

# Chapter 3 An Overview of Political-Party Constitutionalisation under Contemporary African Constitutions: A Response

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## 1. Introduction

Constitutions and political-party systems in African countries have largely been modeled after those of Western countries. Charles Fombad begins his overview in this volume with a reflection on the conceptualisation of political parties in the Western rather than African context. Such an introduction is good evidence of the Western influence on modern African constitutions and political-party system. While Western systems have achieved significant success and now function with relative stability, observers and researchers should always keep in mind that this success is deeply rooted in unique historical contexts and contemporary conditions.

Nevertheless, African countries face inevitable challenges in replicating this success simply by adopting Western institutional forms. As rightly noted by Fombad, the reintroduction of multipartyism in the 1990s is yet to produce the genuine democracy that has been expected in Africa. Political leaders and governments in Africa, often driven by self-interest, have exploited weaknesses and loopholes in these systems. Sometimes these leaders could indeed be labelled as “enemies of democracy posing as democrats”, as Fombad points out. The rise of dominant parties in 18 African countries is vivid evidence of this exploitation. The abuse and manipulation of institutional frameworks and constitutional provisions has, in many cases, led to dysfunctional governance. The two indicators mentioned by Fombad – the annual surveys by Freedom House and the Ibrahim Index of African Governance – both testify to the stagnation, or even regression, of democracy and rule of law on the African continent, especially in the last decade.

Even the effort to constitutionalise political parties, whose potentially positive contribution to democracy in Africa is elaborated on by Fombad, does not seem to change the overall picture in any essential way. Consequently, nearly three decades after the onset of the third wave of democratisation, current institutional practices in Africa, including those in regard

to political-party systems, remain far from successful. In the face of this problematical reality, Fombad, at the end of his overview, raises many questions calling for further exploration. Does this reality come into existence because of imperfect system design, or because of inadequate implementation? Fombad leaves the question open, though few would doubt he already has his own firm answer to it. The author of this response, as an outsider of Africa, makes so bold as to offer his own explanation of this reality.

## 2. Why constitutions and political-party systems in Africa are yet to succeed

### 2.1 Lack of an enabling environment on the African continent

The development of constitutions and political-party systems in Western countries has been closely synchronised with and supported by these countries' social and economic advancement. As these nations have achieved political stability and the rule of law, their social and economic development has concurrently reached a high level. This historical parallel may have led to an underestimation of the crucial role that a certain level of socio-economic development plays in sustaining the operation of the constitutions and political-party systems of Western countries.

In this regard, Fombad, in his contribution, lays out eight principles as "foundation for an effective constitutional regulatory framework". A "mechanism for political party funding" is among these eight pillars. It is noteworthy that in the constitutions of many Western countries, such as those of the United States of America and France, there is no mention of party funding. In the case of another internationally influential constitution, the German Basic Law, it was not until 2017 that the concept of party funding was constitutionalised after the failed application to ban the National Democratic Party (now known as the Homeland party). This deviation from Western systems reveals the differences in economic background between Africa and the West.

State apparatuses and political-party organisations do not create wealth or provide direct products or services to society; instead, they consume a significant amount of social resources. However, if they function properly, their activities can indirectly contribute to social development. When functioning effectively, they enable the state to better redistribute wealth as well as dismantle obstacles within the existing legal and political system that hinder economic and social progress. While the costs of these institutions are high, the potential benefits they offer may be equally substantial.

However, the high-cost nature of implementing a country's constitution and political-party system can also mean that considerable social resources are consumed without generating direct value for society, potentially acting as an apparent barrier to social progress and development. Unfortunately, this scenario appears to be unfolding in some African countries. For instance, certain African political parties recruit young people as political foot soldiers, diverting a large portion of the country's young labour force without contributing to wealth production. In South Africa, the African National Congress's cadre deployment strategy may decrease the efficiency of state organs and public services, hindering the country's overall development.

These phenomena of institutional inefficiency also occur in Western countries. However, the higher levels of economic and social development in these nations allow the state and society to tolerate and absorb such inefficiencies to some extent, and to implement reforms that minimise waste and attrition. In contrast, African countries, which already suffer from a severe shortage of social resources, face greater challenges. If national constitutions and political-party systems are perceived as contributing to unneglectable waste of resources, it can lead to increased scepticism among ordinary citizens about the legitimacy and effectiveness of these institutions.

Ironically, the high cost of operating these systems could even lead to higher popular expectations for their performance. In the long run, adopting Western constitutional and political-party systems may contribute positively to the formation of open, fair societies and promote innovation and development across Africa, but the current realities are less promising. Operating within institutional frameworks emulating those of the Western world, political leaders in many African countries appear to be more focused on attacking one another and catering to their constituencies than on collaborating with one another to develop long-term strategies that would truly benefit their nations.

Moreover, in response to periodic electoral pressures, political parties and politicians often resort to flashy or short-term campaign promises that in practice will fail to give meaningful impetus to the country's long-term development. In some cases, these strategies may even hinder the nation's proper progress.

In addition, the underdeveloped economic landscape in many African countries has hindered the formation of a decentralised system of resource allocation. As a result, governments often monopolise most of society's

resources through their centralised power. The introduction of periodic electoral systems exacerbates this situation by creating insecurity among those in power; the greater the influence of electoral campaigns, the more insecure those in power become. The government's control of resources severely limits the opposition's access to resources, making it difficult for them to mount a significant challenge. When the opposition finally gathers enough resources to contest the ruling parties and politicians, the stakes are extremely high – it is often a win-or-die scenario. If the opposition is defeated, retreating to other areas of social life to regroup is almost impossible, leading to an equally insecure situation for them. When both sides of the political competition are insecure and focused on calculating gains and losses, multiparty politics in African countries often fails to produce policies that address the country's long-term development goals. In this zero-sum game, it becomes more challenging to foster stability and progress in the country with a collaborative, win-win approach to multiparty activities.

In Western countries, the decentralised social and economic structure is complemented by constitutions and political-party systems that lean towards individualism and decentralisation. This is evident in the emphasis these systems place on the right to equality among individual citizens and the secularisation of political life. This tendency towards individualistic and decentralised institutional design stems from the trust that the framers of the constitutions have placed in the rationality of individual citizens. However, the full development of a citizen's capacity for rational judgement is not instantaneous; it requires a long-term educational environment that emphasises tolerance and openness. Through this process of education, citizens, endowed with maximum decision-making freedom, are guided to make political decisions that go beyond their immediate, short-term interest.

The formation of a tolerant and open cultural atmosphere in Western countries is not only the product of purposeful education but also the result of various setbacks and lessons learnt throughout their history. These experiences have been ingrained in the socio-political culture, establishing a collective subconsciousness. As a result, extreme political statements and actions tend to provoke instinctive opposition from society. In societies that have not undergone the same bumpy development, this self-correcting mechanism might not exist, leading to a greater risk of political instability.

In contrast, the education level of most African countries remains relatively underdeveloped. Additionally, the history of democracy and multi-

party politics is still quite short, which has hindered the establishment of a well-developed civic culture respecting rational decision-making and tolerance of different opinions. However, in areas where African countries have experienced significant setbacks, there are signs of the emergence of a political culture which is in line with the principles of the constitutions. For instance, in contemporary African countries, few political parties dare to openly incite racial antagonism or national division. Even a populist party like South Africa's Economic Freedom Fighters, which has been known for encouraging black-white tensions, still ground its identity and platform primarily on addressing economic inequality within South African society rather than on open racism.

## 2.2 Externally driven institutional development can bring only formal changes

To a large extent, the development of political systems in Africa has been driven by external influences. As Fombad points out, the design of the political-party system in African constitutions is basically an unfolding of the principles of Western theories of the expected role and functions of political parties in constitutionalism. While it might not be hard to design a seemingly perfect constitution and political-party system on paper, implementing the values and principles they embody is far more challenging. Experiences in Africa have shown that it is important to have realistic expectations about the impact of formal systems. System design is often the easiest phase. The true measure of success lies in the system's practical effectiveness. When the worst-case scenario emerges, namely that the operation of a system leads to dysfunction in practice or hinders the country's other development goals, then, regardless of the designers' good intentions, the design of the system cannot be considered successful.

From the principles of the constitutions to the institutions ensuring the implementation of the constitution, many African constitutions have a much more detailed design than those of Western countries. The dozens or even hundreds of pages of constitutional texts of many African countries reflect the meticulous consideration given by the framers to all aspects of the new constitutional systems. There are also a number of innovative provisions reflecting local needs in Africa, for example those in regard to specialised constitutional implementation oversight bodies, such as the

South African Human Rights Commission. As for provisions relating to the political-party system, their meticulousness is noteworthy too.

Yet despite the seemingly ideal design of their constitutions and political-party systems, African countries have continued to struggle with persistent underdevelopment. Since gaining independence, many have repeatedly reformed their constitutions – some, like Nigeria, have experimented with various forms of government, including parliamentary and presidential systems, federalism, centralism, multiparty systems, state-run two-party systems, and even military rule, all within just half a century. Regardless of these regime changes, the conditions for the majority of the African population, who endure extreme poverty and lack basic livelihood security, have remained largely unchanged.

The wave of democratisation in African countries during the 1990s was, in many ways, a return to the practice in the 1960s of replicating Western systems. After nearly half a century of experimentation, the most significant outcome may be the recognition of what does not work – unsuccessful institutional designs and the constitutional and political ideas behind these designs. In terms of positive outcomes, there have been few gains. Instead, the fundamental challenge remains that people still lack a clear understanding of which systems can effectively lead African countries toward stable and sustainable development.

Within these limited gains, the experiences of African countries clearly illustrate two key points. First, under external pressure – which can take diverse forms such as financial aid with conditions, diplomatic demands, or threats of sanctions – most countries can rapidly construct various seemingly beautiful systems, including apparently constitutionalist ones. It was no coincidence that the most recent wave of democratisation in Africa began at the end of the Cold War. In the 1990s, against a changed geopolitical backdrop, leaders of most African countries had to reconsider their domestic political system. In the founding era of African countries, the colonial powers as external actors shaped African constitutions, yet even nowadays, those economic and geopolitical factors still carry heavy weight in the development of African constitutionalism. Secondly, the ease and speed of this formal institution-building highlights that a country's constitution and political-party system can function independently of its social and economic development context.

This independence can be advantageous for the constitution and political-party system, as it allows these institutions to develop with relative autonomy. It also enables countries to learn from one another, regardless of

their unique social and historical contexts, and even to imitate each other in the design and practice of their constitutions and political systems. By doing so, they can draw on the experiences and lessons of other nations.

However, this independence is not necessarily beneficial for the overall development of the country and society. While the framers invest significant effort in system design, and ordinary people participate in the constitution-drafting process with great enthusiasm and high expectations, they soon discover that this very independence causes the operation of constitutions and political-party systems to become misaligned with the country's development needs and realities. As a result, these systems may fail to deliver the outcomes that people had hoped for, particularly in advancing the country's development or overcoming long-standing challenges the country has been facing. Faced with unmet expectations, ordinary citizens tend to be left confused and disappointed. This disillusionment ultimately undermines the newly established constitutions and political-party systems. Unfortunately, it is the reality that is unfolding in many African countries.

The framers of African constitutions clearly understood the importance of transforming constitutional provisions from mere words on paper into actual rules of conduct. As a result, they placed significant emphasis on building constitutional review systems and creatively established various oversight bodies to promote the implementation of the constitution and a constitutional culture. However, the outcomes of these efforts have been relatively limited. In practice, the implementation of African constitutions has repeatedly exposed the challenges faced by constitutional review and oversight bodies. These challenges often stem from a lack of understanding and support from other state organs, and even from the general public.

It was once anticipated that, as constitutions were implemented, organisations and individuals would gradually adjust their behaviour to align with constitutional requirements. This shift was expected to lead to a transformation in mindset, ultimately fostering a social culture of respect for the constitution.

In the political reality of some African countries, the pattern of political activity does appear to be shifting toward constitutional expectations. For instance, few African nations are currently engaged in civil war, and as Fombad points out, only one African country – Eswatini – continues to reject a multiparty system. More countries are holding regular elections, and while disputes, and even violence, remain common before and after elections, the transfer of power is largely occurring within established institutional frameworks.

A noteworthy example is the 2024 national election of South Africa, where the country avoided political turmoil even though the African National Congress lost its 30-year majority in Parliament. Instead, the ANC formed a government of national unity which includes the main, and predominantly white-led, opposition party, the Democratic Alliance, marking a positive development.

Additionally, constitutional review bodies in some African countries have begun making significant rulings on electoral disputes. A remarkable instance of this occurred in May 2020, when the High Court of Malawi, sitting as the Constitutional Court, for the first time in the country's history nullified the results of a presidential election and ordered that a new one be held.

It is noteworthy, however, that despite gradual improvement in the functioning of constitutions and political-party systems, significant advancements in the economic and social realities of African countries remain elusive. Even within the political landscape of certain African nations, concerning trends are emerging, such as the rise of dominant political parties.

The incompatibility between formal systems and practices in many African countries can be attributed largely to the fact that their transformation has been driven by external factors. From a pessimistic perspective, there is always a risk that local actors – whether politicians, political parties, or even ordinary voters – may continue to adhere to behavioural patterns that are misaligned with the spirit of the new system, making its realisation and localisation even more challenging.

### 2.3 Why politicians and governments can make systems dysfunctional

It is well known that Africa faces a significant deficit in an indigenous culture of democracy and the rule of law, which negatively impacts the smooth functioning of constitutions and political-party systems. The framers of African constitutions were fully aware of this deficit, which is why these constitutions exhibit a strong value-orientation. In fact, 47 African constitutions include provisions that stipulate the obligations of citizens. Many countries have also established special constitutional bodies tasked with monitoring and promoting the implementation of the constitution, as well as fostering national constitutional awareness.

As regards political parties, the framers of African constitutions also envisioned that they would play a crucial role in cultivating constitutional awareness among the general populace while guiding it in democratic participation. Yet, in addition to these efforts to promote constitutional awareness, the framers of African constitutions recognised that such awareness is still not firmly established. As a result, many political-party systems in African constitutions include numerous provisions that limit the influence of ordinary people. For instance, the right of citizens to stand for election is sometimes restricted on the basis of property status and education. Furthermore, many African constitutions incorporate the concept of militant democracy,<sup>1</sup> such as the ban of amendment of certain constitutional provisions, ban of extremist political parties, offer limited protection for local autonomy, and impose stringent constitutional and legal restrictions on the organisation, programmes, and activities of political parties.

In view of these systemic arrangements, one may reasonably conclude that the framers of African constitutions anticipated that the implementation of these constitutions would gradually strengthen social awareness of constitutional principles. As a result, the reliance on constitutional review and oversight bodies would eventually give way to self-adherence and cooperation from both citizens and political elites. Through the ongoing implementation of these constitutions, the constitutional system would ultimately establish the conducive background conditions necessary for their solid and effective enforcement.

However, the lessons and experiences from African constitutions have shown that it is highly idealistic to expect the promotion of constitutional implementation merely by appealing to the actors involved to embrace constitutional values. Unlike religious beliefs, the values of a constitution are recognised through rational understanding, not faith. This rational recognition is always accompanied by a calculated assessment of interest trade-offs. When constitutional actors “rationally” support the system, it is because they perceive a rational benefit in doing so. Most constitutions adopt the principle of a secular state, and within these frameworks, rational interests are often tied to improved material living conditions. If it serves their interests to disobey or even violate the system, these constitutional actors, from a standpoint of “rational” calculation, lack sufficient incentive

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<sup>1</sup> On the concept of militant democracy see Johannes Socher, “Constitutionalisation of Political Parties: International Standards and the Experience of Continental Europe”, in this volume.

to avoid actions conflicting with the values and spirit of the constitution. In such cases, moral education on constitutional values and spirit proves inadequate for these “rational” actors.

In practice, through the interpretation and balance of the constitutional review bodies, a country always seems to be fortunate to find a solution that can accommodate the interests of all parties. But when a country is not so fortunate, it is left to either compel one of the parties to make compromises, sacrificing its interests, or to introduce a constitutional amendment. When such situations arise, there is a risk that the authority of the constitution can be compromised, making people doubt the actual binding force of constitutional rules.

The framers of Western constitutions attach great value to the electoral system and the important role of multiparty politics in democracy and rule of law. They apparently expect that the process of political competition, organised and guided by political parties, is the most important way to let the ordinary people have a say in the political life of the country.

But behind this expectation, there are two essential assumptions. First, it is assumed that ordinary people already have judgement over policy issues and that the political parties are merely catering to the demands of voters by presenting various implementing plans. Secondly, it is assumed that the competition among political parties is a process of refining and synthesising the will of the voters, and that when the election is over, a political will that represents the majority of the people will automatically emerge.

However, both assumptions will fail in reality; sometimes they can even contradict the political realities of a country. Political parties, in order to demonstrate their distinctiveness to attract followers, may purposely reinforce, or even develop, concepts of difference that might contribute to divisions in the population. Since the goal of party competition is to gain a majority of 50 per cent + 1, it might be not in the interests of the political parties to unite the remaining voters of 50 per cent – 1. In order to attract supporters, parties sometimes intentionally divide voters into different groups. When this occurs, the competitive process of party politics, instead of contributing to synthesising and aggregating public opinion, becomes a process of fragmentation.

These phenomena have, in fact, played out even in Western countries. In recent years, the political atmosphere in Western countries has become increasingly polarised. Taking advantage of the stagnant economy and many social problems, certain extremist political parties that have newly

ascended to the political arena have been demagoguing the population. These parties sometimes amplify or exaggerate the current political and social controversies that exist in society. Some voters are easily captured by such inflammatory political propaganda.

As for African countries, the same phenomenon manifests itself in a more blatant manner. Topics related to ethnicity, race, and religion are always divisive elements in the party politics of African countries. Framers of African constitutions clearly realised these risks. As revealed in detail by Fombad, most African constitutions set limitations on the internal organisation and programmes of parties, together with provisions ensuring the parties' compliance with democratic values and principles. But the reality of African countries has revealed the insufficiency of these formal prescriptions.

In the African context, African constitutions have widely adopted the presidential system, with presidents occupying a central leading role in government. As a result, the race for the presidency has become a focal point of rivalry, giving rise to serious polarisation in the politics of African countries. The inability of political parties in African countries, especially opposition parties, to unite and create a strong check on the ruling party – along with the culture of patronage politics that continues to distort party politics – also contributes to this polarisation.

### 3. The future road of African constitutions and political-party systems

As argued in this chapter, constitutional reforms and democratic transformation in African countries are, to a large extent, the outcome of external dynamics. These are yet to yield the expected positive outcome, even while generating many problems that are difficult to address. In the face of this dilemma, most African countries have to answer the question: What is the next step?

#### 3.1 Starting again from scratch is not a viable option

The history of democracy and the rule of law in African countries, and possibly also other developing countries, shows that, if the existing institutional framework, traditions, and background culture of a country are disregarded and an alien system is imposed top-down, the operation of this system will face huge challenges. No matter how well-intended the system is, it is

probable that it will not only fail to realise its goals but also give rise to new problems that are difficult to overcome. Given these lessons of history, an incremental approach to institutional reform, one based on a realistic analysis of the existing institutional and social environment, might be a more viable approach to the further development of African countries.

Judging from African experiences, those countries that have succeeded in development are also those that have adopted an incremental reform strategy, such as South Africa. While some may criticise the incomplete nature of the reforms, for example South Africa's "failure" to completely undo the injustices of the past white apartheid regime, it is very questionable if these countries could have had a better way of transformation. In comparison to these moderate reform measures in other countries, Zimbabwe's ruling party, after the 1990s, gradually abandoned its past policy of compromising and coexisting with the white community and began increasingly to adopt radical reform measures. However, these radical reform measures have not solved the social and political problems that the country has been facing for a long time. What is worse, these measures have dragged the country into political turmoil and international isolation.

Certainly, a country's choice to adopt a gradual or radical reform path depends largely on the severity of the problems it is facing. When the conflicts in a country have intensified to a certain extent, there will be little room for gradual reform. At this point, even if policy-makers clearly realise the risk of radical reform measures, they have little other options in the face of surging public pressure. But if the policy-makers, be they the government or the ruling party, can adopt gradual reform measures before the conflicts have intensified beyond the point of no return, a smooth transition is still feasible.

In many current African countries, the fact that constitutions are not fully implemented seems to pose certain obstacles to the development of the country. However, this obstacle is not as serious as to require that African countries adopt a completely new version of their constitutions. There is still room for African governments, especially the ruling parties, to adopt gradual reform strategies.

Currently, if African countries abandon their established institutions and reconstruct them from the ground up, this option will in fact go back to the old ways before the 1990s: the reintroduction of governmental control over the political and social life of the country; reduction of the space for multiparty politics; or even the abolition of multipartyism itself. History has brought to light the inherent defects of this old strategy, and people

can expect that reasonable policy-makers in African countries would not try it again. On the one hand, if history could be repeated and the African people were now to be given the same choice they had in the early 1990s, it is doubtful if they would immediately choose the systems of Western countries as a blueprint for reform. On the other hand, it is clear that they would also not keep their old pre-1990s systems, especially the authoritarian regime, intact.

The new constitutions and political-party systems that arose in Africa in the 1990s have been in place for almost three decades. During this period, some African countries have suffered many setbacks and learnt many a lesson, but on the whole, there has been no significant regression comparable to what obtained before the 1990s. Many African countries, indeed, have even shown notable progress over this 30-year period. Therefore, the current form of the constitutions and political-party systems that exist in African countries are far from being an obstacle to national development; they are more in the nature of an embarrassment, given the reality of their incomplete implementation.

Additionally, after 30 years of experience, many new interest groups have come into being in African countries. In comparison to the era before the 1990s, constitutions and political-party systems in African countries have become much more decentralised, and the number of stakeholders has expanded significantly. For example, although the new constitutions of many African countries have paid little attention to the centrality accorded to the position of the president, or to the protection of local autonomy, other state organs, such as parliament and local government, are still gaining greater influence.

While many countries have witnessed the rise of dominant parties, the framework of multiparty politics continues to provide precious room for opposition parties. In some countries with a dominant party, the hope of the opposition to gain control of the government has become reality, such as in the case of the Democratic Alliance after the elections in South Africa in 2024. Electoral campaigns in African countries are still strongly tinged by patronage politics, with some voters viewing their votes as leverage in exchange for short-term gains, or small gifts, but the status of ordinary voters has nevertheless gained ground compared to the past, when they had little or no say in the political process. If the old trajectory of political development were to return, all parliaments, local governments, political parties, and voters – including political foot soldiers who make a living through campaigns – would lose their vested interests. This possibility

would naturally provoke their opposition and lead to political and even social resistance.

In view of these realities, it is fair to say that the problem African countries face is not that a bad system is holding back the progress of the country, but rather that a well-intended system is not functioning as expected.

So far as the political-party system is concerned, the constitutions of African countries, as Fombad explains, have now generally adopted the multiparty system. Some have even elevated multiparty democracy to the level of constitutional principles. In the emerging realities of African countries, a multiparty system is meeting the needs of the people, such as preventing corruption by ruling parties and political elites, or giving more say to the average citizen. The current crucial problem is how to implement these well-intentioned systems in practice.

In regard to preventing corruption by the elites and empowering the ordinary people, in the political arena of multiparty politics parties need to provide the ordinary people with tangible benefits in order to attract supporters and enhance their influence. Such efforts by political parties provide an important institutional channel for the ordinary people to share in the benefits controlled by political elites.

It is evident that political elites in African countries are neither in consensus as to how to advance national development, nor endowed with a tradition of self-discipline and mutual respect for each other. Given this reality, what is needed in order to restrain the elites from their inclination to self-enrichment and provide the ordinary people with a way to exert influence on those elites is an inter-elite competition mechanism. Of all the forms of governments currently conceivable, the multiparty system might be the most desirable option.

### 3.2 Possible directions for future development

Judging from formal constitutional provisions, the protection of citizen's political rights in the constitutions of African countries is near to adequate. In political reality, additionally election activities are increasingly institutionalised in most countries in Africa. If these developments are taken as indicators of the level to which citizens' rights are being realised, then it might seem that the political rights of African citizens deserve complimentary evaluation.

The fact is, however, as indicated by Fombad, that the vast majority of African countries rank very low on various international indicators of democracy. This discrepancy suggests that, even by the criteria of the Western world, the mere establishment of electoral systems, constitutional review, and institutions overseeing the implementation of constitutions, is not enough to guarantee the attainment of citizens' political rights.

In the context of African countries' development, the most urgent problem might not be the realisation of the political rights of ordinary people, but security of food, clean water, and basic education. Against a backdrop of economic underdevelopment, political rights, which are precious to citizens in the Western world, might merely be ordinary people's leverage in exchange for small gifts in Africa.

In these circumstances, the main goal in further reforming the constitutions and political-party systems of African countries might not be to make the existing systems more seemingly perfect, but rather to ensure these systems genuinely contribute to the economic and social development of the country.

To promote development, continued constitutional reform is needed. This reform needs to start with the structures of government, in particular with further relaxing the control that the government exercises over the allocation of resources. Under conditions of economic underdevelopment, both the people and political parties are dependent on government financial support. The situation will persist for a long time; but it does not mean that all resources should be placed under government control.

In view of the rampant corruption of African elites and the stark influence of patronage politics in Africa, concentrating a large number of resources in the hands of the government will lead not to their effective utilisation but rather to their wastage, due to political corruption and political spoils-sharing. It is testimony to the reality of this risk that international donors are more willing to deal with civil society organisations than with government agencies in Africa.

In order to transfer resources from the government to the society, and to enhance the social momentum driving the national development of the nation, constitutional reform in Africa should continue its decentralisation process. The power centre should be shifted from the executive to the parliament, and from the central government to the local authorities.

After the 1990s, African constitutions largely maintained a strong executive. Some of them even give the central government the authority to intervene in local governments. The motivation of these institutional

designs was the concern that African countries would become politically unstable after democratisation and the introduction of multiparty politics. However, subsequent developments have shown that a strong executive and centralised government structure are precisely the source of political turmoil in African countries. When resources and power are concentrated, political competition between politicians and political parties takes on a zero-sum and winner-take-all character. This situation makes it very difficult for the losers in the game to admit or accept their failure, which in turn can easily trigger political unrest.

Within an imbalanced vertical government structure, the central government does not enjoy the respect of the local population, while local governments lack the resources to justify their legitimacy over the local population. Unlike the central government, however, they play an especially important role in promoting social development and improving people's well-being. This disparity between power and resources might also be an obstacle to the development of African countries.

After nearly three decades of implementation of the new constitutions, the cohesiveness of most African countries has increased, and the likelihood of situations such as serious ethnic conflicts, as was the case prior to the 1990s, has been greatly reduced. With the new constitutional systems gradually taking root, relaxing the control of the state and giving society and individual citizens more room might be an appropriate direction for further reform in line with the developmental goals of African countries. Accordingly, reform of constitutions should continue to advance decentralisation and facilitate the transfer of resources to private sectors that can truly drive national development.

In this process of decentralisation and relaxing control, political parties should also be given more room for movement. The constitutions of African countries have a strong value-orientation, and their framers expected parties to act faithfully in accordance with the values and spirit of these constitutions. African constitutions expect parties to play a positive role as political educators of the population. In anticipation of cases where parties fail to adhere to the principles and provisions of the constitutions, the framers of many such constitutions endorsed the concept of militant democracy – for example through the prohibition of amendments of certain constitutional principles, or the banning of parties if they pursue activities that contradict constitutional principles – as constitutional methods to guide party politics.

But within the framework of multiparty politics, the most important consideration for political parties is popular support. Where there are difficulties in fully implementing constitutions, it is inevitable that there will be only limited acceptance of their spirit and values by ordinary people. Insufficiency of popular support for national constitutions will inevitably be transmitted to the organisation and activities of parties, causing them to adopt activities and strategies that may be constitutionally controversial.

In multiparty politics, what parties compete for is popular support. To win the competition, they need to accentuate the differences between themselves to attract the attention of voters. Thus, in their attention-winning endeavours, it becomes unavoidable that parties will make demagogic statements, including ones that are constitutionally controversial. Indeed, demagogic strategies for attracting attention are widespread in Western countries too, but in contexts where party systems have a much longer history than they do in Africa and where constitutional culture is more firmly rooted in society. If it were compulsory for parties in African countries to adhere strictly to the principles and provisions of the constitution and engage “courteously”, these are demands that sometimes may well prove difficult to meet.

Even if parties, out of fear of the coercive power of the constitution and state, do not pursue unconstitutional activities openly, this simply means that certain ideas and activities of an unconstitutional tendency slip from the public eye and go underground. Instead of truly eliminating these ideas and activities, prohibition serves only to deprive the constitution-supporting organisation and actors of the chance to engage with such ideas and activities peacefully, as a result of which they miss the opportunity to reflect on whether there are indeed deficiencies in the current constitution.

Therefore, in Western countries, it is noteworthy that there are only few examples where political parties have been banned based on concept of militant democracy. Political practices in these countries involve the use of the political competition to show voters the desirability of the various political ideas and leave it to the voters' decision to accept these ideas or not. Certainly, sometimes this openness might cause temporary setbacks; but these setbacks might be the necessary cost for a robust multiparty politics.

Furthermore, when constitutional provisions are used to regulate political parties, more often than not the ruling party will take advantage of this constitutional powers to restrict the actions of opposition parties. In countries with a mature democratic culture, the ruling party might not pur-

sue these punitive strategies, considering the likelihood of backlash from the electorate and the constraints imposed by other constitutional organs. But on the African continent, constraints from political culture and other constitutional organs tend to be weak. Therefore, in the African context, these powers are bound to be abused by the ruling party, as demonstrated by the political realities of African countries again and again. In view of these realities and risks, deregulating political parties in African countries and granting them more room for their activities might be the direction to take in terms of reforms.

Moreover, the history of party politics in African countries has shown that it does not necessarily exacerbate rivalries and conflicts in the population. The establishment of parties that transcend ethnic boundaries and forge political alliances is perhaps the best evidence of the role they can play in unifying people. If the institutional framework is properly designed, it is possible to enhance the positive role of political parties while contributing to the faithful implementation of the constitution.