

## **Policy Participation and Accountability: The Role of the Parliament in Africa**

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### **Abstract**

In representative democracies, parliaments act not only as channels through which people participate in policy process but also accountability. However, parliaments can only perform their roles effectively if and when they are able to develop into independent institutions of countervailing powers. This paper analyses the role of the parliament in Africa in the policy process and accountability. It specifically answers the question why, despite the major constitutional and political transformations that have prevailed in Africa since the 1990s, parliaments in Africa continue to display limited roles in policy process and accountability. Relying on secondary data, the paper also questions the logic and efficacy of the social contract theory which is mostly employed to evaluate the government, primarily in terms of its adherence to consent of the governed as continually represented and kept alive in the legislature. This is because the social contract theory does not take into account the unique historical and cultural contexts of each country/region in its perspectives. Instead, this paper adopts an historical approach, under which the parliament in Africa is viewed as a product of specific historical events that have not only constrained its growth and development, but also left legacies that continued to limit its capacity. This is manifested by three factors: (a) executive dominance; (b) party politics; and (c) weak institutional capacity indicated by the failure to use oversight tools and limited resources. The paper concludes that the parliament in Africa can exploit the current information explosion to strengthen its capacity.

### **Introduction**

A parliament plays an important role in the life of a nation by carrying out three main functions: (a) *legislation* – a parliament make new laws, change existing laws and repeal laws that are no longer needed; (b) *representation* – a parliament represents and articulates the views and wishes of citizens in decision-making processes; and (c) *oversight* – a parliament oversee the activities of the executive so that the government is accountable to the people. The role of a parliament in the policy-making process and accountability is a part of the democracy question. Among other things, democracy requires the existence of a strong, efficient and effective parliament that will deliver its functions. As such, a parliament is the key organ in the democratization process as correctly put by Fish (2006): “... stronger legislatures, stronger democracies.”

If democracy is taken to mean ‘government by the people’, it follows that people’s participation should be amplified. Participation in general, and people’s

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participation in particular, are grounded in the belief and practical realities that the public has the right to 'consultation' and 'involvement'. As a representative organ, the parliament plays a crucial role in facilitating people's participation in the policy process. The parliament is an institution through which people's power, views and interests are aired and articulated during policy-making process. It also acts as the 'guarantor of government accountability' (Makinda, 2006). That is, on behalf of the people, who are the ultimate sovereign, the parliament holds the government accountable for its decisions and actions. The conception of accountability is understood as embracing both the issues of *answerability* (the requirement to inform, explain and justify), and *enforceability* or *controllability* (capacity of accounting agency to impose sanction).

Parliaments are constitutionally designated for giving assent to binding measures of public policy. This assent is given on behalf of a political community that extends beyond government bureaucrats who are responsible for formulating those policies. As representatives of the people, parliaments also play oversight roles. They are responsible for holding the government, as well as its bureaucracy, accountable for policy decisions; as well as the implementation of those policies. However, the manner and the extent to which a parliament plays these policy and accountability roles differ from one political system to another. Depending on their powers and capacity to play these roles efficiently and effectively, parliaments have been classified into different categories (typologies). Those which play their roles efficiently and effectively have been labelled as *active parliament*, *strong parliament*, *policy-making parliament* or *least policy influencing parliament*. In contrast, labels such as *inactive parliament*, *weak parliament*, or worse, *rubber stamp parliament* have been used to refer to parliaments that have lacked power and capacity to perform their roles effectively and efficiently. The famous classification of parliaments on the basis of their powers and capacities to play their roles effectively is one that classified parliaments into four categories: *transformative legislature*, *arena legislature*, *emerging legislature*, and—at the bottom of the ladder—*rubber stamp legislature*. (Johnson, 2005; Barkan et al., 2009; Barkan et al., 2010).

Rubber stamp parliaments are the weakest of legislatures. They exercise little autonomy from the executive, which limits their oversight and scrutiny functions in policy-making. Rubber stamp legislatures simply approve decisions made somewhere else in the political system, often by parties and/or the executive branch. They are often associated with authoritarian or totalitarian nations, where decisions are made by leaders or state parties, and in which the parliament is expected to simply endorse their decisions. The second type above this is the arena legislature, which is more powerful than a rubber stamp legislature. In arena legislatures, policy initiatives still come from outside the legislature (from the party or the executive), but these legislatures are places of real discussions, speeches, and debates. Arena legislatures do not have powers to initiate or dramatically change policy proposals, but differences in society are articulated and government actions and plans are evaluated from different perspectives.

At the opposite end of the scale is the transformative parliament, which exercises degrees of independence. Transformative legislatures not only represent diverse societal interests, but also shape budgets and policies. They have power and capacity to change policies and budgets proposed by the government, and can even initiate policies of their own. They have highly complex internal structures (including strong committee systems), great information needs, and depend heavily on highly trained professional staff.

Lastly, the fourth legislative type is the emerging legislature. Emerging legislatures are in the process of change from one type to another. Emerging legislatures are parliaments that are undergoing transformation through amending rules and procedures, building stronger committees, expanding professional staff, developing improved information systems, among other adjustments, for purposes of exercising greater influence over government policies, and conducting their oversight responsibilities more effectively (Olesugun, 2015).

In the aftermath of the third-wave of democracy, parliaments in Africa have been classified as emerging legislatures (Barkan et al., 2004; 2009; 2010). Therefore, as emerging legislatures, parliaments in Africa are evolving, and meeting evolutionary demands such as capacity development to enhance their powers and functions in governance processes. Emerging legislature are institutions that matter. As Barkan (2009) notes:

Once the rubber stamp of the executive, or nonexistent during periods of military rule, [African parliaments] have begun to assert their independence as players in the policymaking process, as watchdogs of the executive, and as organizations that respond to demands by civil society. Put simply, they are becoming institutions “that matter” in the politics of African countries – still weak, but increasingly significant.

Literatures on emerging legislatures in Africa strongly agree that they have the capacity to play significant roles in the policy process and accountability. The belief in the increased capacities of these legislatures has been attributed to the fact that they have gained more constitutional powers as oversight organs in the era of democratization. For once, they are no longer the rubber stamps they used to be.

In addition to constitutional powers, there are oversight tools purposively designed for parliamentary accountability. However, researchers and practitioners hold different views as to whether the number of oversight tools at the disposal of a parliament implies an increased legislative oversight capacity. For example, Pellizo and Stapenhurst (2004) viewed the number of oversight tools at the disposal of a parliament as an indicator of the increase of legislative oversight capacity. In contrast, Ebo and N'diaye (2008) proposed that legislative oversight capacity consists of the legislative ability to use oversight tools. According to them, this ability is reflected in the human, material, financial and technical resources at the disposal of a parliament. Other studies such as APPG (2008) proposed that the legislative oversight capacity should be determined by the quality of staff, their level

of training, the oversight mandate of a parliament, and so on. In other words, legislative capacity of the emerging legislature in the policy process and accountability is greater than the rubber stamp legislature. Notably though, emerging legislatures are still weak legislatures in the ladder.

Furthermore, just like the third wave of democratization did not sweep African countries equally, similarly not all parliament have witnessed this political advance (Azevedo-Harman, 2011); and even among those that have, there are considerable differences in terms of their institutionalization levels and roles. Their role in policy process and accountability has significantly remained limited (African Governance Report (AGR-II), 2009).

This paper analyses the effectiveness of the parliament in Africa in its policy participation and accountability roles. It specifically answers the questions why parliaments in Africa continue to display limited roles in policy process and accountability despite the major constitutional and political transformations that have prevailed in Africa since the 1990s. The paper adopts an historical approach in which the parliament in Africa is viewed as a product of some specific historical events that have not only constrained their growths and developments, but also left legacies that continued to limit their capacities. Methodologically, the paper relies on secondary data sources. The materials for the analysis consist of journal articles, media reports, official and legal documents, and reports of civil society organisations. The search for materials consisted of a systematic method, using Google search engine, Google Scholar online platform, and keywords related to parliament, parliament in Africa, policy process and accountability. The choice of this methodology lies in its strict adherence to scientific rigors and research procedures that involve systematic collection, organization, description, and interpretation of textual, verbal, or visual data.

### **Review of Locke's Social Contract and the Role of the Parliament**

The social contract theory emphasize on the consent of people which is linked to state legitimacy. Its application to the current discussion is derived from the fact that participation is the principal means by which consent is granted or withdrawn, and through which rulers are made accountable to the ruled. Under the social contract theory, popular participation constitutes "... the foundation of the state, the basis of state power and governance, and their limits" (Adejumobi, 2009: 406). In the context of the current discussion, popular participation in the policy process denotes a state of affairs in which the people define the agenda, priorities, and scope of activities or policies. People's participation in the policy process may be directly, or indirectly, through their representatives.

The social contract theory views the state as a product of a deliberate and voluntary agreement (contract) entered into by ancient men who originally had no governmental organisation. The theory locates the beginning of human life from a hypothetical pre-political state called the state of nature, in which each man was a

sovereign of his own body (Locke, 1946). Although the various social contract theorists differ on their opinion regarding the condition of life in a state of nature, this condition in Locke's social contract was relatively peaceful as man was guided by the law of nature (law of reason) granted by God (Verschoor, 2015; Kali, 2020). The law of nature—or law of reason—which was based on morality, averted men from harming others; hence men lived an equal, free and independent life (ibid.). However, life in the peaceful state of nature was disturbed when other human beings extended their freedoms beyond limits and stole the properties of others, and impeded their liberties (Locke, 1946; Kali, 2020; Santilli, 1982). As the victims guarded their properties or plotted revenge against the perpetrators, wars erupted. This is because there was no civil power to formulate, interpret and enforce the law of nature, to which people could make an appeal (Locke, 1946).

As a result of the inconveniences caused by an absence of formal human authority, men were compelled to enter into agreement to establish a civil government to defend private property and liberties (ibid.). Therefore, under a civil government, human beings refrain from protecting themselves by punishing others that are a threat (Kali, 2020). The responsibility to ensure that the rights, liberties and properties of individuals are protected is placed in the executive, judicial and legislative powers of a government instituted through consent (Santilli, 1982). Therefore, consent is the basis for the creation of civil government in which people surrendered the freedom, liberty and natural rights they had in a state of nature, having agreed to obey the laws of the government. In return, however, the government is expected to be accountable to the people, serving their interests and protecting their lives, liberties and properties (Friedmann, 1999; Rugeiyamu et al., 2020; Mouritz, 2010).

In his social contract Locke favoured a limited government, in which people, perceived as the ultimate sovereigns, delegate their natural legislative power to the legislature. Thus, legislature is given a place of supremacy in the state over other organs. To Locke, the legislative power is supreme by virtue of its right "... to make laws for all the parts and for every member of the society." Thus, all other political powers are "... derived from and subordinate to it" (Locke, 1946: 132, 134). In this context, therefore, all political institutions are subordinate and accountable to the legislature, including the executive which may be changed and displaced at pleasure (ibid.). The legislature's supremacy extends to the power to resume executive power from ministers "... when they find cause, and to punish for mal-administration against the Laws" (ibid.,152; Uhr, 1987). However, Locke was concerned with a possibility of abuse of power by the sovereign body should it be permeated to hold absolute power (Kali, 2020). To offset that possibility, Locke's contract provides for right to self-protection in which people have the right to revolt against an authority should it violate the social contract. In this context, therefore, legislature only gets to enjoy supreme political power as long as the government remains faithful to its original purposes for which it was created, i.e., to protect their (people's) rights and liberty, and promote public good. If the government fails repeatedly to represent their interest, the people may withdraw their consent (Locke, 1946).

The logic of the social contract theory with regards to the power, role and position of the parliament, however, presuppose the existence of democracy and democratic institutions in which people, through popular participation, may grant or withdraw their consent, and overall making rulers accountable. Nevertheless, an analysis and discussion of democracy paint a very pessimistic picture of the state of democracy and its institutions in Africa. The ranking of states by various democracy ratings organizations such as the Freedom House, the Bertelsmann Transformation Index (BTI), the EIU Democracy Index, and other varieties of democracy projects suggests that Africa features a small number of high-quality democracies, and some highly authoritarian regimes (Cheeseman, 2021; International IDEA, 2021; Freedom House, 2020). These ratings also coincide with the findings from empirical literature, which similarly indicate that there has been a decline in democratic trends in Africa over the past couple of years (Von Joe McCarthy, 2015; International IDEA, 2021; Freedom House, 2020, Mattes, 2019; Afro barometer, 2023). Mattes highlights some alarming observations of democratic recession in the continent in his Afro barometer policy paper. The report indicated that, although about 51 percent of respondents in the 34 surveyed African countries commented that their country was a full democracy, only 43 percent of them were satisfied with the way democracy work in their respective countries (Mattes, 2019). Mattes concluded that, generally, the perceived supply of democracy in the surveyed African countries was lower than the demand; meaning that people were getting less democracy than they want.

Similar observations were echoed in the 2021 report by the International IDEA, which highlights some of the observable features concerning the manifestations of democratic decline in the region. These included the trend of a resurgence of military coups, the trend of pseudo democratic transitions, continued attempts to erode presidential term limits, continued erosion of freedom of expression and access to information through media clampdowns and internet shutdowns, increasing restrictions on opposition parties, and the adoption of authoritarian measures to enforce Covid-19-related restrictions (International IDEA, 2021: iv).

Correspondingly, elections are regarded as a means through which parliamentarians that are representative of, and responsive to the people's views, are produced; and a means through which underperforming leaders are removed. However, empirical data indicates that elections in Africa rarely accomplish these goals<sup>1</sup> (Alemika, 2007; International IDEA, 2021; Afro barometer, 2023). From the perspectives of citizens in the majority of countries in Africa, elections are not the efficacious means of representation and accountability (ibid.). This reflects the findings from other empirical studies, which substantiate that elections in the continent are subject to repeated manipulations by rulers, and reflect competitive authoritarianism rather than democratic elections.

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<sup>1</sup> In Tanzania for example, the 2020 elections produced a one-party-controlled parliament after 30 years of multipartyism in the country. In these elections, only a single constituency seat was won by the opposition party (Nkasi Kaskazini - Rukwa Region).

Drawing from the extant literature, the paper maintains that the social contract propounded by social contract theorists, and in particular by Locke, which is propounded to provide a means to "... evaluate government primarily in terms of its adherence to consent of the governed, as originally formulated in the social contract and continually represented and kept alive in the legislature" (Uhr, 1987: 9), is limited in understanding the context underlying the position and role of the parliament in Africa. This is because the theory does not take into account the unique historical, cultural and political contexts in its analysis. Its application in the context of Africa shows a wide gap between its expectations and the outcomes. In that regard, this paper further maintains that the parliament in Africa is a product of some specific historical events that have not only constrained its growth and development, but also left legacies that continued to limit its capacity. Accordingly, the paper argues that the discussion on the effectiveness of the parliament in Africa to execute its roles should be understood in the context that it was never designed to be a sovereign body for enhancing accountability; and that throughout its evolution it has not been allowed to play that kind of role that similar institutions in advance democracies have, and still play, as assumed by the social contract theorists.

#### **The History and Political Context of Parliament in Africa**

Parliaments in Africa have had a chequered history. To start with, almost all were colonial products<sup>2</sup> and emerged simply as advisory organs to governors in the colonies. The timings of their establishments differed from one colonial power to another. However, legislative councils were first to be established in British colonies than in their counterparts. The first of such 'legislative councils' were established in the Gold Coast (Ghana) in 1850, Sierra Leone in 1863, Gambia in 1888, and Kenya in 1906. However, the colonial legislative bodies had no real legislative authority. Barkan described parliaments in the British colonies simply as "deliberative bodies" rather than "institutions for the public policy-making" or legislating (Barkan, 2009: 12).

Thus, parliaments in colonial Africa were not designed to perform such viable roles of policy-making, accountability and representation as their precursors in Europe and North America. Specifically, they were not expected to check powers of the executive (accountability), or propose radical changes in the policies of their respective colonial governments. They were simply designed to serve as agencies for the articulation of views.<sup>3</sup> It was the governors who had real executive and

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<sup>2</sup> This, however, is not meant to negate the existence of some pre-colonial legislative organs. Nonetheless, these were ethnically and culturally based, and their jurisdiction confined into some ethnic groups or tribes. Again, membership in the pre-colonial legislative organs was based on inheritance or appointment, and could play a very minor role in policy process and accountability. Therefore, in their current structures, compositions, functions and memberships, parliaments in Africa were shaped by colonialism

<sup>3</sup> Even after the introduction of some reform in the legislative councils in British colonies (e.g., in the Gold Coast (1916 and 1925), Uganda (1920), Nigeria (1922), Sierra Leone (1924) and Tanganyika (1926), these councils did not possess any substantive legislative powers.

legislative powers. They not only presided over these institutions, but also possessed reserved power over their decisions. Governors also possessed vast appointment powers. The majority of governors' appointees were European officials, mainly from the colonial civil service. The fact that there were no any elected representatives before World War II suggest that legislative councils were not more than extensions of the executive in the parliaments.<sup>4</sup> It should be remembered that a strong executive was the defining feature of a colonial government, as correctly put by Ojwang (1980: 298): "... the colonial government was invariably the executives." Therefore, around the founding moment of the parliament in Africa, the executive was overly strong, which implies that the executive-parliament relation was skewed in favour of the executive. This orientation was to have a long-lasting effect on the role and performance parliaments in Africa.

On the eve of independence, post-colonial parliaments in Africa were described to be generally weak (Alabi, 2009; Barkan, 2009; Opalo, 2009b). However, the degree of their autonomy differed depending on the constitutional design that African states adopted from their colonial masters. Almost all former British colonies adopted parliamentary systems at independence; in contrast, all former French and Portuguese colonies—except three—adopted presidential systems at independence (Lia et al., 2006). Theoretically, parliaments in parliamentary regimes have the power to censure the executive. However, soon after independence most African states adopted some political and constitutional systems that changed the course of things dramatically. For one, most of the inherited parliamentary systems were replaced by presidential systems in which presidents had extensive government authority vested in them (ibid.). This maximization of executive powers essentially reinforced the weakness of the parliament in many African states even further. One of such developments was what came to be known as the neo-patrimonial rule (neo-patrimonialism), which characterized the period between 1960s to 1980s in Africa.<sup>5</sup>

Neo-patrimonialism in post-colonial Africa manifested itself in several forms, such as military rule (e.g., Sani Abacha in Nigeria, Idd Amin Dada in Uganda); civilian authoritarian rule (e.g., Paul Biya in Cameroon); and one-party state such as Tanzania, Kenya and Zambia. In some entities, patrimonial rule was a mixture of

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<sup>4</sup> In other parts of Africa where the French, Portuguese and Belgium were in control, there were no equivalents of the British legislative councils. This was consistent with the assimilation policies that did not visualize the existence of legislative bodies in Africa. In the Lusophone countries of Cape Verde, Angola, and Mozambique, the legislative practices were inexistence prior to their independence. In the Francophone countries, France concentrated all decision-making in Paris. Only a small numbers of representatives were appointed to the France National Assembly in Paris (Meredith, 2006). The French colonial policy ensured that many of its colonies in West Africa did not have national legislatures until very close to or at independence in 1960. As a result of this delay, the legislative bodies in the French colonies were quickly set up as they were approaching their independence. Consequently, these legislative bodies had no time to set up and lay grounds for their institutional development

<sup>5</sup> This period became known as the era of neo-patrimonial rule (Bratton & van de Walle 1997) because nearly all African countries became ruled by a single leader who relied heavily on the distribution of patronage in the form of appointments to government positions and the distribution of rents to maintain themselves in office.

both military and civilian government like in Mobutu Seseseko's former Zaire (Alabi, 2009; Barkan, 2009). Under military rule, legislative institutions suffered outright abolition, suspension or dissolution. In such cases the parliament was put in abeyance, and its powers merged with that of the military ruler who exercised both the legislative and executive powers (Olesugun, 2015). In states where parliaments continued to exist, they did so in very precarious environments.

Thus, during this period parliaments in Africa were strangled by the existence of both powerful presidents on one hand, and one-party state system on other. Barkan et al. (2010) documents that during the neo-patrimonial era, African presidents purposely starved the parliament and its members of resources to ensure their dependence on—and thus their compliance with—the executive. The one-party state system also had its share in reinforcing weaknesses in Africa's parliaments. For one, one-party state entailed the absence of opposition political parties that would have put the government on its toes, hence promoting its accountability. But also, one-party MPs had no incentives to effectively hold the government accountable or propose radical changes in government policy proposals. Some parliaments—like that of Tanzanian—were made committees of the ruling parties; while those that attempted to assert their position as organs of accountability against the executives, often faced harsh backlashes from the executives (Tambila, 2004).

In many post-colonial states, constitutional reforms strengthened the executive while weakening the legislature. Under these circumstances, the legislature-executive relationships in African countries remained unbalanced, with constitutional powers literary skewed in favour of presidents; many of whom used the new constitutional powers to rid themselves off any parliamentary scrutinization (Alabi, 2009). Through constitutional changes, neo-patrimonial rulers—or 'big men'—gained powers to call, prorogue and dissolve parliaments. Like the colonial governors, constitutional changes also granted vast appointment powers to presidents, hence ensuring executive influence in the parliament. In Tanzania, for example, the 1965 interim constitution brought the total number of presidential appointees to 82, or about 40 per cent of all members in the National Assembly (Tambila, 2004). Indeed, under the political and constitutional developments of neo-patrimonial rule in post-colonial Africa, the role of the parliament as an institution for policy-making and popular control of governments was threatened and reduced into a mere registration chamber<sup>6</sup> (Poulantzas, 1978).

The major political transformation took place in Africa from the 1990s in what was labelled by Samuel Huntington (1991) as 'the Third Wave' of democratization was believed by many commentators as a long-awaited opportunity for parliaments in Africa to assert their position vis-à-vis the executive. This is because the transformation entailed a transition away from dictatorship to multiparty politics.

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<sup>6</sup>According to Poulantzas (1978: 222), the term registration chamber refers to a "... situation where parliament loses its primary functions and degenerates into rubber stamp of decisions made elsewhere especially from the executive."

With the adoption of new constitutional designs across countries in the region, parliaments ought to have assumed more seriously the six generic roles: i.e., legislation, representation, oversight, recruitment, legitimacy and conflict management (Ruszkowski & Draman, 2011).

Contrary to this belief and expectations, the role of Africa's parliaments in accountability and policy process has remained limited. The Afro barometer's Parliamentary Index of 2017 provided a snapshot of the then states of parliaments in 49 sub-Saharan countries based on a scale of 0 (lowest) to 100 (highest). Generally, the overall state of parliament in Africa was reported to have worsen with an overall index ranking of only 55, which was a decrease of two points from 2016; and a decrease in political and legislative ratings across all categories. Overall, the Southern and Central African countries fared worst with an index ranking of 47, indicating high levels of fragility and lowest levels of political and legislative quality. In a similar way, the Afro barometer 2019 indicates that there is a high level of dissatisfaction with parliaments in Africa. This dissatisfaction is evident in the consistently low ratings of parliaments as a whole, as well as for individual parliamentarians. Generally, many people in Africa perceived the parliament as ineffective and corrupt (Afro barometer, 2019).

#### **Legacies and Parliament's Role in Policy Participation and Accountability in Africa**

The relationship between the parliament and the executive is a power relation. Governments make policies and deliver services to citizens through bureaucracies. Parliaments, on the other hand, hold government to account by questioning and challenging government actions and policies, and making recommendations for change. An important role of the parliament in the policy process entails that of debating on the policy proposals during the legitimization stage, and monitoring their implementation. In democracies, government policy proposals must be submitted, discussed and approved by the people's representative before they are implemented. The debating on policy proposals provides an opportunity of the parliament to review and revise proposals to ensure that they reflect the wider interest of the people. In most parliaments, committees are mandated to oversee the implementation of policies and legislations. Monitoring provides an opportunity for the parliament to assess the adequacy of legislation: whether intended benefits are being achieved, whether legal reform is required, and whether money was spent appropriately; and to ask 'value for money' questions. Monitoring the implementation of public policies implies that the parliament is carrying out its oversight or accountability role.

Parliamentary accountability is not limited to overseeing the policy process alone. The parliament also oversees the applicability of the budget, strict observance of the laws of the parliament and constitution by the executive, as well as effective management of government departments (Rotberg & Salahab, 2013). However, as substantiated by empirical studies, the role of the parliament in Africa in policy process and accountability has remained limited despite the major political transformations that took place during the third wave of democratization in the

region. This paper maintains that, this is due to some specific historical events that have not only constrained their growths and developments, but also left legacies that continued to limit their capacities, as explained in details in the discussion below.

***Executive Dominance***

The political developments of the 1990s in Africa are said to have transformed the once ‘rubber stamp’ legislatures of the 1960s to 1990s into ‘emerging legislatures’ (Barkan et al., 2009). As emerging legislatures, parliaments in Africa have begun to assert their independence vis a vis the executive. However, despite of this development, there is an excessive dominance of the executive in many political systems across the continent (Menocal & O’neal, 2012; Olesugun, 2015; Azevedo-Harman, 2011; Barkan et al., 2009). There is a complex debate regarding the varied performance and position of the parliament in presidential, parliamentary and hybrid systems of governments, which falls out the focus of this paper. However, it is sufficient to submit that a majority of scholarship credits the existence of a stronger parliament where there is a supremacy of the parliament. Furthermore, because of strict separation of power in presidential systems, the parliament is also regarded as independent and functions autonomously with little or non-interference from the executive. In the African context, however, that is said not to be the case. Nonetheless, in most African countries the executive assumes the dominance position over the parliament regardless of what system of government may be in place (Gichohi & Arriola, 2022; Sebudubudu et al., 2013; van Cranenburgh, 2009; Hatchard et al., 2004). This means that there are no adequate and effective safeguards to keep the executive in check.

After the re-introduction of multipartyism during the third of wave democratization in Africa, most African countries revised or adopted new constitutions. Among other things, the new or revised constitutions attempted to restrain executive powers, especially the presidency, and promote horizontal accountability in general. Notwithstanding these constitutional and legal reforms, except for the few such as South Africa and Mauritius, the balance of power between the executive and parliament in most African countries is “weighed in favour of the presidency” (Sebudubudu et al., 2013). Consequently, most African countries are characterized by weak separation of powers between the executive and legislature, which tend to weaken the latter and undermines horizontal accountability.

Relatedly, there is also few, weak or ineffective constitutional instruments for restraining executive powers, especially the president. This is correctly put by Fombad and Nwauche (2012: 93) that:

Many of the new or substantially revised constitutions adopted in the heat of the frantic attempts by states to display their democratic credentials appear to have merely paid lip service to separation of powers. Under many of these constitutions, especially those adopted by Francophone African states, overbearing and “imperial” presidents continue to reign and dominate the legislature as well as to control the judiciary. This is often compounded by the absence of the traditional checks and balances. Where these are present, they tend to be limited, weak or ineffective.

Although Fombad and Nwauche (2012) make this observation on Francophone African states, but the same can be said regarding the Lusophone and Anglophone African countries. Although at eve of their independence the former British colonies had Westminster constitutions in which the parliament was supreme, many were quickly to adopt new constitutions that elevated the executive, through the president, as higher constitutional levels.

The effect of executive dominance on parliament's accountability and policy role in Africa in manifested in a number of ways, one being the limited autonomy of parliaments. In many African countries, the executive has a significant control over the composition of parliaments (Nijzink et al., 2006; Barkan et al., 2009; Sitta et al., 2008). This is done either through the manipulation of electoral processes, or through the appointment of parliamentarians. As for the former, the prevalent electoral system—particularly the 'first-past-the-post' or 'winner-takes-all'—has produced both dominant parties and parliaments dominated by the parties of the president (Sebudubudu et al., 2013). This is worrisome considering the findings showing that even where proportional representation had been opted, it has not effectively addressed the problem of domination of presidential parties (van Cranenburgh, 2009).

In several African countries the president has the power to appoint a significant number of members in the national parliament<sup>7</sup> (Salih, 2001; Nijzink et al., 2006). Parliamentarians appointed by presidents are often seen as indebted to the executive branch, and often find it difficult to act independently (Salih, 2001; Salih, 2006). These may also be reluctant to question government policies or criticize its actions and decisions lest they lose their positions, or be punished<sup>8</sup> (Lissu, 2021; Azevedo-Harman, 2011; Sitta et al., 2008). Africa is not short of these examples. In Uganda, for example, a group of 23 National Resistance Movement (NRM) members of parliament were threatened with expulsion from the party for voting against a proposal to amend the constitution to remove presidential age-limit. The MPs, who were appointed by President Yoweri Museveni, faced significant backlash from party officials and supporters, and were excluded from attending the party's delegate conference. On her media announcement, on January 25 at Mandela National Stadium, the NRM Secretary General insisted that the said member will have to first face the party's disciplinary board before they can be allowed back (Nilepost, January 14, 2020).<sup>9</sup>

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<sup>7</sup> In Tanzania for example, President has power to appoint up to ten members of parliament. Similarly in Uganda, the President appoints a significant number of members of parliament through a process known as 'special interest groups'.

<sup>8</sup> For example, in 2022 in Zimbabwe, Temba Mliswa, a member of parliament appointed by President Emmerson Mnangagwa faced harassment and intimidation for criticizing the government's handling of the economy. Again, on June 22, 2022 through his social media page (Twitter handle @TambaMliswa), the MP posted that he had been attacked by unknown people, whom he believed were from ZANU-PF, for requesting the President to answer before the parliament about the performance of his Ministers, and issues of corruption.

<sup>9</sup> Nile post (January 14, 2020) " NRM MPs who voted against lifting Presidential Age Limit not Invited to Delegate Conference" <https://nilepost.co.ug/2020/01/14/nrm-mps-who-voted-against-lifting-presidential-age-limit-not-invited-to-delegates-conference/> (accessed on 21/2/2023).

But the major effect of the power of a president to appoint members of parliament (MPs) to the autonomy of the parliament is done through the appointment of such MPs as ministers and deputy ministers. The appointment of ministers from within the parliament not only creates a fusion between the two organs—i.e., the executive and the legislature—but also increased the presence of the executive in the parliament: all at the expense of parliament’s autonomy and its ability to hold the executive accountable. When ministers are also MPs, they may be less likely to hold the government accountable for its actions. This is because they may feel a greater sense of loyalty to the president or their party, and may be hesitant to criticize the government, even when it is warranted.

Furthermore, the executive uses its dominant position to limit the scope of parliamentary inquiries by controlling the information that is available to parliamentarians (IPU, 2008). This is especially demonstrated in the law-making process. As the law-making organ of the state, the parliament must have control—or at least have greater influence—on the process. But in Africa, rarely does a parliament initiate law-making on its own. In many African countries, passing a private member’s bill can be a difficult process, as the ruling party often holds a majority in the parliament, and may be reluctant to support bills that are not in line with their agenda. The practice in most African countries has been that bills originate from the executive. Bills to be tabled for approval by parliament are first discussed and approved by the cabinet, which is chaired by the president. In that case, the parliament have no control of the whole of this process; “... especially the most decisive pre-legislative stage” (Sebudubudu et.al., 2013: van Cranenburgh, 2009). Also, it has no correct information about a proposed bill when it is eventually tabled in the parliament for approval.

Also, the executive has been known to withhold important information from the parliament, citing various excuses such as ‘national security concerns’, or issues are still under ‘ongoing investigations’. For example, in 2020, the Nigerian Senate Committee on Public Accounts accused the Nigerian National Petroleum Corporation (NNPC) of failing to provide important information on its income, expenditure, and remittances to the government (*Arise News*, July 15, 2021).<sup>10</sup> In Kenya, the government was accused of failing to provide important information to the parliament on the controversial Standard Gauge Railway \$5bn project financed by a Chinese Bank. Members of parliament alleged that the government had failed to provide information on the cost of the project, the procurement process, and the terms of financing, and wanted to know whether Kenya put up public facilities as collateral in the deal. While responding to critics from the public and pressure from lawmakers, Kenya’s Transport Secretary, Kipchumba Murkomen, claimed that government was legally bound to keep the details of the deal secret (*VOA New*

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<sup>10</sup> *Arise News* (July 15, 2021) “NNPC: Nigeria’s State-owned Oil Company Didn’t Remit \$9.435bn Crude Oil Proceeds in 2015, Senate Says” <https://www.arise.tv/nnpc-nigerias-state-owned-oil-company-didnt-remit-9-435bn-crude-oil-proceeds-in-2015-senate-says/> (accessed on 21/02/2023)

*Africa*, November 8, 2022).<sup>11</sup> In the context of information asymmetry, the executive acts as the only source of information in policy formulation and agenda setting (Lissu, 2020). This makes it difficult for parliaments to hold the executive accountable for its actions, as they lack the necessary information, an important requirement to carry out effective oversight (Salih, 2001; Nijzink et al., 2006).

Furthermore, the executive dominance also manifest itself in parliament's struggle to ensure there is strict observance of the laws of the parliament and constitution by the executive (Barkan et al., 2009; Lia et al., 2006). For example, in the aftermath of the third wave of democratization in the 1990s in the continent, most African countries introduced presidential two-term limits. About 33 out of 48 new constitutions in Africa enacted in the 1990s provided for term limits for the office of the president (Omondi, 2023). Under this constitutional limit, the incumbents would be re-elected only once. The measure was seen as necessary to prevent enigmatic presidents from monopolizing political power and building clientelist systems (Osei et al., 2021; Cheeseman, 2016). However, it is in here that parliaments in several African countries parliaments have displayed a total lack of control of the executive in the bids by sitting presidents to extend or abolish executive term limits. There has been many attempts to change the constitution to extent presidential term limits across the continent. Nearly 30 countries have contemplated the removal of term limits since 1998 (Omondi, 2023). Usually, the executive has been successful in such attempts. Where they have failed, it has mainly been due resistance by the parliaments (Frankzeskakis & Seeberg, 2022).

It is on record that between 2015 and 2020 there have been 19 constitutional change attempts, out which 13 African countries successfully amended constitutional provisions on presidential term limits (International IDEA, 2021; Africa Centre for Strategic Studies, 2021). Although the procedures for changing the constitution varied from one country to the other, an analysis of key decision makers involved in the amendment of the laws or constitutions reveals that it was the parliaments that were responsible for the attempts to amend the constitutions to remove or extent presidential term limit in 15 African countries. In other words, while these constitutional amendments changed the social contract by changing how power is exercised and by whom, it happened under the watchful eye and support of the parliaments which were legitimately supposed to check the excesses of the executive, and ensure that constitutional and democratic principles are upheld.

### ***Party Politics***

Africa is a land of dominant ruling party systems<sup>12</sup> where single political parties have continuously dominated the elections results over opposition parties, and have

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<sup>11</sup> VOA New Africa (November 8, 2022) "Kenyan Lawmakers Want More Details on \$5B Railway Loan After Contract Partially Released" <https://www.voanews.com/a/kenyan-lawmakers-want-more-details-on-5b-railway-loan-after-contract-partially-released-/6825661.html> (accessed on (23/2/2023).

<sup>12</sup> A party is considered 'dominant' if it gained an absolute majority of seats in parliament (Sartori 1976: 199, 261).

almost absolute control over the parliaments.<sup>13</sup> Current dominant party systems exist in Angola, Botswana, Burundi, Cameroon, Ethiopia, Gabon, Namibia, Rwanda, South Africa, Tanzania, Togo, Uganda, Zimbabwe, among others. Partisan politics significantly influence both the accountability and policy roles of a parliament. This is because party system tends to shape the degree of independence and assertiveness of a parliament (Saiegh, 2005).

Studies have established that in dominant ruling party systems, parliamentarians of the ruling party define their role in the parliament as merely transforming government policies into law (Saiegh, 2005; Azevedo-Harman, 2011). As ruling parties have a majority in a parliament, opposition parties face difficulties to push back against government policies or investigate instances of government corruption or abuse of power (Azevedo-Harman, 2011). To protect their executives from public scrutiny, MPs of the ruling parties in a dominant party parliament usually support that their governments be held accountable in their party caucuses behind closed doors, where individual members are often pushed to vote in line with the party's position. This makes it difficult for MPs to fulfil their role as representatives of the people and hold the government accountable for its actions (Salih, 2001; Nijzink et al., 2006).

The lack of a viable opposition in the legislature has motivated governments across the region to make decisions with little or no public consultation (V-Dem, 2017). For example, one of the most common ways of limiting the ability of opposition parties and other stakeholders to fully review and debate the content of a bill has been the use of the certificate of urgency umbrella to pass government bills (Lissu, 2021; Wang, 2005; Strom, 2000). A certificate of urgency is a mechanism that allows a government to expedite the passage of a bill through the parliament, typically by bypassing certain procedural requirements or time limits (Sitta et al., 2008). In many cases, bills introduced under the certificate of urgency are rushed through the parliament without proper consideration and consultation.

There are many African countries where government can present a bill to the parliament under a certificate of urgency. For example, in Kenya, the government introduced the Security Laws (Amendment) Bill in 2014 under a certificate of urgency, citing security concerns (Article 19, 2014)<sup>14</sup>. The bill was rushed through parliament in just two days, without adequate time for debate and scrutiny (International Press Institute, 2016).<sup>15</sup> This limited the ability of the parliament to thoroughly examine and amend the bill, and led to criticism from civil society groups

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<sup>13</sup> This is not an exclusive feature of African parliaments alone. There are dominant ruling parties in several other political systems outside Africa. However, in new democracies where there is still a lack of institutionalization of the parliaments; where parliament went through phases of authoritarianism, military and single party regimes, this dominance impedes the capacity of parliaments in policy participation and accountability.

<sup>14</sup> "Kenya: Concerns with Security Law (Amendment) Bill" [https:// www. article19.org/resources/kenya-high-court-ruling-security-amendment-act-victory-free-speech/](https://www.article19.org/resources/kenya-high-court-ruling-security-amendment-act-victory-free-speech/) accessed on 20/2/2023.

<sup>15</sup> International Press Institute (28 December 2026) "Kenyan Parliament Approves Restrictive Security Bill" <https://ipi.media/kenyan-parliament-approves-restrictive-security-bill/> accessed on 20/2/2023

and opposition parties (ibid.). Similarly in Tanzania, the government introduced the Electronic and Postal Communications (Online Content) Regulations in 2018 under a certificate of urgency, citing the need to regulate online content (African Media Barometer, 2019). The regulations were rushed through the parliament without proper scrutiny and debate. This led to criticism from civil society groups and opposition parties, who argued that the regulations violated freedom of expression and the right to information (ibid.). In Uganda, the National Biotechnology and Biosafety Bill of 2017 was passed under a certificate of urgency. The bill was controversial because it allowed for the commercialization of genetically modified organisms (GMOs), and was passed amidst concerns from civil society groups about the potential risks of GMOs (Alliance for Science, 27<sup>th</sup> September, 2017).<sup>16</sup>

While the certificate of urgency can be useful in cases of genuine urgency, available data suggest that this power has been abused by governments to bypass normal legislative processes and push through controversial bills (Mihyo et al., 2014; Lissu, 2021). Certificate of urgency limits the accountability role of a parliament because there is limited time for debate and scrutiny by parliament members, and limited opportunity for public participation (Tambila, 2004; Kassimu, 2010).

A majority of the dominant ruling parties in Africa were once the liberation parties. To the advantage of these liberation parties, the creation of their states has been accredited as the achievement of the party that fought for independence (Azavedo-Harman, 2011). As a result, there is a growing “... tendency to view the opposition parties as ‘enemies’ of the party and consequently as enemies of the state (ibid.). As a result, opposition parties and their leaders face hostile conditions: both inside and outside the parliament. News about opposition leaders being harassed, intimidated, detained, or at worse, attempts being made against their lives, are increasingly becoming common. In Uganda, for example, an opposition leader and presidential candidate from the Democratic Change (FDC) party, Robert Kyagulanyi Ssentamu—famously known by his stage name as *Bobi Wine*—has faced various forms of harassment and intimidation from the Ugandan government. During the 2021 elections he was placed under house arrest for several days by security forces (Aljazeera, 14 December 2021).<sup>17</sup> Similarly, in 2019 the Cameroon government arrested and detained the leader of MRC party, Maurice Kamto, along with other party members; and charged them with sedition and insurrection among other charges, after anti-government protest (Aljazeera, 1<sup>st</sup> February 2019).<sup>18</sup> Correspondingly, in an incident that is believed to be politically motivated, Tundu Lissu, an opposition party leader, and the then MP from CHADEMA in Tanzania,

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<sup>16</sup> Alliance for Science (27<sup>th</sup> September, 2017) “Ugandan President Backs GMOs, Condemns “misinformation” on Biotechnology” <https://allianceforscience.org/blog/2017/09/ugandan-president-backs-gmos-condemns-misinformation-on-biotechnology/> accessed on 22/2/2023

<sup>17</sup> Aljazeera (14 December 2021) “Ugandan Opposition Leader ‘under house arrest’ [https:// www.aljazeera.com/news/2021/12/14/uganda-opposition-leader-bobi-wine-under-house-arrest](https://www.aljazeera.com/news/2021/12/14/uganda-opposition-leader-bobi-wine-under-house-arrest)

<sup>18</sup> Aljazeera (1<sup>st</sup> February 2019) “Cameroon: Maurice Kamto Charged with Sedition, insurrection” <https://www.aljazeera.com/news/2019/2/1/cameroon-maurice-kamto-charged-with-sedition-insurrection> accessed on 20/2/2023

was shot 16 times by unknown assailants on September 7, 2017 in the parking lot of his parliamentary residence in Area D, Dodoma (BBC Swahili 7 September 2017).<sup>19</sup> In 2021, Freeman Mbowe, the CHADEMA party's chairman, was arrested on charges of terrorism (RFI, 22 July 2021).<sup>20</sup>

In a democratic parliament, opposition parties are critical as they offer alternative voices in a parliament. When they are allowed to function freely, opposition parties have been useful in exposing issues of corruption, mismanagement of public monies and overall government policies and actions. Thus, the perceptions that opposition parties are enemies of ruling parties and the state have consequences not only on the state of democracy in a particular country, but also in the functioning of the parliament as an oversight organ of the state. Where opposition parties are suffocated within and outside parliament, the parliament simply turn into mere registration chambers with parliamentary debates being congested with celebratory, ceremonious, and congratulatory motions.

#### ***Institutional Capacity***

A parliament is not effective in serving the people if it does not confront the issue of capacity. The problem of institutional capacity in African parliaments is seen in terms of the failure to use oversight tools effectively, and the lack of resources.

##### *(a) Failure to Use Oversight Tools*

One of the critical organizational factors that impact a parliament's role in policy and accountability is its inability to effectively use the oversight tools at its disposal. Though varying across the continent, tools such as question time, motions and debates have turned out to be opportunities for some MPs to discuss trivial and parochial issues. For example, some MPs misuse such opportunities to send out congratulatory and celebratory messages. As such, quality time for making policy contributions and holding authorities to account is lost. For example, a study by Hasson that examined question time, private motions, and the nature of plenary debates in the South African House of Assembly before and after 1994, found that the quantity and quality of deliberative democracy had suffered dramatically in the post-1994 period. She also found out that question time is much less utilized than it was before 1994 to advance matters of public interest and public policy. As for the plenary debates, they had largely become inconsequential. In her own words:

The traditional space for parliamentary debate had become congested with celebratory, ceremonious, and congratulatory motions which had suffocated parliamentary discourse and parliament's discursive role (Hasson, 2011: 229-231).

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<sup>19</sup> BBC Swahili (7 September 2017) "Mwanasiasa wa Upinzani Tanzania Tundu Lissu Apigwa Risasi na Watu Wasiojulikana" <https://www.bbc.com/swahili/habari-41187945> accessed on 20/2/2023.

<sup>20</sup> RFI (22 July 2021) "Mbowe Akabiliwa na Mashtaka ya Ugaidi Ikiwemo Mauwaji ya Viongozi wa Serikali" <https://www.rfi.fr/sw/e-a-c/20210722-mbowe-akabiliwa-na-mashitaka-ya-ugaidi-ikiwemo-mauwaji-ya-viongozi-wa-serikali> accessed on 19/2/2023.

In addition to that, there are also problems with the quality of answers provided by ministers and their deputies (Global Parliamentary Report, 2017). Studies on African parliaments describe answers provided by ministers and their deputies in the houses of parliament to be either “... incomplete, evasive, misleading, or simply contentious” (Robertberg & Salahab, 2013: Global Parliamentary Report, 2017).

*(b) Lack of Resources (Human, Material and Financial)*

The ability of a parliament to perform its roles effectively and efficiently is partly determined by resources (material, human and financial) at its disposal. Unfortunately, many parliaments in Africa lack basic resources. Studies have established that, though there are variations, most parliaments in Africa lack adequate and trained staff, offices, libraries, electronic equipment, etc., to enable them to effectively perform their roles in policy process and oversight. Barkan et al. (2004) reported that the parliament of Malawi could only meet for 8 to 10 weeks a year due to financial constraints. Also, it could only employ five (5) parliamentary assistants for eleven (11) committees (UNECA, 2005). In this context of limited resources, many African parliaments have weak research departments. Since parliamentary researchers occupy critical roles as transmitters, interpreters and synthesizers of information to MPs, their inadequacies implies that a parliament is unable to gather, synthesize or understand available policy information, consequently limiting the ability of parliamentarians to question—in any substantive way—the content of government choices, decisions and actions.

Additionally, limited resources constraint the ability of parliamentary committees to play their policy and accountability roles effectively. A report by Rotberg and Salahab (2013: 7) made a heart-breaking observation of the Malawi Public Accounts Committee when they stated:

This lack of financial support for their activities and initiatives means that even the Malawian Public Accounts Committee and the Budget Committee -- both critical to oversight -- barely function. The issue is neither competence nor willingness; rather, tangible and operational support is wanting. As a partial result, the Public Accounts Committee in 2013 was wrestling with audit issues from some years earlier, and was not nearly current in its examination of the workings of Malawi’s government and its executive branch. Likewise, the Budget Committee was meeting very infrequently and was hardly an equal partner with the minister of finance and his staff.

**Conclusion**

The emerging parliaments of Africa are “... still weak, but increasingly significant” (Barkan et al., 2004). This statement was true then when it was made back in 2004, and remains true even today. Parliaments in Africa are generally weak, but definitely not the rubber stamp of the executive they used to be in the past. Thus, their role both in the policy process and accountability cannot be understated. There are several great incidences from across the continent where parliaments have flexed their muscles against the executive, hence playing its role as oversight organs and representatives of the people in policy processes. But unlike their rubber

stamp predecessors, the present Africa parliaments have many opportunities to increase their capacities. For example, the information explosion brought about the development of ICT and the increased knowledge society are great opportunities that can be used in the advantage of parliaments to strengthen their capacities. The 'knowledge society'<sup>21</sup> has the potential to radically change the quantity, quality and availability of local research to decision-making in parliaments and other public institutions. Questions remain whether African parliaments have the will and the needed political space to strengthen their capacities to play their roles effectively.

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<sup>21</sup>The concept of the 'knowledge society' has been accompanied by what UNESCO calls an 'explosive' growth in higher education across the African continent (UIS Fact Sheet No. 10, 2010), with enrolments more than doubling between 2000 and 2010 (McCowan, 2014) and a plethora of new universities being established.

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