depend on the limitations stipulated by law. Achieving this self-limitation requires proper understanding of them through interpretation, hence the need for the discourse and the democracy principles. These principles serve to institutionalize the communicative framework for rational will formation, and ensure the medium in which this rational will can express itself as the common will of freely associated legal persons. Habermas, 1996: 111-118.

^{viii} Reus Smit (1999). *The Moral Purpose of the State: Culture, Social identity, Institutional Rationality in International relations*. Princeton, N.J.: Princeton University Press, p. 10.

^{ix} Whiles Hobbesian sovereign pretends to recognize law only so that he can use it for its to achieve his despotic purpose, the Machiavellian sovereign pretends no such respect for legality. Habermas (1974), *Theory and Practice*, Boston; Daramy (1993) consider Siaka Stevens in the latter light; while Sir Albert seem to fit the former category, considering their approach to one party law.

^x The concept epochal events draws on Marx's ideas of epochal ideas, the ideas of the ruling class, who would define the future political dynamics of Sierra Leone. Marx argues that "the ideas of the ruling class are in every epoch the ruling ideas...the ruling ideas are nothing more than the ideal expression of the dominant material relationship, the dominant material relationship grasped as ideas. See Marx, and Engel, *Classes and Ideology*. In *The German Ideology(1846) In Reader In Howard Selsam and Harry Martel (eds), Marxist Philosophy: From the Writings of Marx, Engels and Lenin*. International

Publishers, New York.), pp 39-41

^{xi} See Donald Moon, (1995) *Practical Discourse and Communicative Ethics In Stephen White Ed. Cambridge Companion to Habermas*. Cambridge, p. 149.

^{xii} 'Communicative reason operates in history as an avenging force,' because denying tends to produce social crises tendencies. See Bernstein, R. (1994). *Introduction (1994) Habermas and Modernity*. MIT Press, Cambridge, Mass., p. 25

^{xiii} The Krios are the descendants of freed slaves from England, Nova Scotia, the Maroons of Jamaica, and the Recaptives, who were settled in Freetown following the abolition of slavery. Their closeness to the British enabled them gain Western education, and to establish the first modern European type University in Africa, Fourah Bay College. This education gave them disproportionate control of the civil service of Sierra Leone during decolonization. See Wyse, Akintola J.G. (1990). *H.C. Bankole-Bright and politics in colonial Sierra Leone, 1919-1958*, Cambridge University Press, New York, p. 185.

^{xiv} Luke, F. (1984). *Labor and Parastatal Politics in Sierra Leone: A Study of African Working Class Ambivalence*. University Press of America, New York, p. 44.

^{xv} Op. cit. The Shaw Report, cited in Luke, 1984, p. 48

^{xvi} The co-originality principle states that constitutionalism is impossible without democracy, and vice versa. As explained earlier, constitutionalism, the observation procedures and processes guaranteed by in basic rights, such as the right to speech, right to association, and right to due process only demarcate the private autonomy of the subject. Only with the subjects capacity for the political right of discursive political participation – democratic will and opinion formation - can subjects challenge the state's one-sided interpretation of private rights, hence opening the possibility to enable subjects elaborate these rights to alter their material legal conditions. See Habermas, J. *Between Facts and Norms*, 1996: 170-172

^{xvii} See Amilcar Cabral (1965). *The Nationalist Movement of the Portuguese Colonies: Opening address at the CONCP Conference: Dares Salaam*.

^{xviii} Daramy (1993) Kallon, (2004) show that the first constitutional/administrative crisis after Independence occurred because the Governor General (who was supposedly a titular head) appointed Siaka Stevens Prime Minister before the completion of elections, contrary to the electoral laws of the constitution. The governor's unbridled discretionary powers led to this abuse of authority.

^{xix} John Harrington and Ambreena Manji, (2003). *The Emergence of African Law as an Academic Discipline in Britain in African Affairs: The Journal of Royal African Society*. Oxford: Oxford University Press.

^{xx} *Ibid*, The Denning Report cited by Harrington and Manji, pp.125-6

^{xxi} *Ibid*, Harrington and Manji.

^{xxii} Habermas, Jurgen. (1974). *Natural Law and Revolution*. In *Theory and Practice*. Boston. p. 84 The privatistic legal approach sees formal rights as rights of freedom, which serves to set free all acts which are not explicitly prohibited according to externally specified criteria. Political right is thus required to provide constraints on state or political power.

^{xxiii} The moral point of view refers to the question, "what is equally acceptable or just to everyone." See Habermas, J. *Inclusion of the Other*. MIT Press, Cambridge, Mass.

^{xxiv} Sandbrook, R. (1985), Chapter 3: *Colonial Roots of the Contemporary Crisis In The Politics of Africa's Economic Stagnation*. Cambridge: Cambridge University press, p. 49. Sandbrook argues that the nation state is a rarity in Africa since citizens' loyalty extends no further than their own ethnic group. Thus, the African state is fragile, and African political life is fraught with potential instability. For the distinction between nation and state see Connor, W. (1972). "Nation-building or nation destroying?" In *World Politics*. p. xxiv, 3, pp. 333-5 cited in sandbrook (1985). Where nation and state are coterminous, ethnic loyalty (nationalism) fuses with state loyalty (patriotism). Often, once the state acquires legitimacy and internal cohesion, it can override personal and sectional preoccupations with the vision of a greater good.

^{xxv} The internal Colonization of the lifeworld or socio-cultural domain refers to constraints inconspicuously imposed on the sociocultural domain of communication by the media of power and money. See Chapter Marx and the Thesis of the Internal Colonization In *Theory of Communicative Action II*. MIT Press, pp. 354-5.

^{xxvi} Marx argues that "the totality of these relations of production constitutes the

economic structure of society, the real foundation, on which arises a legal and political structure and to which correspond definite forms of consciousness. The mode of production conditions the general process of social, political and intellectual life. Marx, K. *A Contribution to the Critique of Political Economy*. ed. Maurice Dobb. New York, 1970, pp. 20-21.

^{xxvii} Held, D. (1980). *Reformulation of the Foundations of Critical Theory.*, in *Introduction to Critical Theory*. Beacon Press, Boston, p 347. The empirical reality and the implicit claim of freedom do not match looking back on the history of wherever Marxist theory has gained application.

^{xxviii} Marxist predetermination makes production or the economic substratum the base of society. This hinders practical discourse, and likely cause a person subscribing to this ideology unable to recognize the central play of politics in a matter. Theoretically and in practice Marxism terminates in a dictatorship or despotism, a contradiction for a theory professing emancipation. Practical discourse requires the lifting of all forms of constraints – including predeterminations on the structure of communication to allow for the freedom to radicalize discourse. McCarthy, Thomas. (1985). Chapter 4:3 *On the Logic of Practical Discourse in The Critical Theory of Jurgen Habermas*. MIT Press, pp. 312-3.

^{xxix} See O'Neill, J. (1985). *Decolonization and the Ideal Speech Situation*. In John Forester (ed). *Critical Theory and the Public Sphere*. MIT Press, Cambridge, p. 57

^{xxx} See Habermas, J. (1992). *On the Employment of Practical Reason In Justification and Application: remarks on Discourse Ethics*. MIT Press, p. 12.; Also see *Post-metaphysical reason*. As ethical political discourses determine what a society wants to become, and moral discourses determine what is equally just or fair to everyone, they enable citizens to simultaneously assume the role of agent and participant in clarifying their social life, and in justifying political orders, and stabilize their identity.

^{xxxi} Hobbes, T. (1997). *Leviathan* (revised edition) by Richard Tuck (Ed.). Cambridge, p. 9. While the covenant is supposed to emerge from deliberation (p. 97), the specific discursive forms are not explicated clearly. Yet, once this covenant is made or concluded, “performance is the natural end of obligation.” Also see Habermas, J. (1974). cites C. Schmitt cited in *Theory and Practice*. Beacon Press, Boston., p 289.

^{xxxii} Niko Kolodny, (1996). *The Ethics of Cryptonomativism: A Defense of Foucault Evasions*, in *Philosophy and Social Criticism*. Vol. 22, No. 5. London: Sage Publications, p. 68; Also see Habermas, J. 1990. *The Intertwinement of Myth and Enlightenment*, in *Philosophical Discourse of Modernity*. MIT, p. 125. A criticism without criterion gives the sense of simply “wanting to be different,” without rather than discriminate between power that deserves to be esteemed and one to be devalued.

^{xxxiii} Habermas, J. 1996. *Between Facts and Norms*. 1996, p 151

^{xxxiv} Values and institutions constitute the society's organizing principle that determines the form of social integration that first makes the society able to implement available or new productive forces and heighten social complexity. Habermas, J. (1979). *Development of Normative Structures In Communication and the evolution of society*. Boston, p 120; also see McCarthy, 1984, p 248.

^{xxxv} Jurgen Habermas, (1974). *On Theory and Praxis in Our Scientific Civilization In Theory and Practice*, Boston, p 281

^{xxxvi} Habermas, J. (2001). *Conceptions of Modernity in The Postnational Constellation: Political Essays*. Translated and edited by Max Pensky (Cambridge, MIT Press, pp. 155-156

^{xxxvii} A moral person would interactive competence, even under stress, rather consciously avoiding them. Habermas, 1979, p. 91). Stevens use of dialogue to challenge the Independent arrangements, while manipulating it in public commissions of inquiry during the 1955 workers strike, shows that the post-conventional moral consciousness was already latently available in worldviews, and politicians' intuitions, though not yet incorporated into action systems, and operative in political institutions (Habermas, 1979:121-3).

^{xxxviii} Habermas, J. 1996. *Between Facts and Norms*. MIT p. 99. At this stage, religious and metaphysical justifications have become ineffective. While basic rights enables one to gain recognition as a legal person, only with democratic right of political participation can a person determine their society or social orders by themselves, and if possible against the state.