Global Norms and Regime Change.

# Kenya and Uganda in Comparative Perspective

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Abbreviations

ADF	Allied Democratic Forces
ACR	Africa Contemporary Record
AI	Amnesty International
CA	Constituent Assembly
CP	Conservative Party
DCF	District Consultative Forum
DP	Democratic Party
FBIS	Foreign Broadcast Information Service
FORD	Forum for the Restoration of Democracy
HRW	Human Rights Watch
HSM	Holy Spirit Movement
ICJ	International Commission of Jurists
ICRC	International Committee of the Red Cross
IGG	Inspector General of Government
IMF	International Monetary Fund
IPPG	Inter-Party Parliamentary Group
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KBC	Kenya Broadcasting Corporation
KHRC	Kenya Human Rights Commission
KY	Kabaka Yekka
LRA	Lord's Resistance Army
LSK	Law Society of Kenya
MP	Member of Parliament
NCCF	National Constitutional Consultative Forum
NCA	National Convention Assembly
NCC	National Consultative Council
NCCK	National Council of Churches in Kenya
NCEC	National Convention Executive Council
NDP	National Development Party
NEC	National Executive Committee

NPC	National Political Commissar
NRC	National Resistance Council
NRM/A	National Resistance Movement/Army
OAU	Organization of African Unity
PLO	Palestine Liberation Organization
RC	Resistance Council(s)
RPF	Rwandan Patriotic Front
RPP	Release Political Prisoners
SDP	Social Democratic Party
SPLA	Sudanese People's Liberation Army
UHRC	Uganda Human Rights Commission
UN	United Nations
UNICEF	United Nations Children Fund
UNLA	Uganda National Liberation Army
UNLF	Uganda National Liberation Front
UPDF	Uganda People's Defense Forces
UPM	Uganda Patriotic Movement
UPC	Uganda People's Congress
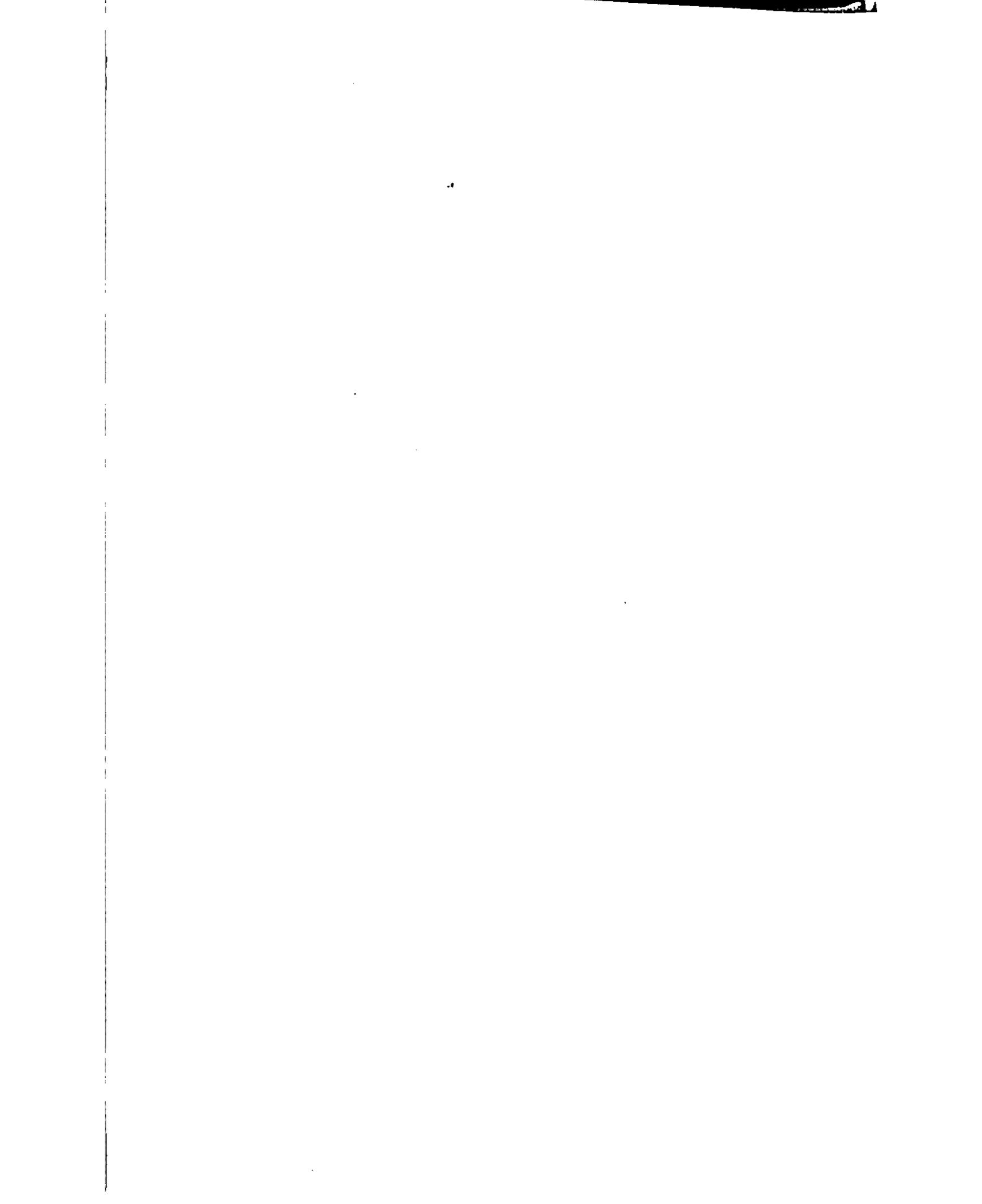
Introduction

→The subject of the study is regime change understood as the modification of broadly defined political institutions and practices governing domestic politics. Democratization is a possible outcome of such a process if the modification of political institutions and practices reflects convergence with a particular set of liberal ideas and norms. During the last 25 years the interest of political scientists in such processes has steadily grown. Democratization spread from Southern Europe in the 1970s to Latin America in the 1980s and finally reached Eastern Europe and the other continents in the late 1980s and early 1990s. More recently, some have diagnosed an 'ebbing' of the wave. While the empirical record of the 'third wave' is mixed, its profound effects on the way the academic community studies democratization are undeniable. The new cases of democratization led during the 1980s to a paradigm shift away from structuralist explanations towards more contingency-driven and agency-based approaches. Challenges to the modernization school or cultural explanations of democratic change highlighted cases of regime change under structurally unfavorable conditions and called for greater attention towards the role of political actors, institutions, and contingencies.

While the regime changes in Southern Europe and Latin America opened in the 1980s a new intellectual terrain, this literature received a major boost as a result of the 1989/90 events in the Soviet Union and Eastern Europe. The 'third wave' (Samuel Huntington) now affected many countries of the world posed not only a serious puzzle for structuralist approaches, but challenged also the separation of international and domestic politics, both in theory and practice. Concepts such as 'contagion' or 'diffusion' were now introduced into the debate to account for the new phenomenon. However, the reference to the international realm remained largely rhetorical. In light of the new research agenda within comparative politics and the abundance of cases, an additional set of international factors looked to most scholars much less attractive. Such a view was compatible with disciplinary boundaries and the academic training of many scholars.

This position further solidified when much of the initial clamor for fundamental political change in many parts of the world was lost in the mid-1990s. The temporal and directional uniformity implied in the picture of the 'third wave' gave way to the reemergence of regional and individual diversity. Some countries completed the transition within weeks or months and can even be considered as consolidated democracies today. In other cases, the process has

been much slower, stopped or was even reversed. In the worst cases, countries returned to authoritarian rule or even plunged into civil war. As a result, the emerging global picture with regard to democratization seemed to vindicate the regional and domestic bias within the discipline.

This study contributes to this literature by presenting a comparative evaluation of the recent regime changes in Kenya and Uganda. The thesis follows the recent emphasis within the democratization literature on the role of political actors and institutions in bringing about and shaping regime change. It adds to this literature a specific concern for international human rights institutions and actors as potential sources of change. I argue that the international institutionalization of human rights norms represents an opportunity structure for international and domestic human rights actors. They use those norms and institutions to challenge the prevalent norm of state sovereignty and succeed in delegitimizing human rights violating regimes.

The thesis evaluates the role of those international factors, first, in *causing* regime change and, second, in *shaping* the subsequent transition path. Variation in the results expressed by the mode of initial transition is explained for the onset of regime change by the dominant form of *neopatrimonial rule*. Whereas cohesive clientelist networks solidified in Kenya over almost 20 years, the bases for such a system in Uganda were destroyed by the Amin dictatorship and subsequent civil war. The dominance of positive integration by resource allocation in Kenya contrasted with a prevalent logic of violence and indiscriminate mass killings in Uganda. When transnational human rights mobilization affected both countries, the international-domestic interaction produced in Uganda a revolution from below (1986) and in Kenya limited reforms from above (1990/1991).

Variation in subsequent transition paths is mainly accounted for by the named *initial mode of transition* which affects the international and domestic mobilization. When the Kenyan government chose an *electoralist* transition path international human rights pressure remained strong and slowly eroded the governmental efforts to limit the effects of the reform process. By contrast, the new Ugandan government initially emphasized a different transition path and engaged in elaborate *constitutionalist* reforms. A decline in human rights activism explains why this reform process was delayed and the government was able to extend its rule for more than 13 years. Rather than limiting institutions to the role of constraints upon actor's choices,

this argument highlights the enabling role of institutions and identifies the potential conflict between norms embedded in different institutional settings as a source of social and political change. Before further elaborating on the main argument, the next section will define regime change and democratization.

Regime Change and Democratization

The dependent variable(s) of the study is the initiation and the subsequent process of regime change in Kenya and Uganda. The definition for democracy used in this study follows the narrow interpretation suggested by Joseph Schumpeter and Robert Dahl. It is understood as an institutional framework and a method or procedure of government rather than being committed "to any particular set of social and economic objectives" or any "society with particular characteristics" (Weiner 1987: 5). "The democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (Schumpeter 1942: 269). Still, even such a narrow procedural perspective does not solve all definitional issues (Leary 1979; Merritt/Zinnes 1991: 209), because "democracy is not a quality of a social system which either does or does not exist, but rather a complex of characteristics which may be ranked in many different ways" (Lipset 1959: 73).

In defining regime change as democratization the study relies on a modified version of Dahl's concept of polyarchy (Dahl 1971: 3-20) which included (1) contestation over policy and political competition for office, (2) participation of the citizenry through partisan, associational, and other forms of collective action, and (3) accountability of rulers to the ruled through mechanisms of representation and the rule of law (Svensson 1993: 251-266). However, the realities of many incomplete or reversed transition processes have led scholars to return to these definitional issues and to add new aspects. Karl rightly highlighted the civilian control of the military (Karl 1990) as a crucial question. Guillermo O'Donnell called a checklist of democracy as still insufficient even if it included (1) elected officials, (2) free and fair elections, (3) inclusive suffrage, (4) the right to run for office, (5) freedom of expression, (6) availability of alternative information, and (7) associational autonomy. Considering the experience with the 'third wave', he added that (8) the terms of elected and appointed officials should not be terminated arbitrarily, (9) elected authorities should not be subject to severe constraints, exclusions or vetoes, especially from the military, (10) "there should be an

uncontested national territory that clearly defines the voting population". (11) "the generalized expectation that a fair electoral process and its surrounding freedoms will continue into an indefinite future", and finally (12) "horizontal accountability" between various state agencies has to exist (O'Donnell 1996: 35-37 and 44).

While these definitional efforts are still largely within the mainstream which favors a "procedural or minimalist conception of democracy over a substantive or maximalist conception embracing economic equality and social justice" (Shin 1994: 142), the limited understanding of democracy is also not without problems. This is already indicated by the various suggestions to extend the list of possible impediments to democracy and democratization. It is often not sufficient to diagnose that "democracy is the only game in town" (Linz 1990: 156), but we need to understand what kind of "games [are] played inside the democratic institutions" (O'Donnell 1996: 41). In focusing on the 'games' within those democratic institutions, various structural factors (gender, economic relations etc.) influencing, for example, the extension of the rule of law over the country's geographic and social terrain are being brought into the picture. Claus Offe argued (Offe 1994) that decisions made under formally democratic rules might be normatively non-acceptable because they leave sections of the population below certain social and economic standards (Merkel 1996: 36) which would enable them to support democratic procedures in the first place. Such reminders about the broader environment of democratic processes are necessary and should supplement a more narrow study of regime change in a given country.

A slightly different approach was taken by Schmitter who suggested to analytically break down the meta-regime 'democracy' into five different 'partial regimes', including a pressure, an electoral, a representation, a concertation, and a clientelist regime (Schmitter 1992). He argued that these sub-regimes organize relationships between social actors and aggregate to constitute the national democratic regime. Schmitter pointed to the ethnocentric character of the recent literature on democratization epitomized by its pre-occupation with parties and the electoral system. "I believe it is preferable to assume that today's citizens (...) have quite different organizational skills, [and] are less likely to identify so closely with partisan symbols or ideologies..." (Schmitter 1992: 426).

By pointing to different regimes within democracy, including existing clientelist networks (but also new networks of social movements), Schmitter raised an important issue which also

applies to the African context and the selected case studies. Academics or other professionals might not only be mistaken about a process of democratization because of an incomplete checklist of democracy. Much more fundamentally, students of post-independence African politics agree that any kind of political system on the continent is likely to be completely pervaded by the "politics of the belly" (Bayart 1989) and the logic of *neopatrimonial rule* (Bratton/van de Walle 1997: Ch. 2). Hence, even if a model process of democratic change occurred, this might not or only marginally affect the underlying clientelist networks and deeply personalized rule from the top down.

The issues of minimalist vs. more extended definitions of democracy as well as the pervasive character of neopatrimonialism in Africa leads me to conclude that for the purpose of this two-country comparison it is particularly useful to divide the dependent variable into the two dimensions *constitutionalism* and *electoral democracy*. This strategy enables me to concentrate on core aspects of democracy without turning a blind eye on possible broader structural or cultural limits to its evolution. Constitutionalism includes the principle of legality based on a constitution (1), the presence of the rule of law (2), some form of separation of powers (3), the independence of the courts and their ability to review legislation (4), and the respect for fundamental rights and freedoms (5). Hence, constitutionalism includes all issues that limit governmental and in particular presidential powers used to sustain a patrimonial system. Electoral democracy is characterized by a representative government that emerged from free and fair elections based on universal suffrage (1). Various governmental institutions have decision-making influence through a legislative process and are linked by checks and balances (2). I argue here that the property space created by these concepts can be used to capture different paths towards democracy.

A number of authors and institutions, including the United Nations Development Program (UNDP), have addressed the issue of how to actually measure "democracy" (Coppedge/Reinicke 1991; Gastil 1990; Hadenius 1992; United Nations Development Program 1991). These efforts have drawn considerable methodological and theoretical criticism (Bollen 1991; Elklit 1994). Whereas an overall comparison of democratization in various countries is certainly possible, difficulties arise if one attempts to weigh single indicators against each other and over time. Therefore, I will use a qualitative approach to evaluate the indicators of the dependent variable which reflect Dahl's concept of polyarchy. I

argue that this is the most compelling approach to the selected dependent variable, because the concept of democracy cannot be separated from its indicators, such as elections, political rights, or separation of powers (Alford 1998: 52). While the concept of 'power' within a realist paradigm is linked to distinct and more independent indicators such as military and material capabilities, democracy cannot be validated by an empirical test. Elections simultaneously represent the concept of democracy as well as one of its (here chosen) empirical indicators.

Case Selection

Two countries affected by the recent wave of democratization are Kenya and Uganda. Like many other African countries, they are not obvious success stories of the 'third wave'. Within the two selected cases, the study compares the role of international factors with respect to two distinct phases of the transition process. The first part focuses on the role of international factors in successfully challenging authoritarian rule in Kenya and Uganda. The period stretches in Uganda from the mid-1970s to late 1985 and in Kenya from 1984/85 to 1990/91. The second comparison investigates influences by transnational human rights actors on the transition path. In Uganda, this covers the period after the military victory of the NRM in January 1986, while in Kenya the onset of regime change is marked by the reintroduction of multipartyism in late 1991. In Uganda, the transition began with a revolution 'from below'. In Kenya, the challenged government instituted limited reforms 'from above' and survived two subsequent multiparty elections.

In terms of Bratton/van de Walle's modal regimes of neopatrimonial rule in Africa (Bratton/van de Walle 1997: 78 and also Figure 4), Kenya moved from a (semi-) competitive de facto one-party system under Kenyatta and during the first years of the Moi presidency towards a plebiscitary de jure one-party system in the mid- to late 1980s. Between 1982 and 1989, government repression steadily increased and the 1988 general elections were little more than an exercise in rubber stamping the almost total dominance of the executive and the president. In contrast, Uganda moved from a despotic tyranny under Idi Amin followed by manipulated multi-party elections in 1980 towards a de facto one-party system. However, the crucial difference between both countries was not variation with respect to one-party rule, but the means and extent of violence used to secure control. President Milton Obote was unable or unwilling to prevent indiscriminate mass killings perpetrated by the military against the civilian population. In contrast, governmental repression in Kenya was, by and large, more

circumscribed and focused on known representatives of the political opposition. Hence, in supplementing Bratton/van de Walle's conceptualization of neopatrimonial rule in terms of positive integration under a presidentialist system, I emphasize here the issue of negative integration represented by differences in the use of violence alleged domestic opponents.

Table 1. Authoritarian Styles in Kenya and Uganda

	Modal regimes of neopatrimonial rule/dominant form of governmental repression	
	Prior to the initiation of regime change	After the initiation of regime change
Kenya	Positive integration: De jure one-party system with a dominant presidency and strong clientelist networks Negative integration: Repression of political dissent	Positive Integration: De jure Multiparty System with a dominant presidency and strong clientelist networks Negative Integration: Repression of political dissent combined with ethnic violence
Uganda	Positive Integration: De facto one-party system with weak clientelist networks; military uncontrolled Negative Integration: Indiscriminate mass killings of civilians	Positive Integration: 'Movement' system with elements of a competitive one party system Negative Integration: Repression of political dissent outside the Movement System

In Uganda, the transition process towards democracy set in when the National Resistance Movement (NRM) under the leadership of Yoweri Museveni won in early 1986 a prolonged civil war. For the first time since the first constitutional crisis in 1966 relative peace and security returned to most parts of Uganda. In Kenya, a process of political liberalization was set in motion in 1991/92, after the reintroduction of multipartyism.

Despite the structural and cultural similarities uniting both countries, the respective processes of regime change have taken different paths. In order to capture this variation, I split the political transition process into the two distinct areas of *constitutionalism* and *electoral democracy*. Political reforms in Kenya and Uganda have initially focused on either of those

areas. Moreover, the political transition process in Uganda was largely smooth and controlled by the government, while in Kenya all reform gains had to be pushed upon an adamantly resisting ruling elite. The Ugandan government embarked since 1986 on a lengthy constitutional reform process and simultaneously banned parties from participating in elections. Nation-wide elections for parliament were held in 1992 and President Museveni faced the electorate for the first time in 1996. The Kenyan government (re-)introduced multipartyism in 1991, but refused to enter a constitutional reform process until after the second multiparty elections in late 1997.

The Ugandan leadership extended the initial four year ban on party activities to almost 15 years until 2001. With the introduction of a grassroots model of democracy, the participation of the Ugandan population in local affairs sharply increased. Following the military victory of the National Resistance Movement (NRM), the system of local resistance councils which had been partly established during the civil war, was extended to the whole country. The aggregation of political interests on the national level was now channeled through this movement system which replaced the previously dominant Western model of party competition. All politically active Ugandans were automatically member of the National Resistance Movement and were allowed to run for office only in their individual capacities. Within the logic of Robert Dahl's basic distinction between participatory and competitive aspects of democracy, the Ugandan government after 1986 chose the path of extending participation and inclusiveness rather than competition and contestation.

In contrast, Kenya represents a more 'classical' case of democratization. In 1991, the authoritarian leadership agreed to the reintroduction of multipartyism. Prior to the concession, a coalition of international and domestic human rights critics had successfully reconstructed the international image of Kenya. Between 1984 and 1990, international perceptions of the country had radically changed from "a stable Western ally" to "a human rights violating dictatorship". This ultimately resulted in the rare occurrence of joint aid cuts by the donor community in late 1991. In late 1992 and 1997, multiparty elections twice returned the authoritarian leadership to power. While both elections cannot be labeled as free and fair, the 1997 contest was more democratic than the first round in 1992. However, the progress in the area of electoral democracy was accompanied by continued repression of the opposition and a stubborn refusal of the government to enter serious talks about constitutional reforms. In

1997, the government again tried to delay substantive political reforms until after the elections. Only strong combined domestic and international pressure finally led to a compromise on minimal reforms between the government and the opposition that mainly addressed issues of electoral democracy. Thus, the selection of Kenya and Uganda offers variation with regard to the degree of human rights mobilization over time.

Table 2. International Human Rights Mobilization

	International Mobilization/NGO pressure	
	prior to the initiation of regime change	after the initiation of regime change
Kenya	High	High
Uganda	High	Low

The Argument

The main task of the thesis is a systematic integration of international factors into a state of the art explanation of regime change in Kenya and Uganda. Such an approach conceptualizes those international factors as sources of change and assumes that international interventions are subsequently mediated by domestic factors. In order to avoid the use of often cited but rather fuzzy mechanisms such as 'contagion' or 'diffusion' as linkages between the international and domestic realm, the study focuses mainly on international human rights institutions and transnational human rights organizations as possible influences on domestic regime change. These influences are traced with respect to the onset (1) and the specific path (2) of regime change in both countries. Hence, the comparison of the two selected countries evaluates the role of international factors as a cause of and influence on regime change.

With respect to the initiation of regime change I argue that international human rights norms, the mobilization by transnational non-governmental actors and the responses of world public opinion play a crucial role in efforts to successfully challenge authoritarian rule. Hence, these factors merit not only greater attention but a prominent place in explanations of early stages in regime change. Domestic actors challenging authoritarian rule are no longer confined to the domestic realm but can draw on international institutions and mobilize transnational actors in their support. If a potential domestic audience for mobilization is controlled by the government, international public opinion can serve as an almost equivalent substitute.

Such principled challenges meet with country-specific domestic conditions expressed in different forms of neopatrimonial rule. The case selection provides no significant variation of international human rights mobilization as the explanatory variable, but significant variation with respect to the existing domestic conditions. Hence, it is not claimed here that international factors make domestic variables spurious. While the international mobilization accounts for the fact that regime change becomes an option in the first place, the interaction between outside intervention and existing domestic institutional arrangements determines the options of the challenged elites and the opposition in making the first move towards regime change. In the Kenyan case, a well-entrenched elite with still sufficient control of material resources agreed to the introduction of multipartyism and was subsequently able to regain control by resorting to still intact neopatrimonial practices. In Uganda, the despotic rule of Idi Amin, the protracted civil war after 1981, and Obote's adherence to early structural adjustment programs until 1984, largely disabled the system of neopatrimonialism.

Moreover, both countries did not only display differences in respect to the positive integration under neopatrimonial rule, but, more importantly, authoritarian regimes differed markedly in the use of violence as a means of negative integration. While the destruction of the bases of neopatrimonialism beginning with Idi Amin's dictatorship introduced a pervasive preference for violence into the domestic political discourse in Uganda, in neighboring Kenya increasing levels of repression remained always limited to a clearly circumscribed group of known opposition figures. Hence, the principled international mobilization elicited in both cases by increasing governmental repression accounts for the *initiation* of regime change. The variation in respect to positive and negative integration under authoritarian rule explains the *difference* between bottom-up revolution and top-down reform.

Table 3. Positive and Negative Integration under Authoritarian Rule[1]

	Positive Integration	Negative Integration
Kenya, 1978-89	High	Low
Uganda, 1981-85	Very Low	Very High

[1] I use here the more generic term 'authoritarian rule' because the basis for neopatrimonialism was destroyed in Uganda between 1971 and 1985. In Kenya, the emphasis shifted after 1982 towards negative integration.

The combination of international and domestic non-governmental pressure led to a recon-
struction of Kenya's international image and proved to be an important factor in the 1991
donor decision to temporarily freeze aid. However, the donor intervention and the govern-
ment's reaction tilted the transition process towards electoralism. Hence, the pressure did not
lead to the removal of the authoritarian government which successfully consolidated its posi-
tion after the first multiparty elections in late 1992. In Uganda, the mobilization against the
second Obote regime ended with the military victory of the National Resistance Movement
(NRM) and a complete replacement of existing government elites. In both cases, the princi-
pled transnational human rights mobilization was a crucial factor in initiating regime change.
The difference with regard to the initial mode of transition — in the Ugandan case 'revolution'
from below and in the Kenyan case limited liberalization from above — is explained by the
preexisting form of neopatrimonial rule.

Figure 1. The Challenge to Authoritarian Rule
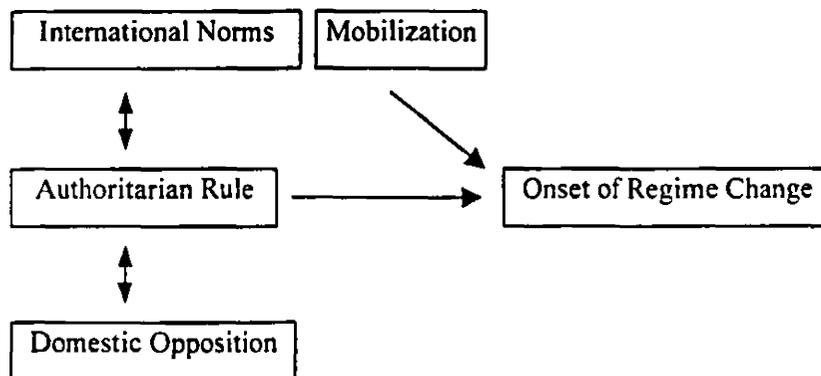
The case studies Kenya and Uganda represent no significant variation in respect to interna-
tional mobilization prior to the initiation of regime change (see Table 2), but significant
differences regarding the modes of domestic rule (see Table 1 and 3). Hence, I rely on the
counterfactual argument that *in the absence* of the transnational human rights mobilization the
political development in Kenya and Uganda would have taken a different path. In Kenya, a
lack of transnational mobilization would have left the government with greater international
and domestic legitimacy. Without the highly publicized human rights abuses and the inter-
pretative frames provided by transnational human rights actors, the donor community would
not have been united in making Kenya an exemplary case for good governance. While the
principled transnational mobilization accounts for the fact that regime change was initiated,
the specific form of neopatrimonial rule in Kenya determined the mode of transition. A

largely intact clientelist system dominated by a strong presidency allowed the ruling elite to maintain influence and ultimately recapture control of the transition process.

Figure 1a. The Case of Kenya

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┌──────────────────┐  ┌──────────────┐
│ International Norms│  │ Mobilization │
└──────────────────┘  └──────────────┘
         ↕                    ＼
┌───────────────────────┐      ＼
│ De jure One-party System/│    ↘ ┌────────────────────┐
│   Limited Repression    │─────→│  Reforms from above │
└───────────────────────┘       └────────────────────┘
         ↕
┌──────────────────┐
│ Civilian Opposition│
└──────────────────┘
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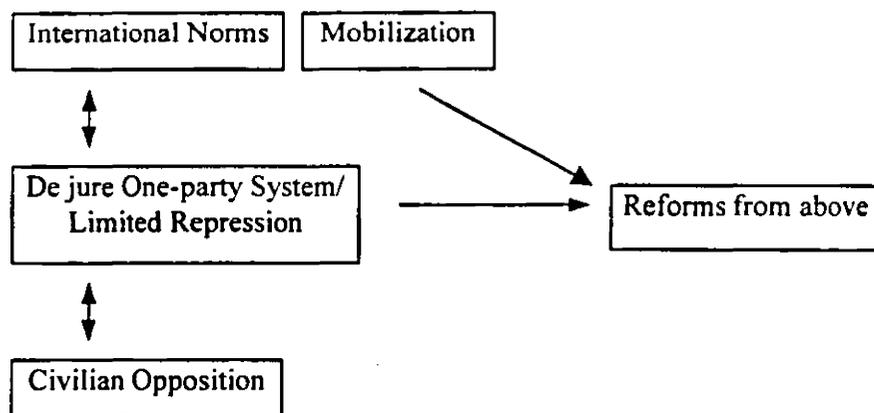
In Uganda, a lack of mobilization would have seriously diminished the strength of the National Resistance Movement and the relatively clear-cut elite turnover in 1986 would have been very unlikely. The difference to Kenya was not so much variation in neopatrimonial rule, but the destruction of the bases for such practices of positive integration. The *differentia specifica* between both countries was not the variation in one-party rule, but the uncontrolled military killing thousands of Ugandans between 1981 and 1985. The lack of neopatrimonial institutions necessary to positively integrate society as opposed to the abundant availability of arms accounts for the predominantly violent mode of domestic conflict resolution in Uganda.

Figure 1b. The Case of Uganda

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┌──────────────────┐  ┌──────────────┐
│ International Norms│  │ Mobilization │
└──────────────────┘  └──────────────┘
         ↕                    ＼
┌────────────────────────┐     ＼
│ De facto One Party System/│   ↘ ┌──────────────────────┐
│  Indiscriminate Repression│────→│ Revolution from below │
└────────────────────────┘       └──────────────────────┘
         ↕
┌──────────────────┐
│  Armed Opposition │
└──────────────────┘
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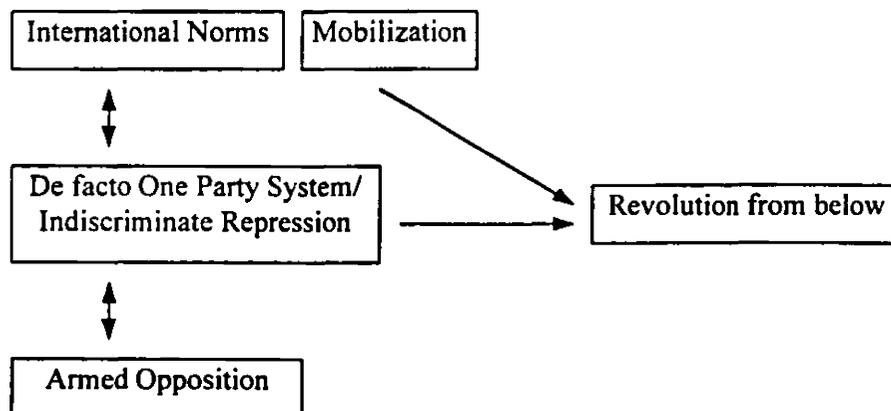
The second part of the study shifts attention from the initiation of regime change to diverging transition paths. For the subsequent reform process and the international mobilization, the differences in the mode of initiating these reforms matter greatly. While this phase ended in 1986 Uganda with a complete change of guards, the government as the main target of mobilization survived. The international influences identified as causally relevant for the onset of the regime change continue to matter but the mode of transition leads to changes and variation in the level of international mobilization.

Figure 2. Transition Paths
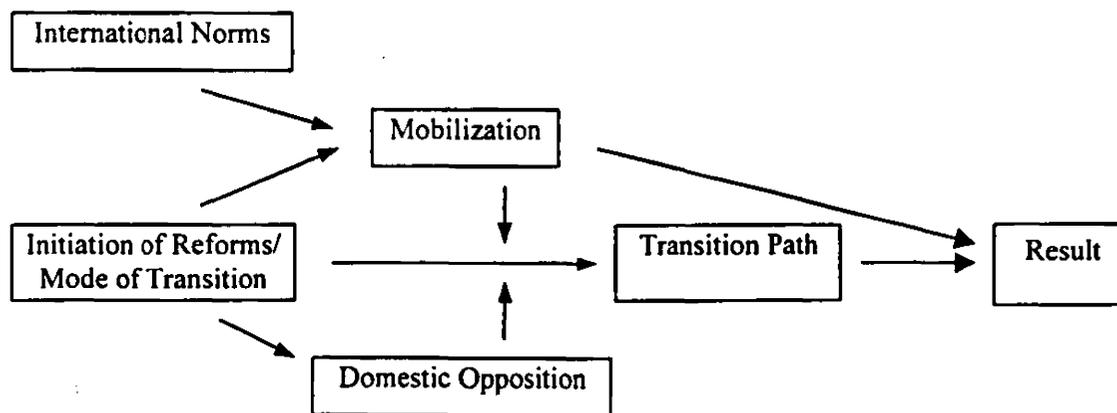
As a result of the Kenyan government adamant resistance to substantive political reforms, the transnational network on Kenya remained in place while the freedom and organizational capacities of domestic civil society groups expanded significantly. While domestic factors became now more prominent in shaping the individual transition path, continued transnational mobilization between 1992 and 1998 was crucial in keeping up the pressure for constitutional reforms. Those sections of civil society which had during the 1980s appealed for international support against governmental repression, were now the main force behind a coalition of domestic non-governmental organizations. However, the Kenyan case study also shows that such principled opposition is often accompanied by more or less openly expressed power interests. In this case, the transnational mobilization was mainly used by Kikuyu which had previously lost most of their political influence because Daniel arap Moi brought in 1978 a competing ethnic coalition to national power. Moreover, a long-term reliance on outside support as a substitute for domestic democratic legitimacy has potentially detrimental effects on a democratization process.

Figure 2a. The Case of Kenya
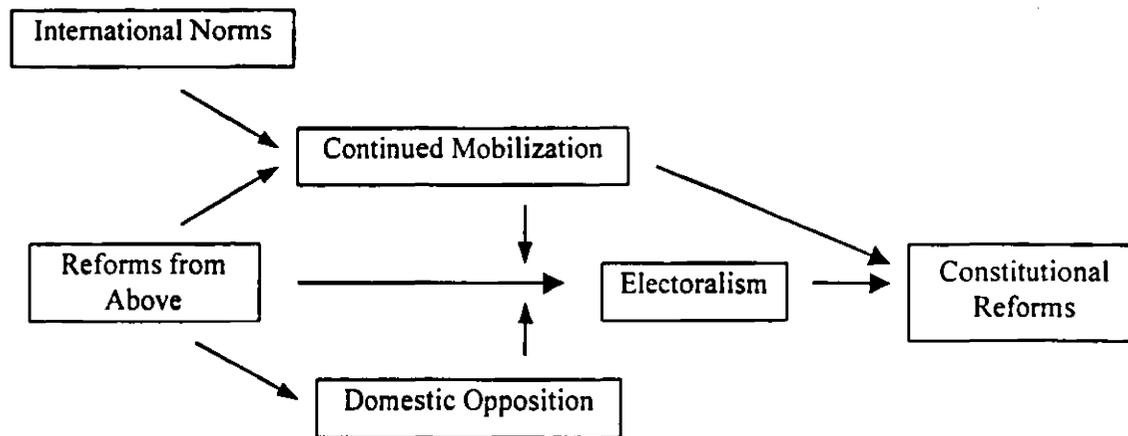
In contrast to the Kenyan situation, mobilization decreased sharply in Uganda after 1986 and was almost insignificant between 1992 and 1995/96. A domestic network of non-governmental human rights groups only slowly emerged during the 1990s. When the 'third wave' reached Africa in 1991/92, both the Kenyan and Ugandan government rejected the idea of multipartyism, but the international community treated them quite differently. This can only be explained with reference to the transnational human rights activism and the subsequent de- and reconstruction of state images on the international level. While the actual government policies on the ground were similar, the international reactions to them were almost the opposite. Moreover, international norms are also an insufficient guideline, even at such historical moments as the 1989/90 breakdown of communism because such a perspective also fails to offer sufficient variation.

Neither the norms nor the domestic situation alone, but the presence and absence of intentional efforts by transnational human rights actors to link both levels account for the differences in outcomes. While the transnational human rights network had mobilized for years against Moi, his neighbor Museveni got away with de facto one-party rule because he was essentially accepted as part of the global liberal community. The actual material side of the story can also not provide a satisfactory explanation. Internationally, the United States relied on both governments for its fight against Islamist fundamentalism in Sudan (Uganda) and the Gulf War (Kenya). Domestically, both governments wanted to sustain the dominance of a single political force.

Most recently, transnational human rights mobilization shifted its main attention towards gross violations perpetrated by rebel organizations in the Northern and Western part of

Uganda. The general insecurity in the Great lakes region puts the sustainability of any regime changes within Uganda at much greater risk than in fairly insulated Kenya. At the same time, the Museveni government was rewarded for its regional policies by almost unconditional financial and military support from the US government. Although the NRM government's general commitment to human rights fostered the domestic institutionalization as a character-istic of Uganda's specific transition path, the lack of non-governmental mobilization and regional warfare reinforced a governmental top-down approach and led to a general slow-down of the reform process.

Figure 2b. The Case of Uganda
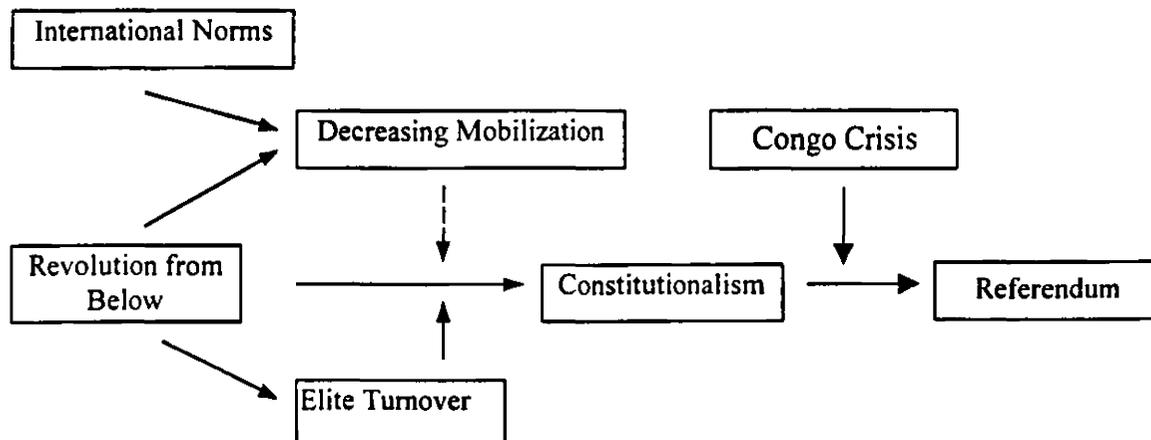
How do these results contribute to an improved understanding of processes by which interna-tional norms become institutionalized on the domestic level (see Checkel 1997)? The cases provide evidence for several paths, the initial and dominant one being the discursive empowerment of domestic actors defending specific human rights against an authoritarian government. This is the case for Uganda prior to 1986 and Kenya throughout the period under investigation. Hence, the evidence supports here a bottom-up process. However, in Uganda after 1986 and in Kenya since the mid-1990s this initial pressure was also responsible for starting a more top-down institutionalization of human rights norms. The new Ugandan government entered a bureaucratic-legal process of human rights institutionalization from the start. In Kenya, moderate parts of the government began in the mid-1990s to negotiate with the opposition on human rights issues. This indicates that these actors have changed their preferences over time and sought to incorporate the issue into their calculations of interests. Both cases also provide no evidence that human rights norms became for any of the domestic groups a principled issue in the sense that they would forego substantive material interests.

Hence, a dichotomous understanding of norms and interests often pervading theoretical discussions on human rights has little value for concrete empirical case work. The question is not which of the two prevails upon the other, but how actors relate both to guide their behavior.

In sum, the study advances the argument that international human rights norms and their promotion by transnational actors play an increasingly important role for the initiation of regime change. Pre-existing institutional and power configurations matter, but it is the effective use of international norms as an alternative set of institutions which forces authoritarian regimes into an initial opening. Subsequently, the manner in which such an opening takes place shapes not only the transition path, but affects the outside intervention which had been crucial for change in the first place. Ideally spoken, there are two alternatives. First, if the authoritarian regime remains in power and political reforms prove to be little more than window-dressing, transnational human rights groups will continue to mobilize. Second, if the authoritarian regime is replaced and/or reforms are implemented, this will lead to a decline of the initial transnational network and a shift of emphasis towards the reinforcement of the reform process. In terms of Robert Dahl's basic distinction between participation and competition, Uganda emphasized the extension of the former while Kenya focused on the latter issue. Hence, regime change in both countries has produced what O'Donnell has recently called "informally institutionalized polyarchy" (O'Donnell 1996: 44).

Contribution to Current Research

The thesis merges recent scholarship within international relations theory on the role of norms and ideas with a comparativist's perspective on processes of democratization. Hence, the thesis adds to current debates in international relations and comparative politics by synthesizing particular strands within both sub-disciplines of political science. With regard to international relations theory, the thesis advances the understanding about the role of norms and ideas in processes of domestic change. More specifically, it provides comparative evidence on the interaction process between international norms as well as their entrepreneurs on the one hand and the domestic context, on the other hand. Recent scholarship emphasizing the role of non-material factors such as norms and ideas has taken much inspiration from the work of John Meyer and his collaborators (Meyer et al. 1997; Thomas et al. 1987). These authors describe a global trend towards institutional homogenization which cannot be accounted for

by material and functional needs. Moreover, according to this school of thought, mainly norms and values emanating from the Western tradition are being successfully diffused into other cultural contexts.

While this structuralist approach has been successful in uncovering a significant correlation between internationally based norms and the subsequent establishment of corresponding domestic institutions, it is not only largely mute on the exact process of diffusion but also fails to account for differences in final outcomes. The research interest ends when such institutions are identified on the domestic level, but is less interested in understanding *how* they were established and *if* they actually deliver the expected goods. In the area of human rights and democracy I argue that the manner in which certain institutions come into being on the domestic level crucially matters for their subsequent performance. Hence, it is necessary to supplement the valuable insights generated by sociological institutionalists about the role of the world polity for domestic change with an equal recognition of agency both on the international and domestic level. In this thesis I identify non-governmental human rights organizations as the main carriers of norms contained in the world polity. They are crucial for the process of diffusing these ideas into a given domestic context. Beyond adding the agency side to the international normative framework of state actors, I will also model the domestic establishment of democratic institutions as a struggle between concrete actors. Here, I cross into a set of literature usually identified as part of comparative politics.

With respect to comparative politics the thesis contributes to the thriving literature of democratization studies. Following the major study by O'Donnell/Schmitter/Whitehead in the mid-1980s, formerly prominent structuralist approaches to issues of political development were increasingly challenged by more situative and agency-oriented explanations. Transitions to democracy were seen as contingent outcomes of power struggles between rivaling domestic elites, rather than the natural result of modernization and economic development. By introducing agency to the field of democratization studies, political development was effectively delinked from changes in the economic sphere. While the earlier publications in the agency-tradition literature decisively broke with the structuralist bias of the modernization school, they initially reproduced the domestic bias of this tradition. In retrospect this was quite understandable because bringing agency into the picture produced already many empirical and theoretical complexities. Moreover, the effects of international factors were notoriously hard to

trace and their inclusion would have required a determined effort to go outside of the narrow confines of comparative politics. In sum, international factors were regularly recognized and mentioned, but not systematically integrated into agency-based explanations of political transitions.

The negative attitude towards international effects on domestic change was only modified when the regionally limited occurrence of political transitions turned in the late 1980s and early 1990s into a global wave. While O'Donnell and Schmitter had maintained in *Transitions from Authoritarian Rule* that "domestic factors play a predominant role in the transition", the more current research on democratic transitions moves towards a greater recognition of those factors. In bringing together international and domestic perspectives, this thesis follows the general direction taken by Robert Jackson (1990) and Christopher Clapham (1996) in suggesting that the normative part of the post-war international order plays an important role in shaping current forms of statehood. "What has changed is not the empirical conditions of states but the international rules and institutions concerning those conditions" (Jackson 1990: 23). However, I challenge both author's predilection for negative or juridical sovereignty as a means to increase domestic control and fend off outside intervention. While Jackson is correct in asserting that the decolonization process led to a decoupling of positive and negative sovereignty, I maintain that ideas concerning the domestic conduct of state actors can ultimately not be divorced from the claim to international sovereignty.

If rulers buy into the logic of negative or juridical sovereignty on the international level in order to secure domestic rule, they have - at least rhetorically - to acknowledge that the idea of national sovereignty is build on a specific type of liberal statehood. This acknowledgment provides a window of opportunity for non-governmental actors to mobilize for political change intended to narrow the gap between negative and positive sovereignty. The thesis adds to this literature a particular concern for the process by which international norms enter the domestic realm as well as the actors involved in contesting the significance of those norms (or indeed expressing a process of norm competition). While both Jackson and Clapham acknowledge the role of such human rights organizations, they remain ultimately pessimistic about their influence (Clapham 1996: 192). I complement those studies and show under which conditions human rights promoting actors can successfully challenge the sovereignty regime.

In sum, the thesis contributes to current debates within international relations theory and comparative politics. With respect to the study of international relations it follows the more recent "constructivist turn" (Checkel 1998) by exploring the role of norms and non-governmental entrepreneurs in processes of political change. The thesis adds to this literature a concern for the concrete process of norms diffusion into a domestic context and explores how international norms affect not only strategic choices but also the interest formation of domestic actors. This is done in two steps. First, I show how international norms and transnational human rights actors are instrumental in successfully challenging authoritarian rule and starting a process of regime change. Second, I focus on the subsequent path of regime change and the continued importance but changing role of these international actors. Regime change marked by an incoming government with a credible reform agenda will feedback on the international level and reduce mobilization (Uganda). More restricted openings where the old guard remains in power will be answered by continued mobilization (Kenya). In both stages, such international mobilization is crucial for initiating and further pushing reforms. It does not make domestic factors spurious, but creates in interaction a specific path of regime change.

Roadmap of the Thesis

Chapter 1 presents a discussion of the underlying theoretical puzzle. I discuss the current state of the art in the study of regime change arguing that along with the 'third wave' a profound and paradigmatic shift within this research tradition occurred. This shift is represented by studies which recur in their explanations of democratic transitions to strategic choices of actors and contingent events rather than impersonal structural or cultural forces working behind the back of agents. Earlier efforts to firmly link political and economic development failed to yield satisfying results, mainly because the causal path between both issues remained unclear. The emergence of newly democratizing countries in the mid-1970s and the subsequent recognition of the 'third wave' became a catalyst for the emergence of an alternative agency-based challenge. This approach began to explore the possibility of the emergence of 'democracy without democrats.'

Within this burgeoning new literature, uncertainty as a prevalent context condition for agent's choices plays a crucial role. Cases of fast and seemingly unproblematic transitions from authoritarian rule towards full-fledged democracy have led authors to identify intrinsic features (not values!) of democracy as possible reasons for its success. With regard to Eastern

Europe it has been argued that democratization became a rational choice because the "winner" are abstract institutions (not the opposition) and the "looser" can always hope to return to power in the future. However, many still incomplete and protracted transition processes have led authors to re-focus on more stable features of the actor's environment, albeit this did not necessarily lead to a resurgence of the earlier modernization arguments. Instead, the current state of the art combines an agency-centered perspective on regime change with a recognition of institutions as constraints on the range of alternatives available to political actors. However, most of the agency-based and institutionalist arguments reproduce the domestic bias which had been introduced by the modernization perspective.

Following the arguments of the agency-centered institutionalism I give two reasons for the systematic inclusion of international factors into the analysis of regime change. First, towards the literature emphasizing contingencies and actor's choices I claim that any full explanation of democratic change must explore where uncertainty as an impetus for changing preferences originates in the first place. The existence of uncertainty and a shifting power distribution cannot be taken for granted. Second, towards the institutionalist literature I claim that institutions do neither exist solely on the domestic level, nor should they only be understood as constraints on actor's choices. I argue that a systematic recognition of international human rights institutions and transnational human rights actors helps to solve the puzzle why authoritarian leaders could possibly feel threatened and consider a power transfer to democratic institutions. Only if one includes an analysis of the activities designed to delegitimize a regime, one can begin to understand the role of uncertainty in actor's choices. Otherwise, the uncertainty assumption is merely an ex post rationalization, while a domestically biased institutionalist analysis fails to recognize the enabling role of international institutions which create a potential conflict between the norms they espouse and the domestic practice.

As a result of this critique, I propose the systematic recognition of insights generated by sociological institutionalists working in the field of international relations. The agency-based critique of the earlier structuralist scholarship was correct in so far as it rejected the materialist bias contained in this perspective. However, in order to advance our understanding of political transitions, we need to give equal recognition to actors and their structural environment. Here sociological institutionalism offers answers because it simultaneously directs attention to the international context and highlights within this context non-material factors such as norms and

ideas. While the current democratization literature highlights the role of concrete agents, sociological institutionalism introduces the global ideational realm as a structural framework into the analysis.

In chapter 2 I present evidence on the process of regime change in Kenya and Uganda since the early 1980s. The comparison reveals that Kenya and Uganda do not only differ with respect to the mode of transition, they have also taken distinctively different transition paths. Whereas the Ugandan transition set in with a revolution from below in 1986, regime change in Kenya commenced with reforms from above in 1991/92. I show that neopatrimonial rule dominated state-society relations in Kenya prior to the regime change, while dictatorship and civil war largely destroyed its base in Uganda. This difference in the availability of neopatrimonial institutions to positively integrate society accounts for the predominantly violent mode of domestic conflict resolution in Uganda. Apart from describing the dependent variables of the study, the chapter challenges an overly economic view of neopatrimonialism. While the literature emphasizes very much the top-down channeling of state resources via clientelist networks, I explicitly add its 'dark side' of negative integration represented by systematic human rights violations.

I capture the variation in subsequent transition paths by differentiating between *constitutionalism* and *electoral democracy*. The former draws attention to the preconditions of a meaningful democratic contest on the national level, such as the rule of the law, the separation of powers and respect for basic human rights. The latter focuses more narrowly on the election process and the ability of voters to make informed choices. The empirical puzzle of the study is represented by three observations. First, despite unfavorable material conditions both countries have experienced significant regime changes. Second, the Ugandan transition process has been dominated by a preference for *constitutionalism*, while the Kenyan transition emphasized mainly *electoral democratization*. Third, democratization in Kenya was essentially a matter of pressuring the adamantly resistant ruling elite into concessions. In contrast, the process in Uganda was largely top-down and controlled by the government.

Chapters 3, 4, 5 and 6 present the main empirical evidence about the process of norm diffusion into the domestic context of Kenya and Uganda. Chapter 4 offers a brief historical introduction which focuses on the first period of the independence struggle in the early 1960s. The chapter will elaborate the emergence of neopatrimonial rule in both countries within a

few years after political independence. While the situation in Uganda deteriorated further when Idi Amin staged a coup d'etat in 1971, the Kenyan political system remained stable and comparatively open until the early 1980s. Following a mutiny within the armed forces in August 1982, the Moi government increasingly resorted to repressive means of domestic conduct.

Chapter 4 covers the period from the time when international non-governmental groups began to raise alarm about deteriorating human rights conditions until the accused governments were either forced out of power (Uganda) or had to make significant concessions to their critics (Kenya). In Uganda this process lasted from 1974 to 1985. During this period five governments were removed from power and a civil war in the early 1980s almost led to the complete disintegration of the country. About one million Ugandans lost their lives as a result of the systematic misuse of state power to commit gross violations of human rights against the opposition and allegedly hostile ethnic groups. In Kenya, the period of initial mobilization lasted from 1984/85 to 1989. In contrast to Uganda, increasing human rights abuses were not accompanied by a breakdown of national institutions and civil war, but resulted from governmental efforts to bring the societal realm and most of its independent organizations under direct state control. The resistance to this usurpation was met with open but not indiscriminate repression.

During both periods, international human rights actors began to enter the domestic and international discourse on both countries. The accused governments showed considerable sensitivity to the issue, but rejected the claims and developed strategies to counter the efforts to undermining their international image. The repeated public statements by high level government officials testify to the prominence of the human rights issue. While the mobilization during that period failed to have visible positive results for the domestic human rights situation, it had important long-term effects on the international and domestic level. On the international level, the international human rights movement was strengthened throughout the whole period between the early 1970s and late 1980s. When Amnesty International received the Nobel Peace Prize in 1977 it had become a credible source of information on human rights all over the world. In turn, this growing reputation became an increasingly effective tool to delegitimize human rights violating governments. This process also affected the domestic level by simultaneously narrowing the range of options for the government and extending

those of the opposition. Moreover, human rights became in Uganda after 1981 as well as in Kenya after 1986 a crucial basis for the formation of the opposition. Hence, international human rights norms constituted and protected during this period domestic actors and strengthened the opposition against a continuously repressive government.

Chapter 5 discusses the period when Kenya and Uganda begin to break with the past and enter a process of regime change. In Kenya this covers the period of aggravated regime crisis between 1989 and 1991. In Uganda, the chapter includes the period after the military victory of the National Resistance Movement in 1986 and 1992, when international human rights mobilization took a decisively different course. It is shown that human rights mobilization is a necessary condition for sustainable change, not only when the criticized government remains defiant (Kenya), but even when a change of guards brought a government to power which is rhetorically committed to human rights and makes consistent efforts to implement this commitment domestically (Uganda). While further change in Kenya required full-fledged domestic and international mobilization as well as the catalytic donor intervention in 1991, the Ugandan government positively responded to non-governmental human rights criticism in a more direct fashion in the early 1990s.

The chapter further elucidates how both countries entered the process of political transition on diverging paths. Whereas the Kenyan government chose in 1991/92 the introduction of multi-partyism as the first major concession, its Ugandan counterpart had been engaged in a prolonged process of constitutional reforms since 1986. Change in Kenya continued to be a hard to win power struggle with well entrenched ruling elites. In this process, not the donor pressure and subsequent multiparty concession by the government proved to be crucial for sustainable change, but the reestablishment of a civil society sector which was capable of supplementing reform pressure from above with pressure from below.

In Uganda, the non-governmental pressure from outside had contributed to a change in government in 1986. The revolution from below led to decreasing international mobilization. The subsequent reform process was controlled by the NRM leadership and remained largely a top-down affair until the early 1990s. Despite its hardly contested role in the domestic realm, the NRM failed to push through one of its main reform goals represented by the attempted complete replacement of a Western-style party system by an indigenously developed form of grassroots democracy. At the end of this period, the NRM slowly returned to a more repre-

sentative model of democracy and began to openly compete with the surviving old parties from its position of strength. The lack of international attention towards the Ugandan human rights situation and the further entrenchment of the NRM elites accounts for a slow-down of the reform process.

In chapter 6 I assess the political transition process taken in Kenya and Uganda since 1992. Both governments only reluctantly supplemented their original preference for either a constitutional or electoral path of regime change. The fact that both countries have taken different transition paths is explained with reference to the initial period of regime change and its feedback on international mobilization. While in both countries international norms and transnational actors were a necessary condition for bringing about regime change, the government as the main target of this mobilization was replaced in Uganda but not in Kenya. In Kenya, the government continued to resist and delay change, while the opposition further split along ethnic lines. However, the continued activism of those individuals and groups which had been in the 1980s the domestic collaborators of international human rights mobili-zation on Kenya ultimately led to sustainable constitutional reforms. After 1995/96 these groups forced the government to finally agree on a minimal reform package prior to the 1997 general elections and a comprehensive constitutional reform process under the full participa-tion of civil society groups. This was the most significant long term effect of the non-govern-mental human rights mobilization in the late 1980s. In this period, continued mobilization was crucial to force the government further down the road of tangible political reforms.

In Uganda, the government completed the constitutional reform process in 1994 and called nationwide presidential and parliamentary elections for 1996. Despite the electoral victory of Museveni and the NRM, the movement system faced a serious crisis of legitimacy, because it had completed most of its original agenda and failed to sustain popular mobilization. At the same time, the ban on party activities survived all reforms and was extended until the year 2000. Meanwhile, transnational human rights activism with respect to Uganda targeted rebel groups in the North rather than the government in Kampala. The greatest threats to the NRM dominance in Uganda emerged out of the regional crises in the Democratic Republic of Congo as well as Sudan which led to a resurgence of rebel activities directed against the Ugandan government. These factors contributed to the further entrenchment of the NRM government and endanger the continuation and sustainability of political reforms.

The conclusions review the argument about the role of international human rights norms and entrepreneurs in processes of domestic regime change. Human rights norms and actors promoting these are crucial throughout the process of political transition. However, they do not fully account for the results, but intervene in a domestic context with pre-configured actor and power constellations. The results of this study show that interdependence between international and domestic realm is highly dependent on concrete actors crossing the divide and creating linkages through their conscious action. The results are discussed with respect to the current literature on regime transitions in Africa and more general theories of regime change.

1   Structure and Agency in the Study of Regime Change

Almost ten years after the peak of the 'third wave' scholarly agreement on even some of the most basic questions relating to political transitions remains a distant goal. Theoretical and methodological disagreement have even increased considerably since a distinct agency-based literature emerged to fundamentally challenge the longstanding academic preoccupation with issues of functional differentiation or cultural and economic requisites for democracy and democratization. Agents, and particularly elites, were brought into the debate not simply as incumbents of social positions or systemic imperatives, but as actors whose choices defied structural constraints and determined final outcomes. Democratization emerged as a new sub-discipline in political science and invited explanations based on a micro perspective, notably rational choice, which now rivaled macro-structural and functionalist accounts of political change (Bates 1997; Remmer 1997: 50).

However, remaining adherents of the modernization paradigm used the same evidence generated by the 'third wave' to argue for a convincing comeback in the 1990s. Not only did many countries with significant economic advances since World War II democratize, but others with still low levels of national income either failed to join the 'third wave' or soon returned to the authoritarian camp (Luckham/White 1996). For many, this seemed to vindicate a basic structural and economic explanation of political change. Thus, by the early 1990s, the study of regime transitions began to replicate the debate between 'structure' and 'agency'[2] known from other areas of the social sciences.

After evaluating the merits of the modernization paradigm and the emerging agency-based alternative, I introduce a focus on the role of domestic and international institutions as a way of bridging the gap between structure and agency. I argue that international norms are notoriously overlooked as possible sources of domestic change and show how various authors have recently sought to remedy this lacunae. However, depending on the selected features of the international realm, this literature is sharply divided about the effects of the international system on domestic change. While sociological institutionalism developed the idea of an

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[2] Merkel distinguished systemic (Parsons, Easton, Lipset), structural (Moore; Rueschemeyer et. al) and agent-based approaches (Merkel 1994), Kitschelt structural versus process-driven explanations (Kitschelt 1992). In this chapter, I follow Kitschelt because of a greater interest in the possible role of agency rather than the more subtle differences between a functionalist and a structuralist approach.

homogenizing global culture based on Western values, another branch of this norm-driven literature arrived at almost the opposite conclusion and emphasized the role of sovereignty in protecting state leaders from outside intervention. Again, I evaluate both perspectives and use their contributions for the development of an explanation of regime change. On the basis of this discussion, I propose at the end a model of regime change.

1.1 The Traditional View: Economic Development leads to Democratic Change

Various authors have claimed that the recent global surge for democracy has verified the causal link between economic development and democracy. According to Lipset et al., the correlation between both trends has strengthened and is "more pronounced in the early 1980s than in the late 1950s" (Lipset, Kyoung-Ryung, and Torres 1993: 157; see also Diamond 1992: 110).[3] Additional support for this position has also been gathered by pointing to an ebbing of the 'third wave'. This recession seemed to vindicate the (pre-) requisite literature and question the general applicability of agency-based explanations beyond a geographically more restricted context such as Eastern Europe or Latin America. Hence, important representatives of the structural paradigm understood a concern for agency either as complementary or only secondary (Diamond 1996; also Lipset 1994: 16). Adrian Leftwich represents this position most forcefully by stating, that "what the West should do is to support only those dedicated and determined developmental elites which are seriously bent on promoting economic growth, *whether democratic or not* (emphasis in the original). For by helping them to raise the level of economic development it will help them also to establish or consolidate the real internal conditions for lasting democracy" (Leftwich 1996: 329). Thus, not only in the heydays of modernization theory, but still today, some tacit understanding about the "deeper layer" of socio-economic conditions enjoys considerable support. However, within this research tradition a growing number of authors have questioned a strong version of the modernization paradigm.

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[3] "We are convinced that the main finding of the cross-national statistical work - a positive, though not perfect, correlation between capitalist development and democracy - must stand as an accepted result. There is no way of explaining this robust finding, replicated in many studies of different designs, as spurious effect of flawed methods. Any theory of democracy must come to terms with it" (Rueschemeyer, Huber Stephens, and Stephens 1992: 4); see also Londregan/Poole who claim that "the democratizing effect of income remains as a significant factor promoting the emergence of democratic political institutions" (Londregan/Poole 1996: 28).

As a response to empirical and theoretical challenges two broad variants have developed within the quantitative scholarship on the relationship between economic growth and political change. Both claim the use of improved statistical methods and data sets, but consistently arrive at contradictory conclusions. While some authors continue to apply Lipset's original causal claim to the emergence of democracy (Burkhart/Lewis-Beck 1994; Helliwell 1994; Moore 1996), others have considerably qualified the relationship and causality between economic development and democratization (Arat 1988: 30; Gonick/Rosh 1988; Hadenius 1992; Vanhanen 1990). Over time, the claim that economic growth is the most significant factor in explaining democratization has come under increased challenge, while the exogenous interpretation of Lipset that "once a democracy is established the more well-to-do a nation, the more likely that it will survive" was upheld (see Przeworski/Limongi 1997). As a result, a number of scholars working with quantitative methods in this area can no longer be labeled as modernization theorists, because the dynamism of the economic modernization did not evenly translate into a similar process in the political sphere.

Authors following the first variant are mainly concerned with (1) improving statistical methods, (2) explaining "outliers", and (3) identifying those issues within the broad process of modernization which have the strongest impact on democratic change. Whereas factors such as urbanization or mass media have lost prominence over time, education stands today as a major link between both processes (Hadenius 1992; Helliwell 1994). At the same time, middle classes are still held to translate economic change into effective demands for democratization. Thus, it is argued that countries which do not democratize despite economic well-being lack a developed middle-class (oil-producing countries), where state revenue is decoupled from societal support (Moore 1996: 59).

In contrast, authors of the second variant have questioned the validity of broad-ranging conclusions based on Lipset's original claim and the implied causal path. Somewhat between both positions are Londregan/Poole who maintain "a small but statistically significant democratizing effect" of increases in income (p. 2). Hadenius argued that "60 per cent of the variation concerning the level of democracy" in his selected 132 countries can be explained by seven structural factors (literacy, commodity concentration, trade with the USA, capitalism, percentage of Protestants, military expenditure, and average fragmentation). In concluding he admits "that other things too probably have an impact on democracy, and that these factors could be

either of a structural or an actor-oriented nature" (Hadenius 1992: 146). More skeptical is Arat, who maintained that "on the basis of these findings it can be concluded that increasing levels of economic development do not necessarily lead to higher levels of democracy, even for the less developed countries" (Arat 1991: 30). Vanhanen argued from his study that socio-economic development "is only an intervening variable that correlates positively with democratization because various power resources are usually more widely distributed at higher level than at lower levels of socio-economic development" (Vanhanen 1990: 191). Finally, Larry Diamond has relegated economic growth to one among many "facilitating and obstructing factors". He concluded, that "[t]here are strong methodological and theoretical grounds for inferring that this relationship is indeed causal (without precluding the very real possibility of reciprocal causation)" (Diamond 1992: 110). In order to avoid the dead end of inconclusive statistical evidence and causal confusion, a brief discussion on the issue of reversed causality will present a change of perspective.

1.2   Reversed Causality: Can Democracy Cause Economic Prosperity?[4]

Only when the 'third wave' slowly gathered momentum in the mid-1980s, studies suggesting a possible reversed causality between economic growth and democratic emerged. Until then conventional wisdom held that authoritarian regimes generate greater economic growth than democracies. These studies argued that a democratic state was not able to insulate itself sufficiently from particularistic interests in order to implement efficient economic policies.[5] In democracies, necessary investments for future economic stability and growth would be sacrificed for consumption.

However, these ideas had been under challenge for some time because many authoritarian regimes did everything else except for increasing the wealth of their nations. More often than not a small elite section profited while the economic situation of large parts of the population remained unchanged or worsened. Despite this early evidence, it took until 1987 for the first study to be published that proclaimed that democracy was a better promoter of economic growth than authoritarianism. Przeworski/Limongi argued consequently, that the globally

[4] In 1977, Arend Lijphart argued that "to the extent that it (the correlation between economic development and democracy, HPS) indicates a causal relationship, it may well be that democracy rather than economic development is the cause" (Lijphart 1977: 230f).

[5] For a summary of arguments see Przeworski/Limongi (1993: 52f).

dominant ideological trend was more important in predicting the results of such quantitative research than the actual empirical evidence (Przeworski/Limongi 1997: 60).

Sirowy/Inkeles identified three perspectives on the role of democracy in generating economic growth (Sirowy/Inkeles 1990). First the traditional view follows the above mentioned rationale and holds that their relationship is conflictual. Here the best way to promote democracy is to promote authoritarianism which will eventually disappear thanks to its successful economic policies (see Leftwich above).[6] The opposite argument claims that democracy institutionalizes competition within the political sphere and, thus, complements a strategy of economic growth based on a free market ideology (Olson 1993). In this view, not the (negative) direct effect of increased consumption makes a difference, but the (positive) indirect effects of institutionalizing complementary structures in the economic and political sphere. Finally, a third perspective argues that evidence shows no significant relationship between the political system and economic development. So far, the empirical results have yielded a "perfect stalemate" of nine supporting a conflictual position, nine in favor of a complementary understanding, and six undecided (Moore 1996: 48).[7]

1.3   Critique of the Modernization Paradigm

The results from the quantitative analysis of the relationship between economic development and democracy are disparate and do not lend themselves to a clear conclusion about causality. This is true even if one ignores some of the self-inflicted inconsistencies and tautologies of modernization theorists which have been largely introduced to avoid the falsification of their basic claim. Whereas a significant positive correlation between economic well-being and democracy stands as relatively undisputed, the conclusions drawn from that result with regard to *causality* and the exact *process of change* fail a critical evaluation.

First, even improved data sets and statistical methods have not yielded more consistent results. There is still a lack of general agreement on the case selection and the indicators chosen for measuring economic development and democracy. The example of Hadenius' study is particularly instructive. Hadenius ended up with a relatively weak correlation between

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[6] "Political development must be held down, at least temporarily, in order to promote economic development" (Huntington/Nelson 1976: 23).
[7] Thus, Feng argued that both sides could be right "depending on the balance between the direct and indirect effects of democracy on growth" (Feng 1997: 414; see also Przeworski/Limongi 1993: 61).

economic development and democracy, because he used an unprecedented large number of 132 states in his study, including 15 states which are comparatively small, poor, and fairly democratic. Moore argued that this selection bias negatively effects the result of the study and that small states are more likely to be democratic because of outside influences (Moore 1996: 43). At the same time, Mark R. Thompson made reference to an argument that relatively rich but authoritarian Singapore with 2.8 Mio. inhabitants could not be used to disqualify the modernization theory because "a repressive political system is more easily established and maintained in a country of small size" (Thompson 1997: 65). Thus, contradictory evidence is often explained away by equally contradictory and arbitrary statements which are designed to avoid falsification of the underlying claim. Causality can also not be proven if one analyzes the relationship of economic growth and democracy separately for different world regions. Even if one concludes that the nexus is also significant outside of the Western context, this does not mean that (predominantly) wealth breeds democracy. If it is true that the democratizing effect of income in Europe is higher than outside, then questions about the proper independent variable are pressing.[8]

Second, the literature is unable to separate causes for democratization from causes for the survival of democracies. The significant correlation between levels of development and democracy allows for two interpretations: On the one hand, that democracy emerges out of economic development or, on the other hand, that both are unrelated, but democracy is more likely to survive in wealthy nations (Przeworski/Limongi 1997: 156). Often, arguments for the latter are interpreted as prove for the former claim. Structural accounts notoriously fail to shed light on the exact process by which cause and effect are connected.[9] Attempts to fix this problem by alluding to 'middle-classes' as principle agents of change are problematic for methodological and empirical reasons. The record of middle classes with respect to supporting demands for democratization is mixed. Most recently, Rueschemeyer et al. have questioned the democracy-promoting role of the middle classes and re-emphasized the contributions of lower sections of society to the consolidation of democracy.

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[8] For the income claim see Burkhart/Lewis-Beck (1994); Londregan/Poole (1996: 22); Rowen (1995: 56).
[9] "In this formulation the outcome is uniquely determined by conditions, and history goes on without anyone ever doing anything" (Przeworski 1991: 96).

Additionally, many studies face measurement and definitional problems (Bollen 1991; Bollen 1993), which seriously diminish their explanatory value. "The central finding of the cross-national statistical research (...) [does] not validate the theoretical accounts that have often been associated with [it], in particularly modernization theory. Nor does cross-sectional correlation allow us to make adequate inferences about causal sequence" (Huber, Rueschemeyer, and Stephens 1993: 72). Moreover, the issue of democratic change invariably involves complex social systems with a prevalence of interdependence and multi-causality. Przeworski/Limongi argued that quantitative research in this area can not reveal any proper results because it will always be based on endogenous case selection. "Whenever observations are not generated randomly, quasi-experimental approaches yield inconsistent and biased estimates of the effect of being in a particular state on outcomes" (Przeworski/Limongi 1997: 63). Therefore, cause and effect are often hard to separate and "the values our explanatory variables take on are sometimes a consequence, rather than a cause, of our dependent variable" (King, Keohane, and Verba 1994: 185).[10] In the absence of a control over the independent variable, the direction of causality becomes doubtful, or, at least, the researcher can never be sure to have included all relevant explanatory factors. This would even apply if a variety of other improvements like a common definition of variables would be introduced. Therefore, it is of crucial importance that the theory "not only relates variables but gives immediate insight into the motivational forces which link them" (Eckstein 1966: 285).[11]

Third, the evolutionary bias of the modernization paradigm has also been challenged by an alternative structurally-based theory of societal change. Sociological institutionalists have pointed out that newly created institutions might not always reflect functional necessities, but rather processes of an ever expanding "world culture" (Finnemore 1996b: 329; Meyer et al. 1997). Thus, international organizations play an increasing role in "teaching" states about their roles and identities. This supply-driven approach potentially creates domestic institutional settings which do not correspond with existing demands for problem-solving capacities. If modernization processes do not always follow functional requirements but reflect an adap-

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[10] In citing David Laitin King/Keohane/Verba make this point in reference to Max Weber's attempt to explain capitalist economic behavior as a result of the Protestant ethic. They argue that individuals "who already had an interest in breaking the bonds of precapitalist spirit might well have left the church for precisely that purpose" (King, Keohane, and Verba 1994: 186f; see also Collier/Mahoney 1996: 60).
[11] "Correlation is evidently not the same as causation - it provides at best a clue to some sort of causal connection without indicating its direction" (Rustow 1970: 342).

tation to the outside world, then it becomes unlikely that the institutional arrangements created in such a process fulfil the same kind of functions as their predecessors originally developed in other cultural and social contexts.

In sum, quantitatively based research has revealed a significant correlation between economic well-being and democratic forms of governance. However, the exact path and the direction of causality remain uncertain, even when more advanced statistical methods and improved data sets were applied. In the end, the quantitative analysis of the relationship between economic growth and political change failed to adequately capture the inherent dynamism of this process. Hence, I conclude with Sørensen that there is "no clear answer to the trade-off question" because "countries move very fast between the regime categories" and "each time they make a stop in one of the categories, they lend their economic performance data, often covering only a few years, to a different argument in these investigations (Sørensen 1998: 68-69).

1.4   Changing Perspectives: The Role of Contingency and Human Agency

The shift from either systemic or structuralist analysis to agency-oriented approaches in the mid-1980s had a number of intellectual predecessors to build on. In order to fully appreciate the intellectual history of the agency literature, I will briefly discuss four contributions which offered — each in their own way — early intellectual openings beyond the beaten path of the modernization paradigm. In 1965 Samuel Huntington's article *Political Development and Political Decay* was centrally concerned with the "erosion of democracy" (Huntington 1965: 392) as a result of the economic modernization processes. He diagnosed a prevalent "deterioration of political institutions" (p. 405) and argued that political development had to be separated from modernization. Provided his underlying structuralist framework and the accompanying domestic bias, Huntington had little choice but to conclude in a rather pessimistic scenario for democratic change. Still, by systematically integrating the role of political institutions in the analysis of democratic change Huntington not only provided an answer to the pressing questions of institutional decay and failing development. At the same time, Huntington moved analysis away from abstract macro-structural issues towards the inclusion of institutions as arbitrators between the macro- and the micro-level of political development.

In 1970, Dankwart Rustow's *Transitions to Democracy. Toward a dynamic Model* fundamentally broke with the structuralist paradigm. Rustow rejected the idea of any cultural or economic prerequisites (except for national unity) for democracy to flourish and his article serves today as an important inspirational source for agency- and process-based explanations of democratization.[12] In 1971, Robert Dahl's *Polyarchy. Participation and Opposition* and Albert O. Hirschman's *A Bias for Hope. Essays on Development and Latin America* provided additional food for thought concerning processes of political change and democratic governance. Based on the previous work of Schumpeter, Dahl developed a procedural and minimalist definition of democracy, which was not only a pragmatic answer to the seemingly unsolvable problem of defining democracy in any substantive terms. Dahl and Hirschman held that democratic change was most likely to be successful if managed by moderate sections of both the old regime and the opposition (Dahl 1971: 33f.; Hirschman 1972: 37). Hirschman additionally echoed Rustow's skepticism about the implied causality of the modernization paradigm and held that what has been often seen as a precondition for democracy is often its consequence.[13]

Whereas the intellectual predecessors of an agency-based approach to democratization expressed many of the underlying theoretical ideas fairly early on, they entered the academic mainstream only in the 1980s when several authoritarian regimes in Southern Europe and Latin America broke down. Based on these cases, *Transitions from Authoritarian Rule* (O'Donnell, Schmitter, and Whitehead 1986) presented new and compelling empirical evidence that supported many of the theoretical insights expressed by Dahl, Hirschman, Linz/Stepan and Rustow. However, the break with past research traditions was not as clear-cut as the rhetorical claims of many authors would lead one to believe. Indeed, while structuralism was rejected, many of the conclusions about the likelihood of sustainable democratization derived from the modernization paradigm were retained. As a result, the authors offered a minimalist program arguing for the possibility of the emergence of democracy even in the absence of socioeconomic and cultural prerequisites (Karl 1987). rather than the inevitability

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[12] See Transitions to Democracy: A Special Issue in Memory of Dankwart A. Rustow, Comparative Politics, Vol. 29, no. 3, April 1997.

[13] A fifth predecessor of the agency-based school is the volume *The Breakdown of Democratic Regimes*, edited by Juan Linz and Alfred Stepan (Linz/Stepan 1978). The authors explained the breakdown of democratic regimes with reference to specific choices made by the ruling elites (see Bermeo 1990: 360; Martz 1997: 106).

of either democracy or authoritarianism (Przeworski 1991: 37 and 50; Schmitter 1994: 16).[14] This also meant that research carried out in this area mainly focused on the role of elite factions in negotiating so-called 'pacts' of democratic transition. While a fundamental and empirically driven shift from the focus on the inevitability of authoritarianism to the study of "possibilism" (Hirschman) occurred, the authors remained generally skeptical about the sustainability of the changes (see Karl 1987).

The newly found preference for agency over structure was not used to identify the former with positive change and contrast it with immutable structural forces. Assumptions about human nature in general and the motivations of important agents for change were quite sober and demanded little normative commitment from the readership (Shapiro 1993: 126). This led to the development of a curious theoretical tension between a new optimistic view of democratization and the simultaneous emphasis on the difficulties such a process is confronted with from the start. Nonetheless, the theoretical challenge to the modernization paradigm remained profound and expressed itself mainly in the replacement of structural determinism by models based on strategic choice and voluntarism (Collier/Norden 1992). What has been previously seen as a prerequisite for democracy was now conceived as its result, former independent variables turned into dependent ones. Uncertainty, elite actor's concern with future reputation, "passions" (O'Donnell/Schmitter 1986: 25), or the art of "crafting democracies" (Di Palma) replaced the prior probabilistic determinism generated through quantitative data processing.

Following the publication of *Transitions from Authoritarian Rule* several distinct approaches within the agency-based school were elaborated.[15] In comparing those different approaches, I focus here primarily on efforts to develop a consistent and rigorous micro-based interpretation of democratic change. Whereas O'Donnell/Schmitter argued that "normal science methodology" was not applicable in situations, "where (...) parameters of political action are in flux" (O'Donnell/Schmitter 1986: 4), Przeworski endeavored to show precisely that this was still possible by establishing a conventional hypothesis-testing approach build around an explicit rational choice perspective. O'Donnell/Schmitter were not concerned with developing such a parsimonious research design and preferred an inductive approach where issues like the trauma of dictatorship or the "world wide market place of ideas" explained (and indeed over-

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[14] For general reviews see Levine (1988); Shin (1994); Smith (1991).
[15] For overviews see Bos (1994) and Desfor Edles (1995).

determined) the actions of agents. "Yet while this approach focused on strategic analysis, it shied away from adopting a formalistic, ahistorical approach inherent in the abstract theory of games. Given that the macrolanguage of classes, their alliance, and 'pacts of domination' was the dominant vocabulary of the time, the result was an intuitive micro approach often couched in macro language" (Przeworski 1991: 97). In contrast, Przeworski conceptualized transitions as a series of games among changing (elite) actor groups, whose behavior is directed at maximizing their respective utilities. I will focus here mainly on his elaboration of an agency-based explanation of democratic change in general and the initial phase of liberalization and the extrication of authoritarianism in particular.

Whereas O'Donnell/Schmitter assumed that a recognition of the "consensus of this period of world history" initially separated hard- from softliners within an authoritarian regime (p. 16), Przeworski simply claimed that potential liberalizers (often mistakenly) assume that the controlled inclusion of some sections of the opposition would strengthen their own position within the ruling elites. This leads to a mutually reinforcing process of popular mobilization 'from below' and partial interest in liberalization generated 'from above'. Przeworski explicitly rejects the functionalist idea that authoritarian regimes break down as a result of a legitimacy crisis.[16] Individual discontent will remain meaningless as long as avenues for collective action are missing. If such projects of counter-hegemony are available and credible, the perceptions, strategies and actions of relevant actors determine the process and the outcome of change. These strategies are dictated by cost-benefit calculations of the collective actors 'opposition' and 'regime elites'. If the expected gratifications for the opposition (more freedoms, material well-being and political participation) are higher than the risks (danger to life, imprisonment etc.) then it will continue to press for change.

In turn, the regime elite is likely to split into hard- and softliners over the question of liberalization. Successful transition is most likely when soft-liners continue to ally with the opposition and become reformers in this process. The incentives for potential liberalizers to separate themselves from the rest of the ruling elite and resist further repression increase with growing societal mobilization. In turn, the threshold for individual participation in societal mobilization lowers with growing visibility of splits within the regime (Collier/Norden 1992: 234;

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[16] "What matters for the stability of any regime is not the legitimacy of this particular system of domination but the presence or absence of preferable alternatives" (Przeworski 1986: 52).

Przeworski 1992: 108). As subjective perceptions become increasingly relevant and choices for action increase, naturally, reliable knowledge about other's intentions becomes a scarce resource. The possibility for an alliance between the moderate opposition and the liberalizers increases not because the legitimacy of the existing regime declines, but because the "moderating spiral" produces ideas about viable alternatives.[17]

According to Przeworski, democracy with its intrinsic value of institutionalized uncertainty and minimal protection against arbitrary rule emerges as a viable option precisely when no one wants to really give up power, but someone previously outside of the game successfully demands a fair share. Democracy is attractive for outgoing authoritarians because there is no need to transfer all powers to another group for good. Instead, abstract and formal institutions are endowed with those powers. Hence, it is not the substantive but the procedural and representative side of democracy, highlighted by Robert Dahl, and the very measures intended to improve its operation (e.g. the separation of powers) that makes it a likely choice in such a situation. "Political forces comply with present defeats because they believe that the institutional framework that organizes the democratic competition will permit them to advance their interests in the future" (Przeworski 1991: 19). In this intriguing scenario, democracy emerges *in the absence* of any positive material or cultural developments and reflects merely the interest maximization strategies of powerful actors. Hence, old guards are either confronted with an external shock that creates a power stalemate or they don't realize that they are on a slippery slope towards irreversible change. In both cases, democratic transition is not an end in itself but a means to a seemingly universal strife for maintaining and maximizing one's economic or power position vis-à-vis other societal groups.

1.5 Critique of the Agency-centered School

The prospects for democracy in a rational or strategic choice perspective are severely limited by the fact that everyone desires more control over power and resources. This is reflected in an implicit tension between Hirschman's 'possibilism' and the pessimism contained in many agency-based explanations. Whereas the low probabilities for democracy generated by quantitative studies are disputed up front, they reemerge in the games describing the interactions

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[17] "This is why they (authoritarian leaders, HPS) are so afraid of words, even if these words convey what everyone knows anyway, for it is the fact of uttering them, not their content, that has the mobilizing potential" (Przeworski 1992: 107).

within authoritarian regimes and the opposition forces. How do we account for the confidence into the power of not even designed democratic institutions, if agents are expected to trust nothing but their own self interest? This makes the step from authoritarian rule to democracy so hard to explain: If someone was in control of power, why would he or she endanger his or her position with highly risky political maneuvers? Even if one assumes that different elite sections compete for power, one would expect them to exhaust other possibilities before embarking on a more risky strategy of including outside forces. What is missing from such a perspective are the reasons why elites are suddenly led to believe that a fundamental change of course is unavoidable. I argue here that non-material factors such as norms do play an important role in shaping actor's perceptions of their decision-making environment. Political transitions are critical junctures where actors will invariably be challenged to justify their goals and engage in a discourse that goes beyond the mere exchange of strategic information.

The application of economic models to the political sphere has limits which are particularly relevant for the study of democratic transitions. In such a situation, the very axioms used by an economic model to make sense to political behavior are at stake. In the process, actors decide not only about their preferences within a given menu of choices but about the menu itself and the overall attitude of the individual or group towards democracy as a normative concept.[18] This is not to argue that actors in such situations do not attempt to maximize their interests. Instead, I argued that the parsimonious assumption of interest-maximizing behavior is an insufficient basis for explanation. Assumptions about stable and ordered preferences as well as the insignificance of communication force analysts to assume issues as unproblematic which are really highly contested and fluid in processes of regime change. The question is not, if actors engage in interest-maximizing behavior or not, but what kind of normative framework informs the very process of interest formation.

When Przeworski argued on the one hand that "resources of political forces are given" (Przeworski 1991: 39) before the interaction and on the other hand that those resources contain highly arbitrary issues like "persuasion" (p. 11). This contradiction can only be solved by relaxing the first assumption and analyzing how exactly actors use material and non-mate-

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[18] Similarly, Shapiro argued that "strategically powerful players may develop normative commitments to democracy, or they may become persuaded that the ancien régime was unjust or illegitimate in ways that will cause them to accept frustration of their interests to a degree" (Shapiro 1993: 131).

rial resources to attain certain goals. Hence, I will focus the following section more explicitly on the role of institutions and actors which challenge the very political framework agents previously used to base their interest calculations on.

It was the purpose of this review to describe and discuss some of the underlying assumptions guiding structural and agency-based explanations of political transitions. Structure and agency are not only two sides of the same story, but they reflect different methodologies and theoretical commitments. Structural explanations have mainly focused on the material side of regime change and initially extrapolated from the Western experience. The issue of agency was discounted because democracy seemed to emerge across cases with vastly different historical circumstances. In retrospect, the accumulated research does not support the initial assumptions. Moreover, attempts to identify particular actor groups as agents of change and, thus, supplement a structural perspective failed as long as those actors were only conceptualized as incumbents of a given social position.

This conclusion is not intended to ignore the process of sophistication within the modernization paradigm, stretching from Barrington Moore's *Social Origins of Dictatorship and Democracy* (1967) to *Capitalist Development and Democracy* (1992) by Rueschemeyer, Huber Stephens and Stephens. Instead, I used a structure-agency perspective to explicate and contrast two ideal-type approaches to the study of the link between economic and political development. The critique of a structuralist perspective focused on the strong materialist as well as domestic bias and doubtful conclusions about causality. More qualitatively oriented studies are usually more cognizant of agency, but often fail to explicate a consistent theory on the micro-level. Authors developing such a distinct agency-based perspective successfully challenged structural explanations by showing that the paths to democracy and the actors involved as well as their choices matter for the final outcomes. Structures are not necessarily conceptualized as determinant, but as constraints on actor's choices. Moreover, agents can develop politically potent strategies to defy those constraints.

For all their differences, however, the majority of agency-based explanations have retained a material and rationalist orientation. Whereas the strategic choice perspective has turned frustratingly low probabilities for change generated by quantitative research into significant windows of opportunities for agents, the motivational structures of those actors seemed to remain largely unaffected by the profound changes around them. Agency-driven approaches

see democracy "emerge out of mutual fear among opponents" (Levine 1988: 379), rather than processes which would indicate the emergence of mutual trust and positive agreement about the future mode of interactions. Thus, like structural accounts, most agency-centered approaches ignored the possibility that actors begin to value and construct democracy for its own sake. It is appealing to extract the possibility for democracy from the narrow base of self-interested behavior under specific circumstances of perceived uncertainty. However, this should not lead to a premature exclusion of other possible avenues, in particular as a further exploration of the exact circumstances of uncertainty promises additional and important insights.

The situation of uncertainty or power stalemate is not a given, but in itself a situation emerging from specific interactions among relevant actor groups. Depending on the specific reasons, actors are likely to develop varying responses. Only one of the possible responses is represented by a rational calculation of future interests leading to the institutionalization of democratic procedures. Other possible responses could be based on historical experience, the specific social or economic situation of leaders, or simply the situation emerging from unfolding interactions and other events. As democratic governance is not a fixed state of affairs, but an ongoing process, actors will develop changing attitudes and expectations towards this very framework. International norms or other agents can play a crucial role in modifying the decision-making environment of those actors to a degree that it affects their calculations of self-interest.

1.6   Domestic Institutions and International Opportunities

Taking agency seriously entails a recognition and systematic conceptualization of the actor's structural setting. Agency as a meaningful concept only emerges from the analysis of its environment. Following the literature review above I will now turn to the question of how to conceptualize the structural environment of actors. In this endeavor I will draw on two specific debates which have sought to move our understanding of 'structure' away from an overly materialist and positionalist understanding. Increasingly authors refer to the role of non-material factors such as norms and ideas in shaping actor's interests and behavior. Within international relations theory this set of literature usually argued against both, materialism and utilitarianism and was partly influenced by sociological institutionalism (Finnemore 1996a; Katzenstein 1996; Kier 1997; Klotz 1995).

A related debate mainly within sociology questions the mainstream effort to link structure and agency mainly through the assumption of 'objective' social conditions. It is argued that the conventional positional perspective is ultimately unable to advance our understanding of processes of social change because it perceives of agents as mere "incumbents of social positions or systemic imperatives" (Macy/Flache 1995: 74). In such a view the actor's behavior is mainly determined by the material conditions and 'agency' is little more than a reflection of a powerful all-encompassing 'structure'. In contrast, a relational perspective offers a less static conceptualization of structure and is more likely to be compatible with the idea of mutual constitution postulated above. "From the network point of view, analytical approaches that direct attention to the 'intrinsic characteristics', 'essences', attributes, or goals of individuals, as opposed to their patterned and structured interrelationships, are all inherently suspect" (Emirbayer/Goodwin 1994: 1416).

The social position of an actor does not in itself teach its occupant how to define his or her self-interest and how to take further action. Such perceptions as a pre-condition for action form only as a result of interactions with other actors and the non-material environment as a source of ideas about one's own position. In a process of appropriating outside ideas, actors define their own identity and interests in an environment which simultaneously enables and restricts action. The relationship between 'structure' and 'agency' is one of interpretation rather than determination. Hence, the assumptions underlying relational sociology go hand in hand with the "constructivist turn in international relations theory" (Checkel 1998) where norms and ideas have attained the status of independent factors in the explanation of processes of political and social change.

In order to bridge the perceived gap between 'structure' and 'agency', an increasing number of contributions to the debate about political transitions emphasize an institutional meso-level. Institutionalism is also commended as a new opportunity to overcome regional specialization and fragmentation within the comparative field (Remmer 1997: 49). I follow here an understanding of institutions which is not limited to formal norms, rules, and procedures, but also recognizes the role of informal routines and conventions "embedded in the organizational structure of the polity" (Hall/Taylor 1996: 938; see also Thelen/Steinmo 1992). While the analysis of such informal rules plays an important role in understanding the domestic system of neopatrimonial rule, I argue that the transnational challenge to this system is backed by

highly formalized norms embedded in human rights treaties and conventions. Hence, I agree with a broadening of the institutional analysis to include informal procedures and rules, but reject a move to analytically collapse 'institutions' and 'culture' as suggested by sociological institutionalism (see also Hall/Taylor 1996: 938 and 947).[19]

Domestic Institutions as Intermediaries between Structure and Agency

With a focus on democratic change, an institutionalist perspective is widely used to account for the variation in transition processes. Karl/Schmitter labeled such an approach "structured contingency" and maintained that "even in the midst of tremendous uncertainty provoked by a regimes transition the decisions made by various actors respond to, and are conditioned by, socio-economic structures and political institutions already present, or existing in people's memories" (Karl/Schmitter 1991: 271). Juan Linz and Alfred Stepan argued in their most recent assessment of political transitions in Southern Europe, South America and Eastern Europe, that prior regime type is one of seven independent variables crucial for an understanding of democratization and further consolidation (Linz/Stepan 1996).

For Africa Bratton/van de Walle held that prior regime type was the most important variable accounting for the sustainability of democratic change (Bratton/van de Walle 1997). The authors used the concept of *neopatrimonial rule* to describe as a set of weakly institutionalized practices which nonetheless shape actor's interests and behavior. From their comparison of 42 cases on the African continent they conclude that socioeconomic and international factors are less relevant to transition processes than domestic institutions shaping actor's choices. Their *politico-institutional approach* classified different forms of neopatrimonial rule (modal regimes) in Africa in order to predict outcomes of transition processes. While the authors remained generally pessimistic about the prospects of democracy in Africa, they hold that countries with a highly authoritarian history (e.g. a military oligarchy) tend to democratize more quickly, but are likely to fall behind again in the long run. In contrast, regimes with some prior democratic experience (e.g. a competitive one-party system) will make more modest, but also more sustainable advancements towards democracy.

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[19] Some might be dissatisfied with such a broad understanding of institutions, but, as Immergut put it: "A standard definition of 'institutions' is (...) not desirable; the common research agenda is the study of institutional effects wherever, or however, the occur" (Immergut 1998: 25).

Table 4. The main Foci of major Approaches to the Study of Democratization

	Regime Change		
	Initiation	Path	Result
Structuralism	Yes	No	no
Contingency/Agency	No	Yes	Yes
Institutionalism	No	Yes	Yes

In the preceding discussion I argued that earlier structuralist accounts of regime change linked the possibility for democratization to economic and social prerequisites. More recently, agency-centered explanations rejected the search for prerequisites and emphasized the role of contingent events and actor's choices. While these approaches represented an important advancement in the research on regime change, they also shifted the focus away from the causes of regime change towards questions of transition and consolidation. With a host of countries joining the 'third wave' and developing diverging paths of transition, the question of initiating regime change seemed less urgent than the issue of 'crafting' democracy. The section following this discussion on the role of domestic institutions will advance the argument that international institutions and transnational actors are important factors in an explanation of the *initiation* of regime change. In this period, domestic institutions representing authoritarian rule are usually the subject of mobilization from above and below.

With regard to the *transition path*, international factors remain part of an explanation which takes the *mode of transition* as starting point. Based on the democratic transitions in Latin America, Southern and Eastern Europe, Karl/Schmitter proposed to focus on the modes of transition as a central variable for explaining subsequent transition paths and results. "Not only is the mode of transition a principal determinant of whether democracy will emerge, but it may also be a major factor influencing the specific type of democracy that will eventually be consolidated" (Karl/Schmitter 1991: 282). Depending on the dominant actors (elites or masses) and strategies (compromise or force), the authors predicted more or less successful outcomes of regime transitions.

Table 5. Modes of Transition

		Strategy	
		Compromise	Force
Actors	Elites	PACT	IMPOSITION
	Masses	REFORM	REVOLUTION

Based on Karl (1990: 9)

Karl/Schmitter concluded from the cases generated during the 'third wave' in Latin America, Southern and Eastern Europe that elite-driven transitions are most likely to be sustainable. Within this class, pacted transitions are most promising, albeit both paths "are likely to produce restricted types of democracy" (282). Contrary to Barrington Moore Jr. and his seminal study on the emergence of democracy in Britain, France and the United States, Karl/Schmitter concluded "that where authoritarian incumbents have been removed by force and replaced by a new elite representing mass constituencies, the subsequent emergence of political democracy is unlikely" (280). Worst case scenarios are situations with "mixed elements of several modes of transitions and from which no dominant winning strategy or coalition could emerge"(282).

In principle, Karl/Schmitter's property space of modes of transitions is sufficiently universal to be applied to other regions of the world. Recent examples of African transitions confirm that the distinction between mass- and elite-driven as well as multilateral and unilateral strategies adds valuable analytical tools to the analysis. More importantly, Karl/Schmitter establish the mode of transition as a potential independent variable for an explanation of the transition path. In contrast to Bratton/van de Walle's more rigid institutionalist argument this allows for a greater recognition of the possible role of actor's choices in shaping transition processes.

Based on these agency-centered as well as institutionalist explanations, it is now possible to integrate the international context into the analysis of regime change. I argue here that international institutions and the activities of transnational human rights actors represent a crucial variable in the process leading up to the initiation of regime change. While a materialist explanation was rejected above, existing alternative agency-based and institutionalist

approaches are generally mute on this issue. Why members of an authoritarian regime should suddenly feel a pressure to liberalize is hard to explain if either previously existing domestic institutions or actor's choices are identified as the main independent variable(s) for regime change. An institutionalist perspective remains puzzled with respect to the question why a solid authoritarian institutional arrangement would suddenly fall apart. A sole focus on agents and their choices begs the question, how and why actors change their preferences and interests. Hence, representatives of both approaches tend to employ ad hoc explanations for the initiation of regime change and seem more interested in the transition path and the possible results.

In contrast, I argue here that understanding the initiation is crucial for an overall explanation of regime change. The source for successful challenges to authoritarian rule is to be found in the potential conflict between domestic and international institutions which becomes virulent if transnational human rights groups pick up the contradictions and begin to confront political actors in and outside of the target country. Those principled actors introduce international human rights norms into a given domestic context and, thus, modify the power relations between authoritarian rulers and opposition.

This perspective remains within an agency-centered institutionalism, but has two major advantages over earlier scholarship. First, it offers a dynamic institutionalist perspective which does not fall into the deterministic traps of putting institutions where previous scholarship identified solid and immovable social structures. Here, institutions are a possible source for change and not merely a constraint for actors. Second, the range of significant actors is also broadened to include not only predominantly self-interested, but also principled groups and individuals. Conflicts about the proper mode of domestic rule are always about ideas and norms in as much as they reflect more narrow material interest calculation. I do not introduce norms and ideas as alternative explanations to interests and preferences, but claim that regime change represents a situation where actors are forced to argue on the validity of their interests within an explicitly present framework of competing norms.

In regard to the transition path as the second phase, agency and institutions both on the international and domestic level remain the central categories of analysis. In this central field of concern for recent scholarship on regime transitions a wide range of hypotheses were generated to account for the various regime types emerging from the 'third wave'. While

Bratton/van de Walle emphasized the previous regime type as main independent variable. Karl/Schmitter prefer a more contingent approach and focus on the modes of transition. As many transition processes of the 'third wave' are still ongoing, an argument emphasizing the role of stable international institutions and human rights actors generates the expectation that those influences will continue to be relevant for regime change. However, depending on the mode of transition the interaction between the international and domestic realm is now likely to be different from the earlier period. In the following, I will discuss some of the theoretical underpinnings of such an explanation.

International Institutions as Opportunities for Rulers and Ruled

Although an institutionalist perspective confined to the domestic context offers a theoretical solution which equally avoids excessive structuralism and voluntarism, it is unlikely to shed sufficient light on the causes of change. By definition, domestic institutions represent stability rather than change and are likely to restrict rather than enable action. Profound political change is, however, about changing or even destroying previously existing and dominant institutions. This doesn't mean that a institutionalist perspective is necessarily confined to the explanation of the status quo. Discourses about the domestic conduct of states are no longer confined to the domestic level, but are increasingly brought up onto the international level.

While the domestic institutions usually reflect the internal power relations between government and opposition, norms about human rights and democracy present on the international level a claim to universal applicability. If principled actors explicitly refer to such norms or institutions to comment on other's behavior they want to convince the other that those institutions are not simply restrictions but should serve as the basis for interaction and interest formulation. "Norms are therefore not only 'guidance devices', but also the means which allow people to pursue goals, share meanings, communicate with each other, criticize assertions, and justify actions" (Kratochwil 1989: 11). A difference between domestic conduct and international norms represents a window of opportunity for domestic or international actors to expose the apparent contradictions, in particular if the government had previously acknowledged these norms by signing international conventions or treaties.

In contrast to the mainstream of the agency-based literature and its focus on self-interested behavior I argue here that the growing relevance and visibility of international norms transforms the domestic competition for national power. This is not simply about self interested

elites negotiating a transition process, but about the ability to use (and adapt to) opportunities offered in the international realm. The reference to universal values represents a necessary condition for the creation of uncertainty and power stalemates in the first place. Hence, the analysis of current processes of democratization must go beyond the domestic bias of both agency-based explanations and the modernization school. "At this stage the problem is less one of identifying ways in which the international system may impinge upon domestic political choice than of integrating international forces within the framework of comparative theory" (Remmer 1995: 108).

In order to better understand international factors influencing domestic change as suggested above, it is necessary to develop an idea about how to complement the current state of the art in democratization studies with a theory of the global realm. I argue that sociological institutionalism offers a solution which does not only reintroduce structural and institutional context conditions into an agency-based analysis.

Theorizing the International Context of States

The state of the art in the democratization literature is represented by the systematic development of an agency-oriented perspective which opened whole new avenues for the explanation of political transitions. In the earlier works of this emerging literature, the international context was mentioned in passing, but not systematically integrated. When the early 1990s witnessed a global wave of democratization, agency-oriented authors began to review their prior negligence of the international realm. Today, the need for a more systematic and theoretically meaningful integration of international factors into the analysis of political transitions is widely accepted (Whitehead 1996).

I will concentrate in my endeavor to integrate international factors into explanations of domestic change on the recent contributions of sociological institutionalism to the field of international relations theory. I argue that insights generated in this debate are particularly suitable because they emphasize the role of non-material issues such as norms and ideas in a process of global institutional homogenization. This corresponds with the rejection of materialism implicit in the agency-based literature on democratization discussed above. On the one hand, agency-oriented approaches within the field of democratization studies are supplemented with a distinct structural framework which integrates the international context. On the other hand, the suggested design adds concrete agents both on the international and domestic

level to the predominantly structural analysis provided by sociological institutionalism. I argue that the way in which actors appropriate universal values which have been at the center of the analysis of sociological institutionalists matters for understanding processes of domestic change.

Sociological institutionalism claims that the international social system and its embedded norms represent a powerful force influencing actor's preferences and behavior. The majority of authors in this emerging tradition assumed a spreading Western-type world culture as a source for political change (Finnemore 1996a; McNeely 1995). This culture, in turn, "creates and legitimates the social entities that are seen as actors" (Meyer, Boli, and Thomas 1987: 12). Hence, change in the system and its parts is not driven by internal functional needs but in correspondence with existing external cultural norms (Hall/Taylor 1996: 946). As Finnemore argued, bureaucratic organizations spread in many countries much more quickly than markets and technology development would have demanded (Finnemore 1996a). It is not the modernizing force of internal socio-economic development that creates sufficient preconditions for bureaucratic rationalization, but the existence of such norms in the international system. "Many features of the contemporary nation-state derive from worldwide models constructed and propagated through global cultural and associational processes" (Meyer et al. 1997: 144).

This argument essentially repeated the skepticism about the material side of modernization as the ultimate mover of political development contained in the agency-based democratization literature discussed above. While the later chose to give up on structuralism altogether, sociological institutionalism resorted to 'world culture' as alternative, non-material structure.[20] "Culturally and historically contingent beliefs about what constitutes a 'civilized' state (...) exert a far greater influence on basic institutional practices than do material structural conditions, ..." (Reus-Smit 1997: 583). In bringing here both perspectives together, I seek to advance debates within sociological institutionalism as well as the agency-based literature of democratization. With respect to sociological institutionalism I point at the activities of concrete agents in transporting international norms about the proper conduct of a state into the domestic context. With reference to the agency-based democratization literature I suggest to

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[20] "It is problematic when they [actors, HPS] invoke and rely on cultural accounts to define their actions as matters of individual choice and decision, filled with individual motives and perceptions and involving such legitimated resources as individual property" (Meyer, Boli, and Thomas 1987: 13).

use the structural framework provided by sociological institutionalism to better understand where actor's preferences and interests come from.

Meyer et al. argued that the emergence and success of the state system itself has created the preconditions for more rapid processes of ideational diffusion between nation-states. Nation-states are understood as "constructions of a common wider culture, rather than as self-directed actors responding rationally to internal and external contingencies" (Meyer et al. 1997: 152). While traditional societies displayed a wide variety of dissimilar purposes, modern nation-states are formally equal entities and share rationalized identities and purposes. Hence, formal similarity is the basis of comparison between two or more entities in the system. Rather than arguing that similar material conditions lead to similar outcomes, this perspective assumed similar underlying ideational conditions which influence all units of the system.

Nation-states will continue to be exposed to pressures for adaptation to world cultural examples even when they seem unable or refuse to live up to those requirements. Their identity, purpose and legitimization are intrinsically linked to the models they have originally based their existence on and other international and domestic actors can use these models to pressure for change. "If a particular regime rhetorically resists world models, local actors can rely on legitimacy myths (democracy, freedom, equality) and the ready support of activist external groups to oppose the regime" (Meyer et al. 1997: 160). Thus, sociological institutionalism challenges a rational choice perspective of democratization by conceptualizing this process as a norm-driven enterprise of perfecting nation-states to match the original (Western) blue-print they draw their legitimacy from. Rather than in the best interest of the actors involved, it is assumed that the more "highly idealized" and "internally consistent" (Meyer et al. 1997: 154) a feature within the overall world culture the more likely it is to be adopted. However, other authors have drawn very different conclusions from their studies on the effects of internationally based norms.

State Sovereignty and the Survival of 'Quasi-States'

With respect to the southern hemisphere in general and Africa in particular, Robert H. Jackson and Christopher Clapham have recently advanced a version of sociological institutionalism which squarely challenged the idea of an homogenizing Western culture. Clapham and Jackson argued that sovereignty as an idea firmly established in the international realm after 1945 represented an effective norm protecting authoritarian leaders from domestic and outside pres-

sure (see also Krasner 1993). In turn, this has important domestic ramifications. "Where a state comes into existence, or at the very least is able to survive, only as the result of international conventions, this has very significant consequences for that state itself" (Clapham 1996: 20).

Basic to this idea is the claim that sovereignty today is a Janus-faced regime. Jackson and Clapham distinguish between negative/juridical (freedom from intervention) and positive/empirical (freedom to control) sovereignty (see also Thomson 1995) in order to highlight a gap between internationally protected legal claims and hardly existing real capabilities on the domestic level. "Never have disparities between the outward form and the inward substance of sovereign states been any greater than they are today" (Jackson 1990: 24/5).[21] For Jackson the decolonization process has led to a normatively driven abandonment of positive criteria of self-government and their replacement by a 'negative sovereignty regime' which represents "a basic change of mind about how the international system ought to operate" (8). The regime today sustains many 'quasi-states' those "elites are beneficiaries of non-competitive international norms" (24). Moreover, the regime directly "impinges on human rights and socioeconomic development" (1), because it is an 'insurance policy' for authoritarian leaders against outside intervention.

Hence, in this perspective international norms do precisely the opposite of bringing Western values to the farthest corners of the world. Just as the Meyer school does, Clapham and Jackson emphasize the role of non-material factors prevalent on the international level, but they arrive at opposite conclusions. By focusing on the prevalent norm of sovereignty they claim that "what has changed is not the empirical reality of states but the international rules and institutions concerning those conditions" (Jackson 1990: 23; see also Clapham 1996: 15-24). These institutions are biased in so far as they support political elites against their people as well as homogenizing pressure from above. States and their leadership today are no longer part of a formal hierarchy, but treated equally on the international level. This norm glosses over all the existing socio-economic and political differences and fundamentally reshaped the

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[21] Clapham rightly emphasized that this distinction should not be translated into a dichotomy of 'real' and 'quasi' states. Rather, all states in the world float constantly somewhere along a continuum expressing different levels of effective government and shared understandings about the existence of that state (Clapham 1996: 15). This avoids the assumption that positive or empirical sovereignty invariably means *absolute* control of activities across and within borders.

way we think today about international society. As Jackson put it, "the juridical cart is now before the empirical horse" (Jackson 1990: 23/4).

Critique

Both, the Meyer school as well as Robert H. Jackson and Christopher Clapham have claimed that international norms and institutions are factors in shaping domestic political change. However, they arrive at opposite conclusions. My critique will begin with Jackson/Clapham and then move to the Meyer school. The main argument of Jackson and Clapham (as well as others) revolves around the Janus-faced concept of sovereignty. However, the seemingly clear distinction between two opposite concepts such as negative/juridical and positive/empirical sovereignty is difficult to apply empirically. Whereas Clapham avoided the issue and focused on how rulers can take advantage of these international conventions, Jackson took Isaiah Berlin's famous distinction of positive and negative freedom (Jackson 1990: 26-31) as a point of departure. While he recognized the limits of transferring a concept from the individual to the state level, his definition remains unsatisfactory, mainly because positive sovereignty (or 'freedom to' in Berlin's terms) is a hodge-podge of capabilities. It includes not only the provision of political goods to the population as a way of generating domestic legitimacy, but also the capability to enter military alliances and treaties. Jackson does not attempt to define which of these capabilities are more important or to what degree they must be realized in order to count as a 'developed' state.

Moreover, while negative or juridical sovereignty has indeed helped many leaders to establish and sustain authoritarian rule, this international recognition was always linked to the expectation that the initial gap between outside recognition and domestic legitimacy would eventually be narrowed. There were specific and contingent reasons at the time when many countries on the southern hemisphere became independent which led to a widening rather than a narrowing of the gap. Besides the logic of superpower rivalry during the Cold War era, the most important impediment to narrowing the gap was the dominant international perception that the leaders in the newly independent countries did indeed enjoy sufficient domestic legitimacy and would now be mainly occupied with the task of 'nation-building'.

These explanations account for the observations made by Clapham and Jackson, but there is no reason to believe that negative sovereignty will remain indefinitely the dominant feature within the international legal order shaping inter-state relations and domestic political change. While Clapham and Jackson did acknowledge the growing significance of human rights norms on the international level, they ultimately limited their perspective of international-domestic linkages to the use and misuse of sovereignty by authoritarian leaders. However, today the international legal order offers a wide variety of norms to an equally wide variety of governmental and non-governmental actors.

If Jackson is right in his observation that the juridical cart is indeed today before the empirical horse, then this fundamental shift can be exploited by various groups and its benefits can not only be reaped by the ruling elites in the Southern hemisphere. Moreover, it is precisely the language of sovereignty which offers a window of opportunity for actors pressing for human rights and political change. In the short run, authoritarian rule can use the former principle to ignore the latter, but in the long term external sovereignty is only sustainable if accompanied by stable domestic political legitimacy. The very myth of formal equality generated by the negative sovereignty regime generates the possibility for mobilization in favor of other recognized international norms. If leaders regularly claim to be sovereign on the international level, they will ultimately also have to face the question of positive or empirical sovereignty. Depending on the strategies chosen by those international and domestic actors interested in making this linkage, this leads to the process I describe in the empirical chapters.

With regard to the Meyer school, the critique revolves mainly around the issue of how to actually trace the effects of international institutions on domestic change. First, most of the claims are based on mere correlation and quantitative analysis rather than process tracing. It remains to be shown how exactly a "common wider culture" affects certain individual features of nation states. Sociological institutionalism is more concerned with similarities than with differences. The research assumes a constant independent variable and is mainly interested in tracing its homogenizing effects. Finnemore calls this an advantage, because sociological institutionalism offers an idea of "the substantive content of social structure" that "permeates all aspects of political and social life in all states" (Finnemore 1996b: 327). However, a lack of variety on both ends of the equation is not helpful in identifying the process by which domestic change is causally linked to international norms. Here the question arises, how and

when mere presence translates into significance. "Rapid global changes across dissimilar units suggest structure-level rather than agent-level causes. They do not, however, prove them. One also needs to specify the mechanism of change and show the common source of the new preference and behavior" (Finnemore 1996a: 22).

Second, the very general conceptualization of the independent variable (e.g. ideas like democracy and economic progress) generates the danger of tautological reasoning. Meyer et al. searched for similarities in form, not so much in substance. They remained on an abstract level which allows for the inclusion of a wide variety of institutional settings and concrete policies under the label of 'world culture'. Thus, they argued, even nationalist and fundamentalist movements follow 'world-society scripts' and intensify isomorphism (Meyer et al. 1997: 161). However, this argumentation only increases the immunity of the theory, not its explanatory power. While it is correct to point out that a nationalist ideology ultimately relies on universalistic principles enshrined on the supranational level, this argument is of little help if we want to understand how and why actors come up with contradictory concepts and which one ultimately wins out in the domestic struggle.

Finally, sociological institutionalism can not offer a sufficient basis for understanding regime change as long as it fails to develop a corresponding conceptualization of agency. Without agency the effort to establish a production site of values and norms outside of the nation state lacks both origin and purpose. Norms are relevant only in so far as they are reproduced as values by actors. Structural analysis is necessary and should certainly include a systematic recognition of non-material issues, but it is limited if we remain theoretically disinterested in the actors which are supposed to follow those norms and ideas.

1.7   Models of Regime Change

In building on the literature review above, I argue here that explanations of democratic change should indeed be highly skeptical towards the determining power of material factors and focus instead on unpacking the role of agency. However, rational choice offers no sufficient basis to capture the complexity of agency level processes, because it substitutes agency with ahistorical assumptions about rationality without recognizing the role of norms in framing interest-driven behavior. This insight reopens the discussion about the role of the structural environment as a site for the production of values and meanings actors might identify with.

Sociological institutionalism offers a first cut in theorizing the role of the international context in processes of domestic political change. In combination with insights generated within the agency-based democratization literature it is possible to develop a model of regime change which offers a number of advantages compared with the existing state of the art. Within the agency-based literature the model gives an answer to the puzzle why a power stalemate and political uncertainty occur in the first place. With respect to sociological institutionalism it fills the gap between the abstract world culture and concrete processes of domestic change. Finally, with regard to an institutionalist perspective confined to the domestic realm it adds international institutions as potential sources of dissonance. If domestic or international actors recognize such a conflict and begin to mobilize, this perspective can offer a compelling account for the initiation of regime change, but also the subsequent path of transition. Institutions are not only seen as "restrictions on the range of alternative available to political actors" (Bratton/van de Walle 1997: 276), but can equally have an enabling effect for actors attempting to challenge authoritarian rule. However, as Clapham and Jackson remind us, the norms embedded in the international system are contradictory and can be used for different purposes. This reinforces the argument for an explicit analysis of 'agency' in promoting certain norms by specific strategies of mobilization.

Figure 3. Different Approaches to Regime Change[22]

Rational Choice (Przeworski 1991)
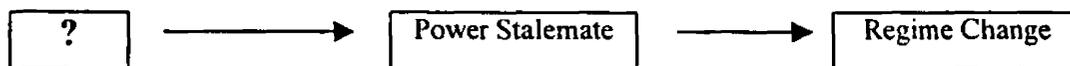
Sociological Institutionalism (the Meyer school and Clapham/Jackson)

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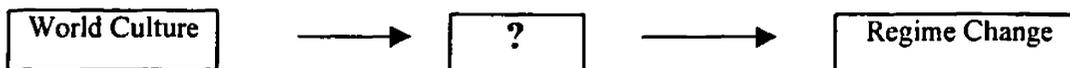
[22] Question marks do not indicate actual gaps in explanation, but a tendency to underspecify important mechanisms or factors. The following approaches have different, but not incompatible dependent variables. Meyer et al. would probably prefer 'institutional homogenization' instead of 'regime change'. I argue here that the perspectives are compatible if one assumes that homogenization is as a precondition for sustainable regime change. Clapham/Jackson are included in the chart labeled 'sociological institutionalism', although they arrive at opposite conclusions. The basic structure of their argument is similar to the Meyer school.

Institutionalism (Bratton/van de Walle 1997)
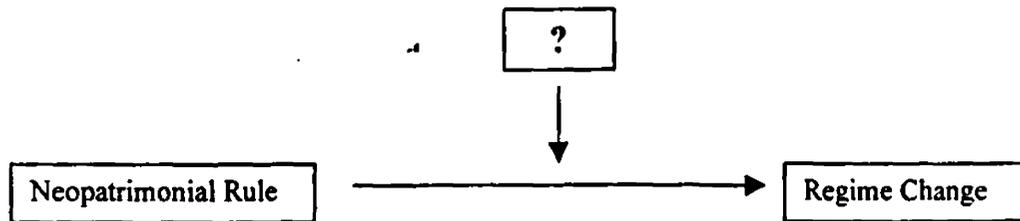
Combining Perspectives
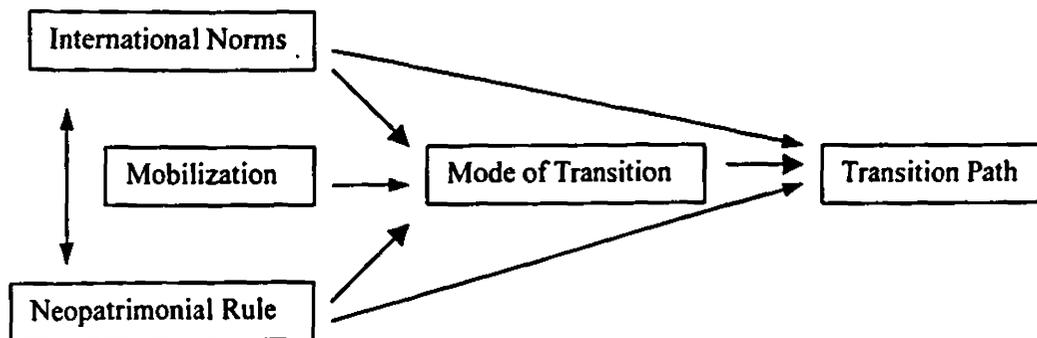
In the following, I will account for the regime change in Kenya and Uganda during the last 10 to 15 years. This will serve as a basis for the main empirical part of the thesis, which elaborates on the role of international institutions and transnational human rights networks in processes of regime transitions.

2 Neopatrimonial Rule in Kenya and Uganda

This chapter will give an overview of the dependent variable(s) represented by the initiation of regime change (1) and the subsequent transition path (2). Emphasis is given to the more complex latter issue. I will compare the political development of both countries using the established literature which focused on the *neopatrimonial character* of post-independence African rule. For the period prior to regime change, I argue that the combination of international principled mobilization (in both cases: high) and differences in certain aspects of neopatrimonial rule explain the variation in the results of initial regime change. Hence, the character of neopatrimonial rule represents an independent variable with respect to the initiation of regime change. For the subsequent period, the changes in the character of neopatrimonial rule is the main dependent variable, while the initial mode of transition and international mobilization (Kenya: high; Uganda: low) account for the differences in the transition path.

In the following, I will argue that both countries have taken distinctively different transition paths. With reference to Robert Dahl's basic distinction of participation and competition defining the property space of polyarchy, the Ugandan process is characterized by an emphasis for the extension of participation and constitutional reforms. In contrast, Kenya took an electoralist path which extended competition on the national level, leaving everything else largely unchanged. Nonetheless, both paths have led to substantial changes of the previously existing neopatrimonial character of domestic rule. Patrimonial political systems are ruled by an individual who treats the state as his or her personal possessing. The people living under such a system are not citizens protected by a set of laws, but directly dependent clients of the ruler. As African states do resemble some but not all features of patrimonial rule, scholars resorted to neopatrimonialism to indicate the co-existence of traditional and modern forms of authority (Eisenstadt 1972).

While such systems seem to resemble Western-type bureaucratic organization, their operations are pervaded by the logic of patrimonialism. Personal relationships expressed in patronage, clientelism, and corruption rather than rational efficiency are the main features of these institutions. Hence, neopatrimonialism is itself an institution which "is internalized in the formal institutions (...) and provides essential operating codes for politics that are valued, recurring, and reproduced over time" (Bratton/van de Walle 1997: 63). Shortly after political independence, the paternalism present in many African societies and a perceived necessity to

consolidate the newly independent entities in a process of 'nation-building' formed the basis for a strengthening of the executive vis-à-vis all other formally independent democratic institutions such as the judiciary or the parliament. The distribution of state resources became a major tool in establishing the clientelist networks which underlay or substituted formal bureaucracies.

Neopatrimonial systems are not only integrated by the strategic top-down allocation of resources, but also based on the use of open or hidden repression. Often, both means are combined in a carrot-and-stick strategy. For two reasons, I argue that the aforementioned conceptualization of patrimonial rule overemphasizes the aspect of positive integration via the build-up of clientelist networks, and neglects the equally important mechanisms of negative integration expressed by the governmental use of violence. First, principled human rights actors mobilize mainly against the aspect of repression and not on the issue of clientelist networks. Assuming that their activities matter, I will give greater attention to neopatrimonial rule as a form of negative integration than the mainstream of the literature. Second, comparing different forms of positive integration is not a viable strategy for the two selected cases, because the bases for neopatrimonial rule in Uganda were largely destroyed by the establishment of the Amin dictatorship and the following protracted civil war. Hence, the contrast is not between two different forms of neopatrimonial rule, but between a country with a largely intact neopatrimonial system (Kenya) and a country where this system was virtually destroyed (Uganda). This led in Uganda to a situation where the logic of violence (negative integration) was almost ubiquitous, whereas in Kenya positive integration under neopatrimonial rule always remained the dominant authoritarian mode.

I have split the chapter in two main sections. The first part will describe changes in the realm of constitutionalism (2.1) whereas the second will move attention to the issue of electoral democracy (2.2). I argue that the former broadly corresponds with the previously identified question of negative integration while the latter focuses attention on neopatrimonial rule as a form of positive societal integration.

2.1   Constitutionalism: Establishing Limits to Negative Integration

Constitutionalism is about the limits to arbitrary rule. It features various institutional rules about the relationship between different parts of the government and the protection of individuals from state repression. Following Zoehout (1997) I distinguish four characteristics:

(1) the existence of the rule of law

(2) separation of powers

(3) independence of the courts

(4) the effective protection of individual rights and freedoms

I will add the recognition of international human rights norms in domestic jurisdiction as another indicator, because of the specific concern here for the role of international institutions. Within a system of democratic governance based on some form of representativeness constitutionalism both restricts and enables majority rule. More precisely, the restrictions to majority rule are responsible for its effectiveness, in so far as minorities would be likely to resort to other than democratic means of competition if they were not protected from the majority and had no chance to eventually gain majority themselves at some point in the future. This arrangement puts constitutionalism at the center of research concerned with processes of regime change towards democracy. In the following, I will discuss the development of the human rights situation on the ground (4) separately from the constitutional safeguards designed to protect individual rights (1-3). As basic threats to human rights I have identified disappearances, torture, extra-judicial killings, and detention without trial. I add freedom of expression in general and press freedom in particular as an important means for exposing human rights abuses.

2.1.1 Human Rights Conditions in Kenya and Uganda

Systematic human rights abuses became a common feature of Ugandan domestic affairs in the late 1960s when Milton Obote used the military to depose of potential competitors for national power. When Idi Amin took power in 1971, torture and murder of members from Obote's ethnic group became widespread. Over time, the murders ordered by Amin became more and more random and extended well beyond the groups originally targeted. Amin suspended all constitutional safeguards and ruled by decree. After Amin's violent removal in 1979 and general elections in 1980, Obote returned to the presidency. The human rights situation even worsened under his rule from 1981 to 1985 (Amnesty International 1985b; Hooper/Pirouet 1989: 20), because Obote's undisciplined army was soon engaged in a civil war with an increasingly successful National Resistance Movement/Army (NRM/A). In their

efforts to avert Obote's second downfall, the military committed countless atrocities against the civilian population, killing between 300 and 500,000 Ugandans.[23] After the military victory of the NRM/A under the leadership of Yoweri Kaguta Museveni in 1986, the spiral of violence was stopped and the security situation improved dramatically. However, human rights abuses were not completely eradicated and continue to be a problem especially in the insurgency areas of the North and East.

In Kenya, an aborted coup attempt by air force officers in 1982 caused a continuos deterioration of human rights conditions (Howard 1991). President Daniel arap Moi systematically strengthened internal security units[24] which became notorious for severe human rights abuses (Oloka-Onyango 1990: 25). At the same time constitutional safeguards for human rights were weakened.[25] Only in 1991/1992, when consistent internal and external pressure finally pushed the government to partial retreat, some improvements were attained. However, the record remained mixed until the second multiparty elections approached in late 1997. After the US State Department claimed for 1995 that "the government's human rights record worsened" (U.S. Department of State 1996: 1), it held in January 1998 for the previous year that "beginning in late September, however, there was a visible improvement in the human rights situation, as the bipartisan Inter-Party Parliamentary Group (IPPG) brokered a package of wide-ranging political reforms, which the Government enacted in early November" (U.S. Department of State 1998: 1).

In the following sections, I will describe in greater detail how human rights conditions in Kenya and Uganda changed over time. I have selected 'torture', 'extra-judicial killings', and 'arbitrary arrests' as indicators, because reliable information about these abuses is available for both countries and the whole period under investigation.

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[23] A list of massacres and a few names of the victims, both in the Amin and second Obote period, are contained in A.B.K. Kasozi's overview of the Ugandan history of violence between 1964 and 1985 and Francis Bwengye's assessment of the Obote II regime (Bwengye 1985: 357-368; Kasozi 1994: 240-274).

[24] These include the Criminal Investigations Department (CID), the para-military General Services Unit (GSU), and the Directorate of Security and Intelligence or Special Branch (see Africa Watch/Human Rights Watch 1991: Ch. 5).

[25] In his detailed analysis of the Kenyan human rights situation between 1982 and 1988 Howard concludes, that "while the extent of terror was minuscule compared to most Latin American examples, the causes and trends were similar" (Howard 1991: 94).

Torture

With regard to *torture*, the situation dramatically improved in Uganda after 1986, while reporting on such cases from Kenya has increased until the early 1990s and remained stable until the mid-1990s. Apart from the intentional use of torture to repress political dissent, the mistreatment of suspected criminals as a means to extract evidence remains in both countries a serious problem. For Uganda, Amnesty International maintained already in 1987 that "the incidences of torture of civilians by soldiers have diminished" (Amnesty International 1987a: 169). The U.S. State Department asserted in 1994 that "no evidence for government-sanctioned torture" existed in Uganda (U.S. Department of State 1994b), while "credible allegations of torture" persisted in Kenya even after the introduction of multipartyism in 1991/92 (U.S. Department of State 1994a).[26] Moreover, rebel groups active in the Northern part of Uganda began in the mid-1990s to systematically abduct, kill, and torture thousands of Ugandans living close to the Sudanese border (Amnesty International 1997a). Hence, the main perpetrators of such human rights abuses in Uganda are today non-state actors.

Until very recently, Amnesty International accused Kenya for not taking any measures against the widespread use of torture (Amnesty International 1997b). Speculations that international pressure at the end of the 1980s has led to the dissolution of a special torture unit were proven wrong (Africa Watch/Human Rights Watch 1991: 99).[27] The UN Special Rapporteur on torture, Nigel S. Rodley "advised the Government (on 18 September 1995, HPS) that he had received information indicating that the use of torture by police to obtain confessions was almost systematic" (UN Commission on Human Rights 1996: 77). In December 1996, Amnesty International reported of at least one institution in Kenya which existed for the sole purpose of torturing politically suspect persons. "Despite all the evidence that torture of detainees is endemic and systematic throughout the country, the Kenyan authorities prefer to deny that these abuses take place..." (Amnesty International 1995c: 5).

Until 1997/98 there were no similar allegations made against the Ugandan government. None of the international observers accused the government of tolerating or instigating systematic

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[26] For an exemplary account on the conditions in Kenyan police stations and prisons see Nairobi Law Monthly, No. 14, 1989, p.17-19.

[27] These speculations were based on a public statement by President Daniel arap Moi who publicly declared that torture was not permitted (Andreassen 1993: 215).

torture, although reports about individual torture cases continued to surface. The International Committee of the Red Cross and local NGOs have regular and uninhibited access to all Ugandan prisons, police stations, and military barracks (U.S. Department of State 1994b). The main exception to this rule are the insurgency areas, although the Ugandan military does allow for visits of journalists and independent observers. More recently reporting on torture cases even outside the insurgency areas increased again. In 1997, the UN Special Rapporteur for Torture, Nigel Rodley submitted for the first time one case of alleged torture to the Ugandan government. The victim was a UPC activist who was suspected to support a rebel group (E/CN.4/1997/7, Section III). Following the August 1998 bomb attacks on US embassies in Nairobi and Dar-es-Salaam dozens of suspects were detained and some of them tortured in euphemistically called 'safe houses' (New Vision, 27 October 1998). After press reports, the government acknowledged and ended the practice (New Vision, 11 February 1999).

To conclude, torture and mistreatment of persons by security personnel are still a serious issue in both countries. However, there are crucial differences when it comes to the intentional mistreatment of government critics. The Ugandan case is characterized by significant improvements and torture is no longer systematic and government-sanctioned. In Kenya, torture was systematically used during the 1980s and even the 1990s to silence opposition voices. Only very recently, sustainable improvements are noticeable. Most recent reports from Uganda indicate an increase of mistreatment cases with a pattern of repression against individual members of the opposition. However, the main international attention shifted since 1994 to the insurgency areas, where rebel groups killed and tortured thousands of Ugandans.

Extra-judicial Killings

In regard to *extra-judicial killings*, Amnesty International acknowledged a dramatic reduction of cases in Uganda after 1986 and again after 1991/92 when a number of rebel groups ended their activities. Nonetheless, Amnesty International maintained that extra-judicial killings were one of the major human rights problem in Uganda even after 1986 (Amnesty International 1991: 15-21), although it equally named the Ugandan army and rebel groups as perpetrators.[28] Despite the drop in numbers after 1992, cases of extra-judicial killings continue

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[28] In one of the most serious cases 69 people died in July 1989 after being locked up by the army in a railway wagon near Mukara (Oloka-Onyango 1992: 332). After an official inquiry one of the responsible officers was convicted and compensation was paid to the families of the victims.

to be reported from insurgency areas (Amnesty International 1996). Outside of those areas, extra-judicial killings are very rare and isolated incidences.

In Kenya, cases of extra-judicial killings increased during the 1980s and early 1990s. In contrast to Uganda, where most of the recorded cases were linked to counter-insurgency operations of the army, extra-judicial killings in Kenya occurred during this period as part of a generally increasing police brutality (Africa Watch/Human Rights Watch 1991: Ch. 17; Kenya Human Rights Commission 1995), governmental persecution of the opposition, and 'ethnic clashes' instigated by high-level government officials (Africa Watch/Human Rights Watch). Following the announcement of the return to multiparty rule, about 2,000 Kenyans were killed as a result of violent attacks against members of ethnic groups suspected to support the opposition (Young 1996: 61). These attacks ended shortly after the first multiparty elections and resurfaced at the following elections in 1997/98 (killing again several hundred civilians). Despite official denial, these systematic acts of extra-judicial killings were the responsibility of government officials. "Leurs actions commandos s'effectuent à partir des fermes gouvernementales d'où ils sont transportés par de camions sur les lieux de leurs exactions." Moreover, "les assaillants kalenjin (...) sont souvent en réalité des forces paramilitaires déguisées" (Lafargue 1996: 241). A parliamentary investigation into the 1992 clashes named prominent KANU politicians in connection with the violence (Republic of Kenya 1992), but its results were shelved as KANU prevented a vote on the official acceptance of the report.

Various prominent and government-critical individuals were also killed at the height of the regime crisis in 1990/90 and after the introduction of multipartyism. Such mysterious deaths include the Foreign Minister and potential Moi successor Robert Ouko in February 1990, Anglican Bishop Alexander Muge in August 1990 (Nairobi Law Monthly 1990), a member of the Kenya Human Rights Commission (KHRC) in 1994, and the General Secretary of Release Political Prisoners (RPP), Karimi Nduthu, on 24 March 1996. In early 1997, Stephen Muruli, a student at the University of Nairobi was killed and his dormitory room set on fire. A few days earlier he had identified a high-ranking police officer as one of the persons who had tortured him before. To date, the investigations in all these cases remained without tangible results.

A decisive change of the situation occurred in late-1997 when the government and the opposition reached agreement on minimal constitutional reforms. As a result, the police force was

now explicitly restrained from breaking-up political rallies. During the 1998 electoral campaign, the number of extra-judicial killings as part of violence against ethnic groups alleged to support the opposition decreased in comparison to 1992. In sum, cases of extra-judicial killings increased sharply in the early 1990s and following the introduction of multi-partyism. After September 1997 and in 1998 the number of extra-judicial killings decreased significantly. Sustainable improvements became visible as the government entered serious talks about constitutional reforms in mid-1997. In contrast, the development in Uganda is generally positive and shows a continuous decrease both in the mainland and the insurgency areas.

Detention Without Trial and the Practice of Arbitrary Arrests

Since independence the practice of *detention without trial* was widely used in both countries to silence opposition voices (Conboy 1978; Kabudi 1995: 227; M'Inoti 1990). As a reaction to domestic and international criticism, the Kenyan government shifted its strategy between 1990 and 1997 from simple detention without charges or trial to misusing criminal charges against government opponents (Amnesty International 1995a). A number of the more promi-nent opposition members (namely Koigi wa Wamwere) were simply charged with capital offences and held in prison using on fabricated evidence and judicial consent. "From a politi-cal perspective, activists charged with capital criminal offences are therefore effectively held under detention *with* trial" (African Rights 1996: 131). Since 1992, about half of the opposi-tion members of parliament (36 in 1993, 15 in 1994) have been detained for different reasons (usually for holding unlicensed meetings and subversion) in a systematic effort of intimida-tion. Usually they were released after a short period of time and the charges were dropped. After 1995, this practice subsided. In late-1997, detention without trial was deleted from the Preservation of Public Security Act. These changes confirm a slow improvement of the human rights situation.

In Uganda, the previously widespread practice of detaining political opponents without charges ended, although such human rights abuses remained a problem in the insurgency areas (Amnesty International 1992b: 41-50). In 1988, the Ugandan government reported to Amnesty International that its army currently held about 4,000 persons as part of its military operations, most of them in preventive detention (Amnesty International 1992b: 44). Amnesty International estimated that from 1987 to 1989 several thousand people were temporarily

detained as part of these operations, while these numbers dropped significantly until 1991.[29] After 1992, AI reported between 100 and 200 cases a year, which indicated an improving situation.[30] Occasionally, government critics were intimidated by arrest warrants, but the cases remained isolated. The most serious case of political arrests occurred in 1993 when more than a dozen politicians from the North were arrested and charged with treason (Amnesty International 1994). After a court order, the suspects had to be released.

In both countries serious problems within the administration of justice (Africa Watch/Human Rights Watch 1991: Ch. 9) and extensive corruption cause long delays in court rooms and put many detainees in pre-trial detention for months or years. For Kenya, the U.S. State Department concluded, that "suspects of all types are often held incommunicado for two to three weeks before being brought before a court" (U.S. Department of State 1994a). In Uganda, the police regularly detains suspects beyond the limit of 48 hours before releasing them again or charging them in court. The Uganda Human Rights Commission (independent government body established in 1995) identified in 1997 this practice as the main human rights problem (The Monitor, 13 June 1997). The average time of pre-trial detention after a charge was brought against the suspect in court is estimated at two to three years. Out of 11,527 prisoners at the end of 1996 7,401 were on remand, only 4,126 convicted.[31] In many cases the period of remand exceeded the constitutionally prescribed limit of 120 days (360 for a capital offence) after which a suspect has to be brought to trial or released. However, several Ugandan court decisions during the last year seem to indicate a growing adherence to time limits for pre-trial detention (U.S. Department of State 1997: 5).

The review of this set of human rights abuses confirms the general trend observed with regard to Kenya and Uganda. Increasing numbers of government-sponsored abuses from the mid-1980s until the early 1990s mark the situation in Kenya. It follows a mixed record between the two multi-party elections in 1992 and 1997. After late-1997, sustainable positive change occurred and paralleled the negotiations between the government and the opposition. In Uganda, sustainable change occurred when the NRM took power in 1986. Afterwards, the

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[29] AI reported the release of 5,000 detainees from military barracks (Amnesty International 1992b: 11).
[30] With increasing rebel activities in the North at the end of 1996, the Ugandan Army has taken up again its practice of summary detentions and euphemistically called this 'protected villages'.
[31] In a July 1997 workshop organized by UHRC Justice Egonda Ntende held that today "arrest [was] equivalent to conviction, and remand [to] punishment" (cited in New Vision, 25 July 1997).

improvements were most visible in the mainland while abuses continued to occur in the insurgency areas. After 1992, reporting on such incidences slumped due to an overall decrease of rebel activities. More recently, the number of press reports on human rights abuses by government agencies increased again. However, it is not clear whether this reflects a new trend or whether improved monitoring capabilities of the press and the various domestic human rights bodies ensure now that more cases are becoming public. At the same time, thousands of Ugandans were tortured and killed by the remaining and increasingly violent rebel groups in the North.

Table 6. Human Rights Situation in Kenya and Uganda, 1986-1998

	Kenya	**Uganda**
Torture	Widely used until 1992, both as a method of police investigation and a means to intimidate the opposition; After 1996/97: reporting decreases	No government sponsored incidences; continued reports of individual cases in army barracks, police stations, and in connection with military operations in the North
Extra-judicial Killings	Continued reporting on government-sponsored cases; 1992: sharp increase as a result of 'ethnic violence'	No reports on government-sponsored incidences; problems persist in the insurgency areas
Detention without Trial/ Arbitrary Arrests	Until 1992 used against prominent opposition politicians; After 1992 substituted by a strategy of detention based on false, non-bailable charges After late-1997: reporting decreases	No systematic use against the opposition, but high numbers of questionable detentions in insurgency areas; After 1997: reporting increases also for the mainland

2.1.2 Constitutional Safeguards of Human Rights

The degree of self-commitment by governments to the cause of human rights serves as a crucial indicator for this study. It is hypothesized that growing declaratory adherence to international norms precedes decreases of in human rights abuses, even when government officials initially employ such a rhetoric in a purely instrumental manner. In particular, it is argued that NGOs and international institutions can use such government rhetoric as an entry point for the further promotion of human rights in a domestic context. Therefore, the

commitment of the Kenyan and Ugandan government to human rights is measured by surveying (1) the respective position towards pertinent international human rights treaties, (2) the extent of their application in domestic law, (3) the existence of individual complaint procedures, (4) the independence of the judiciary/separation of powers.

International Human Rights Law

As members of the United Nations both countries acknowledged the Universal Declaration of Human Rights from 1948. They are also party to the International Covenant on Civil and Political Rights (ICCPR), Kenya since 1976 and Uganda since 11 May 1995. Kenya and Uganda are members of the African Charter on Human and Peoples' Rights.[32] Kenya (in February 1997) and Uganda (in 1986) signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Both countries have generally neglected their duty to report under the respective international human rights treaties.[33] Overall Kenya has a slightly weaker record than Uganda, because it did not sign the First Optional Protocol of the ICCPR allowing for individual communications to the UN Human Rights Committee. In contrast, Uganda has done so on 22 September 1995 (Republic of Uganda 1995b).

International Human Rights Norms and Domestic Law

In both countries it is the prerogative of the president to sign international treaties. Following the British common law tradition, international law can only be applied domestically if a corresponding act of parliament exists (Kabudi 1995: 27; Ojwang/Otieno-Otek 1988: 29).[34] The application of international human rights norms is inhibited by several repressive laws, which were originally introduced by the British colonial authorities to suppress nationalist movements. These include the Preservation of Public Security Act, the Chief's Authority Act, the Public Order Act, sedition and treason provisions, and provisions in the Penal Code and the Societies Act (Kenya Human Rights Commission 1994: Appendix). Whereas the Kenyan

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[32] For the role of the International Commission of Jurists in creating this charter see (MacDermot 1992: 182).

[33] After twelve reminders commencing in 1986, Kenya still failed to report under Article 40.2 of the ICCPR which asks the governments to "indicate the factors and difficulties, if any, affecting the implementation of the present Covenant" (see Andreassen 1993: 185). During the 1997 visit of an Amnesty International delegation, Vice-President Saitoti acknowledged the issue and promised that Kenya would improve its reporting habits. Uganda failed to submit its initial report to the African Commission of Human and Peoples' Rights for nearly ten years (Oloka-Onyango 1996: 373).

[34] However, without such an act of parliament, domestic courts can still invoke international law as long as there is no contradicting national regulation or law (Kabudi 1995: 29).

government and local authorities under its control made extensive and systematic use of those laws until late-1997, the Ugandan government shows more restraint in using such provisions against opposition voices.

In Kenya, the central government's control extends to the local level. The President appoints not only Provincial and District Commissioners as his representatives outside of Nairobi, but also other important civil servants such as the Attorney and Solicitor General or the Chief Justice. For a long time, this ensured the uniform application of repressive laws across the country. Redress for abuses by the central government and its representatives was almost impossible to get because the judiciary invariably relied on repressive sections of the constitution rather than the Bill of Rights (Chapter V). The Chief Justice refused to establish guidelines for the application of the Bill of Rights in court proceedings, thus, effectively preventing their operation altogether (M'Inoti 1991). In his famous 1989 High Court decision, Justice Norbury Dugdale held that without such guidelines the Bill of Rights was unenforceable (Maina 1991).

In a speech on New Year's Eve 1992, Moi announced a comprehensive constitutional review of all repressive laws. Only in July 1993, the Attorney General announced the creation of eleven task forces to be charged with revisions of different sections of the constitutions. Nothing happened (Macharia 1996) until the second multi-party-elections approached in 1997 and Daniel arap Moi declared that reforms would not take place before election date. A coalition of domestic critics threatened to take control of the reform process and forced the government into compromise. Hastily, a working group of parliamentarians negotiated a package of minimum reforms to be implemented prior to the elections. The changes relating to human rights issues included the abolition of detention without trial (1), greater freedoms to hold public meetings (2), the explicit prohibition of torture in the Police Act (3), and extensive restrictions of powers previously conferred to local authorities by the Chief's Authority Act (4). After the December 1997 elections, the constitutional review process continued with disagreements about the formal composition of the review body, especially with regard to the representation of the opposition and societal groups.

Uganda made considerable progress in formally establishing human rights standards domestically. Most recently, this has led to the promulgation of a new Constitution in October 1995[35] which included a substantially extended Bill of Rights.[36] This development was preceded by other measures, including the first time promulgation and enforcement of a Code of Conduct for the Ugandan Army (Amnesty International 1989: 15). The sincerity of the Ugandan government's commitment to constitutional reforms is further highlighted by the fact that exceptional efforts were made to involve large sections of the population and all major societal actors in the constitution-making process. A 21-member Constitutional Commission had visited since 1989 all 870 sub-counties to collect views from the ordinary people. In the end, about 25,000 written proposals from individuals, villages, grassroots organizations or other groups were solicited and transformed into a draft constitution (Harvey/Robinson 1995: 9). Afterwards, the population elected the Constituent Assembly (CA) as a separate body to debate and decide on a new constitution.

Individual Complaint Procedures in the Human Rights Area

Both countries have shown some activities with respect to the establishment of domestic human rights bodies. Progress was much more substantive in the Ugandan case, while measures taken by the Kenyan executive still convey the image of mere window-dressing. The debate about creating the position of an Ombudsman in Kenya was introduced by the opposition subsequent to the 1992 General elections. However, the ruling party KANU prevented any movement into that direction. Instead, the first official human rights body was created by Moi two days before a donor meeting and disappeared from the scene within weeks after being announced. In May 1996 the President decided to establish a Standing Committee on Human Rights and selected ten persons for this body (East African, July 29-Aug 4, p. 11). According to the chairman, Onesmus Mutungi, the body was created under section 23 (1) of the constitution, which vested executive power upon the President to create any office as and when he deems fit (African Rights 1996: 236). The committee has no established mandate and is completely dependent upon presidential goodwill. In December 1998, the committee

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[35] Oloka-Onyango and Bossert/Sager provide a critical review of the constitutional process and the final product (Bossert/Sager 1996; Oloka-Onyango 1995).
[36] In an important ruling, High Court Judge Justice Egonda-Ntende upheld in 1993 the right of any person to invoke the Bill of Rights even if "parliament or the rule-making authority" fail to "make specific provisions as to how that access was to be gained" (cited in Stevens 1996: 111).

presented for the first time a report to the public. However, the report was dominated by a general overview of existing human rights law and definitions. Only the section on the ethnic violence in the Coast region in August 1997 showed that the committee had conducted own investigations.

Apart from these executive initiatives, the Kenyan parliament established in the 1990s several temporary committees and commissions to investigate human rights abuses. These included most prominently, the Parliamentary Select Committee appointed to investigate the ethnic clashes in 1992 (Republic of Kenya 1992) and the Akiwumi commission investigating all ethnic clashes since the early 1990s. While the executive succeeded to shelve the 1992 report without further discussion, it failed to prevent the creation of the Akiwumi commission in 1998. Its daily hearings in the areas previously affected by the ethnic clashes represent an important, although temporary opportunity for individual complaints on human rights issues.[37]

In Uganda, the government took several steps to institutionalize individual complaint procedures, both for past abuses as well as for current human rights problems. These include the establishment of (1) a Commission of Inquiry into Violations of Human Rights before 1986, (2) the Office of the Inspector General of Government, (3) a Human Rights Desk in the Ministry of Justice, and (4) the Human Rights Commission under the new Constitution of 1995. The Commission of Inquiry, led by Justice Arthur Oder, selected exemplary cases of severe human rights abuses, toured the country, and heard witnesses. For the first time in post-independence history, this gave the Ugandan population the opportunity to debate openly on the past gross violations of human rights. The final report detailed on almost 700 pages the abuses of the Amin and Obote regimes (Republic of Uganda 1994).

In 1987, the NRM government established the Office of the Inspector General of Government (IGG) to fight corruption and human rights abuses under the present government. Positive aspects of the office's work in the field of human rights included its role as *de facto* Ombudsman during the last years. The office received human rights complaints from the public and occasionally helped individuals. The IGG also served as a gateway for foreign human rights education programs by organizing seminars for local administrators and politi-

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[37] The director of KHRC and widely respected academic Alami Mazrui refused in early 1999 to appear before the Akiwumi decision and declared the commission was not independent (Daily Nation, 12 February 1999).

cians together with the Raoul Wallenberg Institute (Lund, Sweden). However, the IGG generally shied away from going beyond isolated cases and expanding its agenda to issues of national significance (Andreassen 1993: 323; Oloka-Onyango 1993). Additionally, forces within the NRM government successfully limited the impact of the IGG, and removed Waswa Lule, a staunch supporter of the human rights mandate, from the post of Deputy IGG in 1992. Under the new constitution, the mandate of the IGG in the human rights area were transferred to the newly established Uganda Human Rights Commission. The latter enjoyed expanded jurisdiction, including prison visits and stronger investigative powers.

In sum, Kenya is still lacking any sustainable mechanisms to address the issue of human rights abuses which are independent from executive influence. However, the parliamentary investigations of human rights abuses in the 1990s indicate a growing emancipation and effectiveness of such procedures. Uganda has established several avenues open for complaints, but the government's willingness to unequivocally support their tasks had been ambiguous. Compared to Kenya, these mechanisms enjoy greater independence from the executive.

Judicial Independence

Judicial independence deteriorated in Kenya in the mid-1980s with increasing executive control of the one-party system and society at large. In Uganda, judicial independence was largely respected after 1986, but the third power is generally weakened by insufficient funding for its work. On the local level, the new government introduced in 1986 a system of popular justice represented by the Resistance Council (RC) system. The elected RC on the village level now replaced the hierarchical Chief system and had legislative, executive, as well as judicial powers. As resistance courts they were restricted to civil cases and crucially supplement the generally corrupt and failing magistrate courts. In the short term, the measure was popular because the RC system represented a fast and appropriate way of reconstructing the Ugandan state from the local level. In the long term, however, the emergence of parallel systems of justice raised concerns about the separation of powers (Barya 1993). Hence, a number of donor governments channeled during the 1990s significant resources into the rehabilitation of the magistrate court system.

At the height of executive dominance, the Kenyan parliament abolished in August 1988 the tenure for all judges in the country (Constitutional Amendment No. 25). Even prior to that

decision, the judiciary had never been an equal power. First, a pervasive doctrine in favor of judicial restraint claimed that the judiciary as the third branch was not elected by the people and had to could not interfere in political affairs (Ojwang/Otieno-Otek 1988: 49). Second, the Head of State and his decisions were considered as untouchable. In May 1991, the Attorney General and internationally recognized human rights lawyer Amos Wako declared in his inaugural speech that "a characteristic of the rule of law is that no man, save for the President, is above the law" (Wako 1991). Third, the system of hiring expatriate judges on short term contracts had effectively removed security of tenure (Africa Watch/Human Rights Watch 1991: 148-153; Days et al. 1992; Schofield 1992) even before the 1988 decision. In numerous cases contracts were not renewed by the Kenyan government because the judges upheld opinions independent of or even in contradiction to the executive branch.

Fourth, important members of the judiciary such as the Chief Justice are appointed by the president and usually served the interests of the executive branch, e.g. by allocating sensitive cases to 'reliable' judges. Fourth, corruption is generally regarded as a major problem of the Kenyan administration of justice (African Rights 1996: 62). Critics observed an executive inclination to appoint lawyers to the bench who previously had financial or other problems. A prime example for this practice is Moi's policy in appointing the Chief Justice.

Although parliament reinstated the formal independence of judges in late 1990, many domestic and international observers remained critical of the situation (African Rights 1996; International Bar Association 1997). In 1995, the US State Department repeated its criticism of judicial ignorance towards the Bill of Rights contained in the constitution and the famous 1989 Dugdale ruling. "In spite of legal challenges that the ruling effectively subsumes the judiciary under the executive branch, his decision has not been overruled" (U.S. Department of State 1995).

Table 7. Constitutional Safeguards in Kenya and Uganda, 1986-1998

	Kenya	**Uganda**
International Human Rights Treaties	UDHR ICCPR (1976, but not the First Optional Protocol) Torture Convention (1997) African Charter (1992)	UDHR ICCPR (1995) First Optional Protocol (1995) Torture Convention African Charter
Domestic Application of Human Rights Law	Strongly inhibited by continued repressive domestic legislation and existing colonial laws; some minimum reforms in late-1997	Generally applied; occasionally inhibited by existing colonial laws; new constitution with extended Bill of Rights (1995)
Complaint Procedures	Yes, formally established, but controlled by the executive	Yes, formally established, but largely donor-supported and weak
Judicial Independence	Serious executive interventions into the judiciary persist	Judiciary is generally independent, but weak

2.1.3   Conclusions

Constitutionalism failed to take sufficient root after independence in Uganda as well as Kenya. In Uganda, the negative consequences for the overall human rights situation became already apparent under the rule of Milton Obote. After the coup d'état in 1971, Idi Amin suspended the constitution altogether and ruled by decrees. Although constitutional safeguards were reinstated after Amin's ouster, the return of Obote to presidency between 1980 and 1985 did not improve the situation. To the contrary, an intensified civil war fought by untrained government forces caused even greater loss of life and systematic abuses of human rights than under Amin. The situation only improved when the National Resistance Movement under the leadership of Yoweri Museveni came to power in early 1986.

In Kenya, constitutionalism deteriorated more slowly as some checks and balances to the executive survived the shift towards personal rule under Jomo Kenyatta. However, the end of his rule was marked by growing state harassment against opposition figures. After a brief period of liberalization, Kenyatta's successor Daniel arap Moi increasingly resorted to unconstitutional means in order to consolidate his position. After a failed coup d'état in 1982, Kenyan security forces turned openly against the opposition. The separation of powers was

undermined by a shift of public decision-making away from the parliament to closed circles within KANU. Direct executive interventions into the judiciary became routine as parliament scrapped tenure for judges and other civil servants. Colonial laws such as the Preservation of Public Security Act are regularly used to intimidate the opposition. Torture and other forms of degrading treatment of suspected government critics became widespread. Only very lately some sustainable positive changes occurred.

For Uganda, I claim continuous *and* consistent improvements in both formal institutions and practices. Their extent does not merely reflect the end of the civil war after 1986. For Kenya, the record shows a period of consistent growing repression until 1989/90, a mixed record between 1990 and 1997, and finally some signs of sustainable improvement in late-1997 and 1998. Therefore, I conclude that significant variation between the two countries exists with regard to the dependent variable *constitutionalism* as one dimension of the transition path.

2.2   Electoral Democracy: The Neopatrimonial Logic of Positive Integration

Democracy is understood here as "a political system, in which the people, positively or negatively, make, and are entitled to make, the basic determining decisions on matters of public policy" (Holden 1993: 3). This definition reflects a largely formal understanding that lacks substantive attributes. Apart from the constitutional prerequisites for democracy discussed in the previous chapter, democracy is characterized by two basic and simple criteria, elections must be free and fair and the institutions emerging from elections must make a difference in the subsequent policy process:

(1) the existence of regular and popular elections, free and universal suffrage as well as unrestricted entry of citizens to candidacy for offices,

(2) decision making influence of (representative) institutions through a legislative process (from Zoehout 1997: 216).

"Given a regime in which the opponents of the government cannot openly organize into political parties in order to oppose the government in free and fair elections, what conditions favor or impede a transformation into a regime in which they can?" (Dahl 1971). This opening statement of Dahl's seminal work on polyarchy is followed by three necessary (although not sufficient) conditions of democracy. Dahl holds that citizens should be able to "formulate their preferences" (1), "signify their preferences to fellow citizens and the government by individual and collective action" (2), and "have their preferences weighted equally in the conduct of

the government" (3). Political parties are no longer explicitly named as carriers of the people's will.

Uganda represents an interesting case because political parties are prohibited from proper functioning while significant efforts are made to increase citizen's ability to formulate and signify preferences. According to Dahl it is a case with "least favorable conditions for polyarchy" (Dahl 1971: 203) because, in Dahl's analysis of historical sequences, inclusiveness (participation) always preceded competition (contestation). In contrast, Kenya is a 'classical' case where regime change took off with advances in terms of competition while the inclusive nature of the political system initially decreased. In the following I will show how inclusiveness dominated democratization in Uganda after 1986, while Kenya initially chose the extension of party competition. The description is divided in two sections. In the first I focus on elections in both countries and in the second on press freedom as a prerequisite for informed electoral decisions. I will first narrate the changes taking place in Kenya and Uganda and later summarize the performance based on indicators Elklit recently developed based on Dahl's concept of polyarchy (Elklit 1994).

2.2.1   Elections

Kenya

The dissolution of the Kenya African Democratic Union (KADU) in 1964 ended multiparty-ism in Kenya shortly after political independence. Attempts to found new parties challenging the dominant Kenya African National Union (KANU) were not tolerated by the Kenyatta and Moi governments. Within the one-party system, regular elections on the national level were held every four years. Thus, outside observers concluded that the Kenyan political system under Kenyatta was "semi-competitive" (Barkan 1992: 162). However, during the 1980s Members of Parliament increasingly lost their independence to a revitalized KANU controlled by the executive (Widner 1992b).[38] At the height of executive dominance in 1988, KANU replaced the secret ballot in its primaries with a so-called queue voting procedure. Voters were now asked to openly line up behind pictures of their candidates, a method which greatly increased the ability of party officials to control the overall process. In 1990, this practice was

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[38] In 1985, the first party elections since 1966 took place. In 1988, KANU threatened several dissenting members with expulsion in order to secure absolute executive dominance.

abolished and in late-1991, the Kenyan government reintroduced multipartyism. Two elections were held in December 1992 and 1997, respectively. On both occasions, the President and parliament were elected separately but on the same day. Moi and KANU won both elections, but the parliamentary majority decreased to four seats in 1997. Consequently, KANU entered a *de facto* coalition government with the opposition parties FORD-Kenya and National Development Party of Kenya (NDP).

In 1992, parliament hastily agreed on legislation mainly designed to prevent the success of opposition candidates, but also limited executive powers. This included the prohibition of a coalition government and a requirement for all presidential candidates to gain at least 25 per cent of the votes in five out of the eight administrative provinces of Kenya. The terms of office for the President and Parliament were extended from four to five years, while presidential tenure was simultaneously limited to a maximum of two terms. As a result of the minimum reforms agreed upon in 1997, executive interference in the electoral process decreased between 1992 and 1997. Most importantly, the Electoral Commission (EC) was enlarged by ten members nominated by the opposition, while the remaining ten members and the chairperson were still appointed by the President. The EC was now also charged with ensuring the fair coverage of all parties in state-controlled radio and television programs. Moreover, the government could no longer interfere with opposition campaigns by refusing licenses.

Despite progress in terms of a 'level playing field' between 1992 and 1997, erratic measures of repression caused continuous criticism. Although the government registered a total number of 21 parties for the 1997 elections, it initially refused registration for the Safina party, which represented prominent and internationally well-known lawyers and opposition politicians such as Richard Leakey, Kivutha Kibwana, and Paul Muite. Safina was finally registered three weeks ahead of the elections. Instances of direct manipulations of the counting also decreased, but remained an issue. The same can be said about the use of 'ethnic violence' to intimidate and displace potential voters for the opposition (Africa Watch/Human Rights Watch 1993), the manipulation of constituencies ('gerrymandering'), and the 'neglect' of opposition areas in the process of voter registration and delivery of ballot boxes on elections day.

Hence, I claim that the following statement by the 1992 Commonwealth Observer Group is actually more realistic for the 1997 than the 1992 elections. "Despite the fact that the whole

electoral process cannot be given an unqualified rating as free and fair, the evolution of the process to polling day and the subsequent count was increasingly positive to a degree that we believe that the results in many instances directly reflected, however imperfectly, the expression of the will of the people" (Commonwealth Observer Group 1993: 40).

Uganda

Multipartyism ended in Uganda four years after independence with a coup d'état by the Prime Minister Milton Obote on 24 February 1966. Obote used the army to depose the President of the country and king of Buganda Mutesa II. On 19 October 1969, political parties except for Obote's Uganda People's Congress (UPC) were banned and the whole country was put under a state of emergency. In 1971, Obote was himself deposed from power by the Army General Idi Amin Dada. During the Amin dictatorship from 1971 to 1979 no elections were held. The multiparty elections in 1980s were manipulated in favor of UPC, but still legitimated Obote's return to the presidency (Bwengye 1985). Yoweri Museveni, a looser of these elections, justified his violent rebellion with reference to the electoral fraud. After the end of the protracted civil war in late 1985, the new government under the National Resistance Movement (NRM) declared party politics as one of the main evils responsible for the past chaos in the country. Parties were not banned as organizations, but their activities sharply restricted. They were prohibited from opening offices outside of Kampala, supporting candidates in elections and holding public rallies. All party members were asked to join the movement in their individual capacities. After an initial four year period the NRM extended this ban on party activities twice (and now for 15 years) until the year 2001.

At the same time, the government established the Resistance Council (RC) system as an alternative form of popular participation. The introduction of the RC system revolutionized politics on the local level as it effectively replaced hierarchies dominated by chiefs with periodically elected officials (Brett 1994; Tidermand 1994). Moreover, two positions in the nine-person village level Resistance Committee (RC I) were reserved for a women and youth representative, respectively. In turn, the village level council elected a representative for the parish level (RC II). This process continued upward to the sub-county (RC III), the county (RC IV), and the district level (RC V). The National Resistance Council (NRC) as the equivalent of a national parliament topped the pyramid. However, with every extension of the NRM rule the RC system was increasingly marginalized in national politics (Mamdani 1996:

209). In the end, the effort to replace a Western-style and corrupt party system with a 'grass-roots democracy' failed. "Provided that socioeconomic and political realities in Uganda perpetuated existing fundamental inequalities and injustices, the law by itself can do little to implement a regime of genuine grassroots democracy" (Oloka-Onyango 1989: 478).

The first elections for all RC levels were held in February 1989. The main purpose was to broaden the basis of the NRC beyond the current membership of Museveni's comrades during the bush war. The new, from 98 to 278 members expanded NRC included thirty-eight 'histori-cal' NRM/A members, elected members from the RC II and III level, twenty presidential nominees, ten army representatives, as well as town, women and youth representatives (Ddungu/Wabwire 1991: 12). There were no further provisions as to the relationship between the new NRC and the rest of the RC system. In 1992, similar elections for various RC levels were conducted.

In March 1994, the population directly elected 214 delegates for the Constituent Assembly (CA), the remainder of 74 were appointed by the President, the army (ten each), youth-, women-, disabled-, and other societal groups. Additionally, the parties contesting the 1980 elections were also given two seats to fill. Although this reflected an implicit recognition of the government that the old parties could not be ignored, the ban on their activities was upheld throughout the election period. With close to 90 per cent voter turnout about two thirds of the seats went to movement candidates. International observers criticized the treatment of parties but commended the elections as generally free and fair. After one year of deliberations the CA further extended the no-party rule until 2001 and decided to hold a referendum on multiparty-ism at the end of this period. In 1996, the Members of Parliament and the President were for the first time since 1986 directly elected by the Ugandan people. On 9 May, Museveni won Presidential elections with more than 74 per cent of the vote. Two weeks later, NRM candi-dates also clearly dominated parliamentary elections(see Ottemoeller 1998: 100-104). Each of the elections in 1989, 1994, and 1996 reflected a growing openness to political competition, but an openness which was always rhetorically subordinated to the dominant value of inclu-siveness.

2.2.2 Freedom of the Press

Freedom of expression and press freedom in particular represent an important safeguard for human rights and democracy. They are 'early warning systems' for abuses of fundamental freedoms, supplement possibly existing constitutional mechanisms charged with protecting individuals, and enable informed electoral choices. Freedom of press is protected by internationally recognized norms promoted by a sub-set of the transnational human rights movement.[39] Hence, I briefly discuss here the development of press freedom in both countries, although the abuses are also covered by the description of other human rights issues above. I have decided to discuss the issue under *electoral democracy* rather than *constitutionalism*. This emphasizes the role of the press in giving a platform to political actors and educating the public about electoral choices, without neglecting its potential monitoring function in the human rights area.

Kenya

Both electronic and print media were under firm control of the executive until the late 1980s. Since then, the situation has changed mainly with respect to newspapers and journals and to a lesser extent radio and television. Most importantly, the *Daily Nation*, as the leading daily newspaper in possession of the Aga Khan Group, transformed itself from a rather uncritical paper to a fairly independent forum. A whole new set of weeklies (e.g. The East African, Weekly Review, Finance, Society) also appeared on the streets after 1989 and greatly improved diversity of opinion and professionalism. Reports by Amnesty International, the US State Department, the Kenya Human Rights Commission, or other international or domestic critics are extensively covered in the press and often reprinted in full length.

Before 1989, the catholic and protestant churches represented the only organized and materially significant independent domestic organization to challenge the government. *Beyond*, a publication of the National Council of Churches in Kenya (NCCK) began its criticism of government policies in 1986 and was banned in March 1988. In 1987, the *Nairobi Law*

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[39] They include many international organizations representing journalists, but also groups such as Article 19 in London and the International Freedom of Expression Exchange Clearing House (IFEX). The Action Alert Service of IFEX reports daily and globally on the situation of journalists. IFEX is a 'supra'-NGO founded by other NGOs in 1992 (including Human Rights Watch and Article 19) and has today about 40 member organizations (http://www.ifex.org).

Monthly appeared as the second significant challenger of human rights abuses on the streets of Nairobi. After 1989/90, journalists practiced less self-censorship and more critical reporting on the Moi regime appeared on the streets. The government resorted now to open repression. In May 1990, the *Nairobi Law Monthly* was banned and its editor Gitobu Imanyara arrested. A few weeks later, a court ruling revoked the ban. Charges of publishing seditious articles against Gitobu Imanyara were dropped after three months arrest. The harassment of the independent press came to a peak around the multi-party elections scheduled for December 1992.

Although direct attacks on journalists became now more visible, most of the intimidation still took place behind closed doors. In June 1998 the prominent political commentator Kwendo Opanga quit his job at the Daily Nation after admitting that he had been pressured by KANU members during the electoral campaign in 1992 (Daily Nation, 22 June 1998). Opanga was in a crucial position not only because of his prominence, but also because he belonged to the Luhya community. The Luhya were a crucial ally of the ethnic coalition supporting the Moi government. Thus, Luhya leaders profiting from their delivery of loyalty to the Moi government were the first to target the journalist. The campaign started as relatives and 'friends' from his Luhya community offered him to join the Ministry of Information and Broadcasting or other more independent research opportunities. Later, Opanga also received death threats from KANU supporters and finally agreed to work for a KANU think tank without disclosing this information to his editor.

In May 1992, six members of the journal *Society* were arrested and only released more than one year later on 19 May 1993. No charges were brought against them (US State Department 1994). In April 1993, the police confiscated the printing press of *Fotoform Limited* where many of the critical publications were produced. Over the summer, various charges were brought against the owner, but the evidence was too weak for court proceedings. "On September 24, the Government withdrew all charges against Fotoform but did not issue an order to return the press parts. In the meantime, the Government's various actions had put Fotoform out of business" (U.S. Department of State 1994a). In 1995, the state-controlled Kenya Broadcasting Corporation (KBC) censored world television news reports by the BBC if the

subject related to the Kenyan human rights situation.[40] The same year, the government attempted to introduce two bills into parliament, the Press Council of Kenya Bill and the Kenya Mass Media Commission Bill, which were designed to increase its control over the media (Wamae 1996). However, after sustained resistance from the public they were withdrawn.

On 10 July 1998 the government of Kenya refused three publications official registration and effectively banned them from the streets. Those included were *Finance Magazine*, *Post on Sunday*, and *The Star*. All three had been highly critical of corruption within the government and singled out individuals for their attacks. *Finance* had been in trouble for many years and is owned by the opposition member of parliament Njehu Gatabaki. The editors of the *Star* Magayu Magayu and Francis Mathenge Wanderi were simultaneously arraigned in a Nairobi court on 29 June 1998 and charged with disseminating an "alarming" publication which talked about a possible coup against Moi. The Nation commentary "Government Smashes its own Credibility" published as a reaction to the ban held: "To use any extra-legal means to muzzle the press is a heinous, intimidatory and retrogressive tactic used only by undemocratic regimes with a guilty conscience and dirty hands" (Daily Nation, 11 July 1998). On 14 July the Nation Group management publicly condemned a recent upsurge of "hostility" against its operations. These included systematic attacks on newspaper vendors, general intimidation of journalists investigating corruption cases, specific attacks on the Nation's Internet journalists, and an open threat by 17 MPs of the National Development Party (NDP) "to advise our supporters countrywide to stop advertising and buying ' The Nation', or to commence hostilities against the paper" (Daily Nation, 9 July 1998, p. 1).[41]

Despite the continued harassment, executive interference in the media sector decreased during the 1990s. By the mid-1990s a number of government-critical publications had established themselves in the political arena. The government slowly got used to their efforts to expose corruption and misconduct on a weekly or monthly basis. The *Daily Nation* remained firmly established as the leading daily newspaper on the market. Its circulation was significantly higher than the government-owned *Kenya Times*. The situation is still very different in the

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[40] IFEX Action Alert Service (http://www.ifex.org/alert/00000787.html).
[41] "These efforts (...) support the well known perception of a hostile attitude by certain elements within the Government towards us and the existence of an independent media" (Daily Nation, 15 July 1998, p. 1).

area of electronic media, although significant change towards more diversity are imminent.

The Kenya Broadcasting Corporation (KBC) with two channels is owned by the government, while the Kenya Television Network' (KTN), Stella Television (STV), and Cable Television Network (CTN) are somewhat more independent, but have little ambition to address political issues. Only KBC can be received nationally, while most of the other stations (also radio) are restricted to Nairobi. Two new FM stations, Metro 101.9 and Capital 98.4 started broadcasting in Nairobi in 1996. The program is largely oriented towards leisure themes such as music and sports coverage. In 1991, the Nation Group also applied for a radio and TV license. The government delayed the process and, in the meantime, awarded broadcasting licenses only to KANU members. In May 1998, The Nation Group finally received a license, but it was restricted to Nairobi and still lacked an allocation of frequencies (U.S. Department of State 1999a). In mid-December 1998, the government finally allocated frequencies (Daily Nation, 17 December 1998).

Uganda

Press freedom is generally respected in Uganda, but harassment of journalists continued to pose an item of concern throughout the period under investigation. The leading paper 'New Vision' was founded in 1986 by the British journalist William Pike who had previously covered Museveni's bush war in the early 1980s. Although close to the government, the 'New Vision' can not be classified as an organ of the movement. Several other newspapers quickly appeared on the streets after 1986. The main competitor of the Vision, the *Monitor* emerged in 1992. The Monitor is usually highly critical of the movement system. With respect to electronic media, a number of private television and radio stations have began operations and compete with the government-owned Uganda Radio and Television (UTV). The latest State Department report held that the government media "were of a fairly high quality and sometimes included reporting critical of the Government" (U.S. Department of State 1999b: Sect. 2a). Internet access is not limited by the government.

The most serious recent governmental action against journalists occurred in August 1995. On 25 August the editor of the islamic weekly *Shariat* Haruna Kanaabi and the editor of the islamic bulletin *Assalaam* Al-Haji Musa Hussein Njuki were arrested and the first journalists to be charged with sedition since 1986. Njuki had called for the death of Museveni by commenting "unless Museveni dies, Uganda will never be peaceful". Kanaabi called Rwanda

"an extension of Uganda" and claimed that the leaders in Kigali were "the lackeys of Museveni". Three days later Njuki died in police custody and accusations of torture were brought against the officers. However, the international NGO Reporters sans Frontieres (RSF) held "that it is likely the journalist died of natural causes".[42] Kanaabi was charged in a magistrate court and found guilty of sedition and publishing false information on 19 December. Magistrate Flavia Munaaba reduced the sentence from ten years to five months. On 28 December the High Court ordered a review of Kanaabi's sentence. One day earlier prison authorities had released Kanaabi after four months citing "good conduct". In 1998, several critical journalists were charged in courts for allegedly "disseminating false information" or "promoting sectarianism" (U.S. Department of State 1999b: Sect. 2a).

Table 8. Electoral Democracy in Kenya and Uganda, 1986-1998[43]

	Kenya	Uganda
Elected Officials	Yes, until 1992 four-year term, since then five-year term; in 1992 12 MPs were appointed by the President, in 1997 half of those were proposed by the opposition parties	Yes, recently implemented; President elected since 1996; Parliament for the first time directly elected in 1996; President, Army, Youth-, Women- and other organizations appoint their representatives;
Electoral Fraud	1992: **Yes**, 1997: Yes	Yes, but little information
Access to Mass Media	1992: **No**, 1997: No	Yes, limited by ban on party activities
Election-Related Violence	1992: **Yes**; 1997: Yes	No, but occasional threats by NRM-officials
Registration	Voluntary; 1992: Massive discrimination of opposition areas 1997: less, but still considerable problems in opposition areas	Voluntary; 1996: civil war in the North inhibited participation of local population
Freedom of Speech	1992: Yes; late-1997: **Yes**	Yes
Freedom of Assembly	1992: No; late-1997: **Yes**	Yes, not for parties

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[42] IFEX Action Alert Service (http://www.ifex.org/alert/00001416.html).
[43] I highlight changes over time using weaker (yes, no) or stronger (**yes**, **no**) notions of the respective indicator.

All political parties allowed to contest in elections	Yes, in principle, 21 contested in 1997 elections; Openly religious parties are not allowed; Safina was only registered three weeks ahead of 1997 elections	No; party members can run as individuals; National referendum on multipartyism in 2000; Parties are tolerated by the government
Alternative Information	1992: Yes; 1997: Yes Compromised by continued harassment of journalists and ban of three newspapers in 1998	Yes

2.3   Conclusions

This chapter elaborated on the main dependent variables of the study, namely the circumstances of initial regime change (1) and the subsequent transition path (2). In respect to the former the comparison revealed a significant difference expressed by the violent revolution from below in Uganda and the reluctant reforms from above in Kenya. At the same time, the survey of neopatrimonial rule in both countries showed variation in respect to the type of neopatrimonial rule expressed as the mix of negative and positive integration prior to and after regime change. Indeed, one could argue that the bases for neopatrimonialism in Uganda were destroyed by arbitrary rule, civil war and massive human rights violations during the 1970s and early 1980s (Bratton/van de Walle 1997: 63). Uganda returned to the neopatrimonial 'family' as a *de facto* one-party system only after 1986 when the "politics of the belly" (Jean-François Bayart) replaced the practice of mass killings. In contrast, Kenya remained always a member of the neopatrimonial 'family', developing from a semi-competitive one-party system (before 1984) to a plebiscitary one-party system (1984-1991) and now representing a *de facto* multiparty system (1992-today). The crucial difference between both countries prior to the initiation of regime change was not so much the formal side of the political system, but the fact that the neopatrimonial logic underlying Kenyan politics was largely absent in the Ugandan context.

In the subsequent period of regime transition both countries continued to display significant differences. The Ugandan process was marked by a clear preference for constitutional reforms and the extension of grassroots participation over the promotion of greater electoral competition on the national level. In contrast, the Kenyan transition process was jump-started by the

reintroduction of multipartyism but lacked for a long time flanking constitutional reforms. The Kenyan government has granted its population the formal right to change the Government via elections since 1992, while Ugandans will vote on this right not before the year 2000. Using Bratton/van de Walle's classification of different neopatrimonial regimes in Africa one can now visualize the markedly different directions regime change in Kenya and Uganda has taken. While Uganda only reentered this 'family' in 1986 and then moved mainly from the left to the right, domestic rule in Kenya remained always within this logic and moved in a vertical direction.

Figure 4. Modal Regimes in Kenya and Uganda, 1980s and 1990s[44]
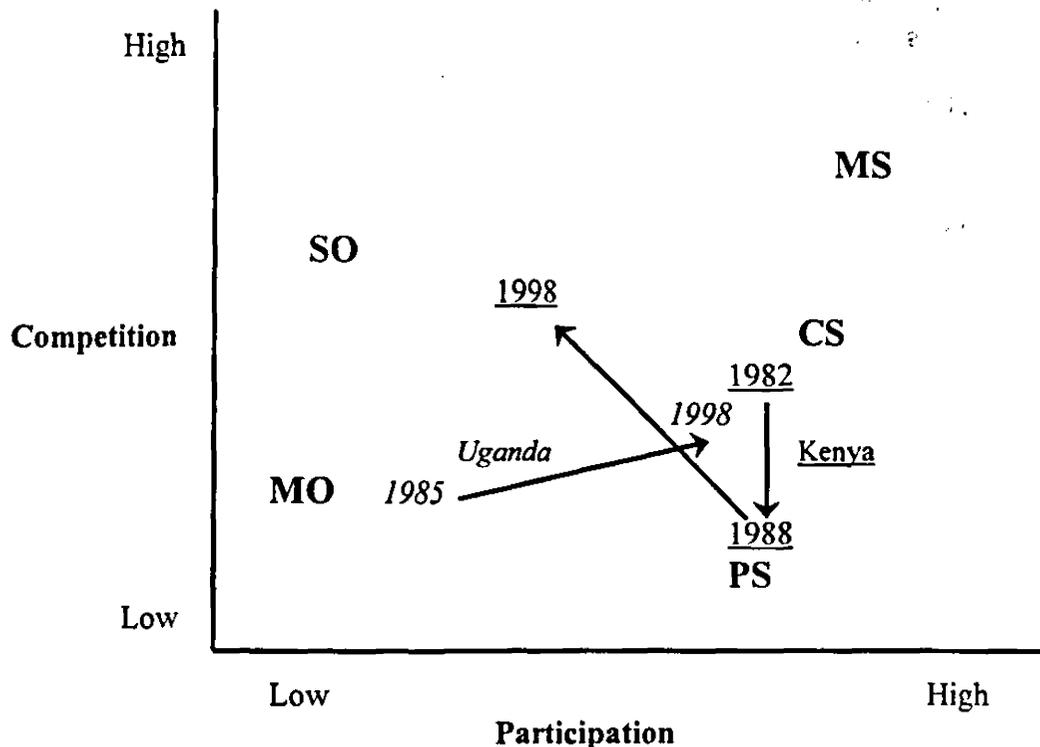
Are those differences substantial enough to warrant further investigation? Is the Ugandan government's ban of party activities not better understood as a constitutional issue of denying full freedom of speech and assembly? Can we talk about inclusiveness and greater respect for human rights if the Northern part of the country remains a war zone and at the fringes of domestic politics? Are the cases not really different forms of 'virtual democracy'?

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[44] SO: Settler Oligarchy (e.g. South Africa before 1989); MO: Military Oligarchy; PS: Plebiscitary One-Party System; CS: Competitive One-Party System; MS: Multiparty System (adapted from Bratton/van de Walle 1997: 78, Figure 5).

There are a number of reasons why I contend that the differences between Kenya and Uganda are significant and deserve further investigation. First, I do not argue that each of the two countries has exclusively focused on either a path of increasing political competition or a path of securing inclusive participation and constitutional reforms. I also recognized that much remains to be criticized about the respective accomplishments in both fields. However, Dahl's work on polyarchy allowed me to identify a *dominant* mode of transition for each country. As the discussion above shows, the Ugandan government emphasized inclusiveness and constitutional reform while introducing elements of political competition at a later stage and always restricted by the dominant mode. It remains to be seen at the time of the 2000 referendum if the Uganda will move more boldly towards political competition as the second important dimension of democracy. The Kenyan government's decision to open the political arena for other parties was indeed preceded by a number of significant concessions in the area of constitutional safeguards. However, these were isolated and once the Moi government had secured electoral victory it continued to delay serious constitutional reforms. The "ethnic clashes" since 1991/92 are but the most violent sign of putting political competition ahead of safeguarding human rights and securing inclusive participation. Only after the second multiparty elections in December 1997, the Kenyan process of democratization reflected a more balanced recognition of both dimensions.

Second, an evaluation of the current state of democratization in Kenya and Uganda requires a closer look at the motivations for and effects of certain reform measures. What are their short- and long-term effects? Is it possible to manipulate constitutional reforms to the same extend as elections? Hence, in order to evaluate the crucial question of sustainable reforms versus mere tactical maneuvering it is important to give a detailed picture of the current human rights situation and constitutional affairs. As the case of Kenya shows, the executive does resort to new, previously unknown forms of repression. At the same time, the process of limiting the space for maneuvering apparently moves the government towards more sustainable policy change. Third, comparing different paths of change helps to evaluate possible factors intervening between the level of international norms and their domestic effects. Different paths towards democracy indicated different institutional conditions, actor constellations and choices.

3   The Establishment of Authoritarian Rule

An institutionalist argument requires some understanding of the historical political develop-
ment. If domestic institutions matter for regime change it is necessary to analyze and
understand their emergence. In the previous chapter I have focused on the more recent history
of the transition process in Kenya and Uganda which expressed itself in various important
changes of institutional practices. I have put these changes into the context using analytical
tools to distinguish various modes of neopatrimonial rule. I have argued that the literature on
neopatrimonialism has usually focused on aspects of positive integration, such as the deliber-
ate allocation of state resources to maintain clientelist networks. However, when principled
human rights actors from abroad begin to focus on a country, they are mainly interested in
neopatrimonial rule as a form of negative integration expressed by denial of basic human
rights. This aspect of neopatrimonialism tends to be ignored in the literature.

I will now turn to the question of how repressive institutional practices emerged in the first
place. This chapter will describe in more detail the immediate pre-independence period and
the emergence of neopatrimonialism in Kenya and Uganda after political independence in the
early 1960s. I argue that differences in the strength of domestic coalitions vying for national
power at the eve of independence accounts for the specific character of emerging neopatrimo-
nial rule. In Kenya, a relatively weak opposition to the nationalist movement led by Kenyatta
was soon after loosing the first national elections positively integrated into the neopatrimonial
system. In Uganda, domestic conflict resolution mechanisms failed from the beginning, even
though all significant domestic actors were represented in the first independence government.
The underlying conflict between Obote's efforts to strengthen the national government and
Buganda's strife for greater political autonomy ultimately led to Obote's fateful mobilization
of the military and established a logic of violence as dominant mode of domestic conduct for
almost 20 years.

3.1   At Independence

Kenya

Kenya was declared a British protectorate in 1895, mainly because Britain wanted to secure
permanent and easy access to Lake Victoria and the neighboring kingdoms which later formed
parts of Uganda. In contrast to its policy towards those kingdoms, Britain turned Kenya into a

settler colony and created a legislative council as early as 1907. The Asian community and the indigenous population were not represented in the council which became an important vehicle for the settler community to consolidate their *de facto* control of Kenyan domestic affairs. In the 1940s the dominance of white settlers provoked resistance among more educated members of the African population, especially among the Kikuyu and Luo. Whereas the pre-colonial discourse in Uganda was dominated by the Buganda elites and their focus on separatism rather than nationalism, Kenyan intellectuals developed a more genuine nationalism based on concrete economic grievances blamed on settler dominance. Although this meant that building broad-based indigenous nationalism was an easier task in Kenya than in Uganda, the emerging dominance of the Kikuyu in the independence struggle alienated smaller groups[45] much in a similar way as the smaller kingdoms in Uganda were always wary of Buganda privileges.

In Kenya, the resistance against colonial rule turned violent when the colonial administration refused to give land titles to Africans living for decades as squatters on white settler's land (Harnischfeger 1994: 267). These settlers had previously taken over large sections of the Rift Valley owned largely by the Maasai and Kalenjin groups and allowed squatters to move in to dwell on the land. About two-thirds of the estimated 300,000 migrants were Kikuyu (Throup 1987: 7 and 52). In 1947 Jomo Kenyatta became the leader of the Kenya African Union (KAU), a nationalist movement demanding official ownership for the squatters. From 1952 to 1956 a radical wing of this movement staged violent attacks against the colonial administration.

In October 1952, the British authorities declared a state of emergency as a reaction to the so-called Mau Mau rebellion (Edgerton 1989). Subsequently, many of the repressive laws still serving the Kenyan government today were enacted. Kenyatta was imprisoned and KAU banned. At the end of the rebellion 32 Europeans and about 13,000 Africans were dead. With Kenyatta in prison, Tom Mboya and Oginga Odinga became popular national leaders who attained also international recognition. As a consequence of the increasing domestic resistance and international pressure for decolonization, the British authorities began a process of

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[45] The Kikuyu account for about 21 per cent of the Kenyan population, the Luhya for 14 per cent, the Luo for 13 per cent, the Kamba and Kalenjin for about 11 per cent each. The Kisii and Meru follow with between 5 and 6 per cent. All of these groups are heterogeneous and formed rather recently as a result of political struggles. The Kalenjin consist of seven ethnic groups (Elegyo, Kipsigi, Marakwet, Nandi, Ndorobo, Pokot, and Tugen), which were brought together by their leadership to strengthen their position in national politics.

political liberalization largely against the will of the settler community. In 1957, the first African members of the legislative council were elected and about 60 per cent of the African population were able to participate in the electoral exercise. The state of emergency was revoked in January 1960. It followed a constitutional conference in London which ended with the legalization of political parties and the recognition of African dominance in the legislative council. Upon returning to Kenya, the nationalist leaders formed the Kenya African National Union (KANU) led by Tom Mboya, Oginga Odinga, and Jomo Kenyatta.

When self-government became an option for the indigenous leadership, differences between the larger tribes and the smaller ethnic groups became more and more prominent. In the wake of political independence, the Kikuyu claims to land titles came into conflict with the interests of the Maasai and Kalenjin demanding the return to the status quo ante. As KANU was domi-nated by the Kikuyu and Luo elite, the smaller groups feared that it would enforce land redistribution. Consequently, two other prominent politicians during the independence, the Kalenjin Daniel arap Moi and Ronald Ngala, refused to join KANU and established the Kenya African Democratic Union (KADU). As the white settlers had lost their strong influence on domestic affairs, they lend some support to KADU. However, in the subsequent 1961 elections KANU won a majority of votes and refused to form an administration until Kenyatta was released from prison. In August 1961 Kenyatta was freed and assumed the presidency of KANU. The party won also the following elections in May 1963. Kenya attained internal sovereignty in June and official independence on 12 December. Final constitutional negotia-tions led to the establishment of distinct federal features such as a second chamber (Senate) and extensive local autonomy (majimbo).

Uganda

Prior to the arrival of European missionaries and military expeditions, indigenous kingdoms dominated since the 14th century the Southern part of what was initially called 'Equatoria'.[46] In contrast, the North was mainly inhabited by nomadic ethnicities (Acholi, Iteso, Langi) with more egalitarian societal structures. As the British slowly extended their influence from Buganda into the Northern areas, the *kabaka* (Bugandan king) became an important ally for

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[46] The first outside interest in the territory arose when European explorers searched for the source of the Nile River in the mid-19th century. In 1877 and 1879, respectively, the first Protestant and Roman Catholic mission-aries arrived in the area.

colonial expansion. While the British had initially forced the *kabaka* to agree on some institutional reforms, including the establishment of a sort of parliament (*lukiiko*), they eventually decided to use the existing indigenous hierarchies instead of penetrating the polities with their own and more costly administrative structures. In 1890, Buganda and the United Kingdom entered the Ugandan Agreement which acknowledged British sovereignty over the Buganda kingdom.[47] In return, Britain agreed to preserve Buganda's traditional ruling hierarchy. This special relationship secured the survival of the Buganda kingdom and solidified its dominant role within emerging Ugandan politics. The British government declared United Kingdom the kingdoms of Buganda (in 1894), Bunyoro, Toro, Ankole, and Busoga (all in 1896) a protectorate.

In the 1950s, Buganda separatism intensified as the new British colonial governor Andrew Cohen made efforts to democratize the Buganda kingdom and the protectorate at large. He sought to strengthen the *lukiiko*, the Buganda parliament, by increasing its powers against the *kabaka*. During the so-called *kabaka*-crisis in 1953 the Buganda leadership rejected demanded a transfer of its affairs from the Colonial to the Foreign Office and insisted on a timetable for Buganda's independence separate from the rest of the protectorate (Ofcansky 1996: 35). After unsuccessful talks, Cohen ordered in October the deportation of the *kabaka* Mutesa II to England. Although further negotiations led to the abandonment of most of Buganda demands and even the introduction of a constitutional monarchy, the clash was eventually a victory for Mutesa II who returned in 1955 triumphantly back to his kingdom (Tumusiime 1992: 25). Subsequently, Buganda emerged with a strengthened domestic and international position and served as a major source for local identity in the ongoing struggle for independence.

Parallel to the conflict about Buganda's position within the protectorate and its relation to the United Kingdom, political parties emerged as significant actors in the domestic field (Low 1962). Most of them were founded by members of the educated Buganda elite. Encouraged by the British authorities, a number of non-Bugandan intellectuals challenged this separatism and began to embrace the idea of a united Uganda. The emerging party system split along religious and ethnic lines as well as the basic North-South division (Tumusiime 1992: 26). Whereas, the Democratic Party (DP), established in 1956, represented predominantly catholic

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[47] The British concluded similar arrangements with Toro (1900), Ankole (1901), and Bunyoro (1933).

and conservative Baganda, the Uganda People's Congress (UPC) created in 1960 a reservoir for mainly Protestant voters (Church of Uganda) but also the emerging progressive intellectual elite. Consequently, the churches were drawn into domestic political conflicts and proved incapable of transcending the party competition (Ward 1995).

In preparation for independence, the British authorities held in 1961 Legislative Council elections which were contested by UPC and DP. The *lukiiko* had called for a boycott and unilaterally declared independence on 31 December 1960 because Buganda feared being marginalized by a strengthened national assembly. Nonetheless, the elections were also held in Buganda, where only about two per cent of the eligible voters defied the *lukiiko's* call for a boycott. DP emerged as the winner with 43 seats (about half came from Buganda), followed by the UPC with 35, and two smaller parties with a total of three seats. Benedicto Kiwanuka, the DP leader, was subsequently named head of the Legislative Council. In September 1961, a Constitution Conference in London made final decisions about the political institutions after independence. These were based on recommendations by the Muster Constitutional Committee. During the deliberations, Buganda's delegates continued to demand a autonomous federal status for their kingdom (Ssekandi/Gitta 1994: 195).

On 1 March 1962, the Legislative Council was transformed into a unicameral National Assembly, Kiwanuka became Prime Minister, and Uganda attained internal independence. While the DP and the colonial authorities favored continued direct elections to the new National Assembly, the *lukiiko* insisted on a preservation of its autonomy and indirect elections of Buganda's representatives to the national parliament. This disagreement became the basis for a strategic alliance between the traditional Buganda elite and the nationalist UPC which only served the purpose of removing DP from power. The Buganda elite created the *Kabaka Yekka* (King Alone, KY) party and won 65 out of 68 seats in the February 1962 *lukiiko* elections. Hence, KY controlled all 21 Buganda seats for the General elections (as opposed to DP getting almost all in 1961) held in April. Outside of Buganda UPC won 37 and DP 24 seats. UPC and YK agreed on forming a coalition government and the UPC leader Milton Obote, a Langi from Northern Uganda, became the first post-independence Prime Minister. The *kabaka* became President as well as Commander-in-Chief of the Uganda Armed Forces. The political system was semi-federal and united eleven districts as well as four kingdoms. Buganda retained a special status, raised its own taxes, passed laws, and maintained local courts.

3.2 After Independence

Human rights conditions deteriorated in Kenya and Uganda after independence as a result of intensified domestic competition over the control of state power. Democratic and federal conflict-mediating mechanisms which had been put into place at the eve of independence failed to take sufficiently root in the domestic arena and gave way to centralization and executive preponderance in the name of nation-building. In both cases, deteriorating human rights conditions were preceded by a process of excluding formerly politically as well as economically dominant sections of society from national politics. In Uganda, the main victims were the Baganda, while in Kenya a similar fate was experienced by the Kikuyu after 1982. As a result of intensified domestic conflict, the executive branch of government in both countries dominated other democratic institutions and increasingly defied limits set by the existing constitutional framework and the rule of law.

Kenya 1963-1982: Establishing Neopatrimonial Rule

KADU dissolved shortly after loosing the first post-independence elections in 1964 and its leadership, including Daniel arap Moi, joined KANU in return for public or parastatal positions. One year after independence, Kenyatta declared Kenya a republic. In 1967, Moi was appointed to the post of the Vice-President. During the next two years federalist provisions (majimbo) and other safeguards against executive dominance in the independence constitution were abolished. Executive control over other governmental and societal actors slowly increased, although limited political competition within KANU was possible. Until the early 1980s the ruling party was weak and mainly used to organize the immediate pre-election period. Consequently, Joel Barkan generally qualified the Kenyan political system during the Kenyatta years as "accountable authoritarianism" (Barkan 1993: 87) and "semi-competitive" (Barkan 1992: 162). However, challenges to the all-dominant position of Kenyatta from either within or outside KANU were strongly repressed and often led to the death of the alleged perpetrator. In 1966, the original Kikuyu-Luo coalition began to disintegrated when Vice President Oginga Odinga left KANU with his fellow Luo Tom Mboya. Odinga and Mboya established the Kenya People's Union (KPU) and distanced themselves from Kenyatta's Western-leaning economic and social policies. Kenyatta's tolerance of political dissent on the national level ended abruptly in 1969 when KPU was banned. Tom Mboya was murdered under mysterious circumstances the same year.

In the early 1970s *de facto* single-party rule and increasing powers in the President's office marked the Kenyan political system. Kenyatta reacted to decreasing support from the original KANU independence alliance with a strategy of elite rotation which also allowed leaders from smaller ethnicities to enjoy the system of personal favoritism. At the third general elections in October 1974 close to 90 out of the 158 parliamentary incumbents were defeated. Many prominent former KPU members succeeded now on KANU tickets. However, political reforms were inhibited by Kenyatta's growing inability to rule the country. In 1975, an outspoken critic of corruption and the most popular political leader apart from Kenyatta, Josiah M. Kariuki, was found murdered. Like in the case of Mboya (and 15 years later Foreign Minister Robert Ouko), the killers are still not known. Following immense public pressure, the government agreed to an official investigation of the murder. Kenyatta deleted two prominent names from the final report and no one was charged for the crime.

During the last years of Kenyatta's rule, his cronies opened a debate about his possible successor and sought to delete from the constitution the automatic succession of the Vice President in case of the President's death (Karimi/Ochieng 1980). The succession question led to deep divisions within the dominant Kikuyu elite. Constitutional efforts by one section to prevent the non-Kikuyu Moi from to taking over the presidency were thwarted by competing elites within their own community,[48] including the prominent leaders Charles Njonjo and Mwai Kibaki (for details see Widner 1992b: 110-118). In order to silence any further discussion on the issue, Njonjo declared in front of the parliament that "it is a treasonable offence punishable by mandatory death sentence for anyone to encompass or even mention the possible death of the head of state" (wa Wamwere 1992: 24).

The stalemate was finally resolved when Kenyatta died at the age of 82 on 22 August 1978. Vice President Daniel arap Moi was now President of Kenya for three months. He immediately rewarded his Kikuyu supporters and appointed Charles Njonjo as Attorney General and Mwai Kibaki as Vice-President. Moi also released all political prisoners and pledged to address issues of corruption. At the same time, Moi engaged in a more open pro-Western foreign policy by appointing Robert Ouko as Minister for Foreign Affairs and allowing the

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[48] During the Kenyatta presidency divisions between the Kiambu faction and other Kikuyu centers, such as Nyeri (Mwai Kibaki's power base) or Mu'ranga, played only a marginal role in national politics. However, since 1978 those divisions were systematically exploited by Daniel arap Moi.

US army to use military facilities close to Mombasa. In the following months. Moi was able to consolidate his position, although he still remained heavily dependent on Njonjo, the *eminence grise* of the early Moi regime. In June 1980 Njonjo won a parliamentary seat in by-elections and Moi appointed him as Minister of Home and Constitutional Affairs.

Below the surface of liberalization, Moi engaged in a policy of consolidating his power position by slowly removing potential threats to his presidency. While he claimed to continue in the footsteps of Kenyatta ('Nyayo') he promoted members of his own Kalenjin tribe or other smaller ethnicities as more reliable allies into public offices. Potential critics of the new regime were offered a choice of either accepting their inclusion under Moi's terms or open repression. The Luo Oginga Odinga and other former KPU politicians were simultaneously barred from running in the 1979 general elections and offered a parliamentary seat including life membership in KANU. However, these efforts to pacify Odinga failed in April 1980 after the Odinga failed to give up his public criticism of US military presence without parliamentary consent (ACR, Vol. XIV, B 187) and continued to demand investigations of Kenyatta's corruptive presidency.[49] Consequently, strong resistance within KANU prevented Odinga from standing unopposed on a KANU ticket in by-elections. In July 1980, all societal organizations "with a tribal bias" were banned. This measure was mainly directed against the Kikuyu-dominated Gikuyu Embu Meru Association (GEMA) which remained a threat to neopatrimonial rule in the economic sphere. Prior to the decision, the Minister for Information and Broadcasting, Peter Oloo-Aringo had accused GEMA of having set itself up as an alternative government. The organization was also said to be behind the demands for a change of the constitution to prevent Moi from succeeding Kenyatta after his death. During the following two years Moi's position remained fragile as Odinga was expelled from KANU on 20 May 1982 and wrangles between the Vice-President Mwai Kibaki and Charles Njonjo about who was "more Nyayo" (ACR, Vol. XIV, B 191) threatened their unequivocal support for Moi. After three years in office, Moi faced in mid-1982 a serious crisis of his presidency.

On 9 June 1982, parliament turned Kenya into a *de jure* one-party state after less than an hour of debate and earlier rumors that Odinga was about to announce the creation of a new opposi-

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[49] In response to Odinga's challenge Moi stated: "I am the only 'father' of or Head of Government in this country. If over the last three or so years you have not mended your ways, you are too late. Time is not on your side" (ACR, Vol. XIV, B 184).

tion party. Student unrest at Nairobi University and other colleges had increased steadily during the year and provoked security organs to arrest student leaders and lecturers (ACR. Vol. XV, B 177). After three years of political liberalization, the government reintroduced the practice of detention without trial to silence the opposition. On 20 July, the well-respected editor-in-chief of *The Standard*, George Githii, published an editorial titled "Detention without Trial" where he claimed that the continued harassment of university personnel signified that Kenya was moving from an open to a closed society. The same day he was removed from his position and the *Standard* apologized in public to the President for the views expressed in the paper. Consequently, the International Press Institute (IPI) declared that Kenya "is now becoming one of the worst offenders against free speech" (cited in: ACR, Vol. XV, B 179).

On 1 August, Air Force officers staged a coup attempt and controlled for several hours parts of Nairobi, the airport and the radio station. Immediately, hundreds of students filled the Nairobi streets in celebration. However, the majority of the Kenyan army remained loyal to Moi and ended the coup. The official death toll was put at 159, but student organizations claimed a much larger number. As a result, Moi disbanded the Air Force, closed the universities and ordered the arrest of about 2,000 officers and 1,000 civilians (mostly students and lecturers). After the government declared that many Luo were involved in the coup attempt, Odinga was put under house arrest from March to November 1983 and his son, Raila, was charged with treason. The Luo information minister Oloo-Aringo had already been dropped from the Cabinet shortly after the coup. The independence of the parliament was also significantly curtailed as its members lost several privileges usually enjoyed by MPs in their relations with the executive (Widner 1992b: 146).

For the first time in Kenyan history since independence, the international public took notice of human rights demonstrations staged by prominent exiles such as the writer Ngugi wa Thiong'o in front of Kenyan embassies. The government denounced the activities in an official statement: "The attempt to portray the government of Kenya as undemocratic and bloodthirsty will no doubt fail. Those who have nothing to say against the way the Government handled the disturbances and the subsequent treatment of those found to have been involved should face the truth and desist from backing the few cowardly, unpatriotic elements now bent on discrediting their motherland" (cited in ACR, Vol. XV, B 183). The Nairobi offices of Associated Press were briefly closed by Special Branch officers and the representative for the

Ford Foundation was harassed for producing a report on the coup. Domestically, ongoing conflicts between the government and the more or less independent press led KANU to announce on 5 April 1983 the publication of its own newspaper. In the first edition of the *Kenya Times* Moi promised that the paper would not be "a mouthpiece or propaganda machine for KANU and the government, but will be guided by press freedom, which has been recognized in the Kenya system" (cited in ACR, Vol. XV, B 194).

Moi also used the situation to depose of the Kikuyu faction which had been instrumental for his ascendancy to presidency. On 9 May 1983, Moi ominously referred during a speech in Kisii to an alleged *Msaliti*[50] within the government who was supported by an unspecified foreign power. One week later he announced general elections for September, one year earlier than constitutionally required. Within days back-benchers in parliament, led by Martin Shikuku and Elijah Mwangale, took advantage of the license given to them by Moi and named Njonjo as the politician co-operating with the South African apartheid regime to take over the presidency in Kenya. Njonjo denied all charges, but was removed in July from the Cabinet until an official inquiry was complete.

Moi was returned to presidency unopposed in September and the purge of Njonjo's followers within the government was completed. The leading figures of this campaign were generously rewarded by the President. Shikuku was appointed Assistant Minister for State in the Office of the President, while Mwangale was promoted from the insignificant 'Ministry of Tourism and Wildlife' to 'Foreign Affairs'. All ministers of the new government (about 40 per cent of all MPs!) were forced to sign a letter saying that they would not criticizes government policy in public. In August 1984, Moi declared that he would pardon Njonjo before the lengthy hearings of the special commission of inquiry were finished. "The effect was to discredit Njonjo, while Moi himself emerged as a leader showing tolerance" (ACR, Vol. XVII, B 261).[51] Consequently, Njonjo announced his withdrawal from public life. After this period of repression, Moi used 'carrots' again and announced in October the release several dissidents, including Willy Mutunga and Vincent Otieno. Other critics who had been detained after the 1982 coup, such as the Kikuyu Koigi wa Wamwere and Edward Oyugi, were released after treason charges against them had been suddenly dropped. At the same time, Moi accused

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[50] The Swahili word means "dirty" or "untrustworthy" person.

[51] One of Njonjo's defense lawyers was Paul Muite, later a leading human rights advocate.

Amnesty International of interfering in the internal affairs of Kenya and held that detainees would not be released because of demands from Amnesty but because they had qualified by changing their attitudes (cited in: ACR, Vol. XVI, B 168).[52]

By 1984/85, the university was the last remaining center of significant societal autonomy which resisted the various strategies of governmental take-over. In March 1985, the US political scientist Michael Schatzberg (Schatzberg 1987) was ordered to leave Kenya. An official from the President's Office claimed that he had "overdone his research" (ACR, Vol. XVII, B 271). Following various police attacks and closure from February to April 1985 and March to May 1986, the government finally identified students and lecturers as a major recruiting source for an alleged underground conspiracy referred to as *MwaKenya*. The mounting repression caught the attention of the Western public after international human rights organizations published the information available from Kenyan dissidents.

Uganda 1962 to 1974: The Destruction of Neopatrimonial Rule

At independence, an odd alliance of Buganda monarchists (KY) and Northern nationalists (UPC) effectively shut out the Democratic Party (DP) as the strongest single political power representing the catholic and more Western oriented population in the South.[53] The Baganda elite feared the modernizing DP as competitor for the control of Buganda, while the UPC contested DP over national power. Beyond these short-term interests, the coalition had no common agenda. Worse, their basic interests (separatism vs. national control) were highly conflictive in the long run. Mutesa II had little respect for Obote[54] and was sure that the main profiteer of the alliance was Buganda. Initial signs of a deteriorating relationship became apparent when UPC began to establish political branches in Buganda. In early 1964, the

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[52] In his famous 'parrot' speech on 13 September 1984, Moi demanded from "all Ministers, Assistant Ministers and every other person to sing like parrots in issues I have mentioned. During Kenyatta's period I persistently sang the Kenyatta tune until people said: 'This fellow has nothing to say except to sing for Kenyatta'. I say: 'I didn't have ideas of my own. Who was I to have my own ideas? I was in Kenyatta's shoes and, therefore, I had to sing whatever Kenyatta wanted. (...)Therefore, you ought to sing the song I sing. (...) The day you become a big person, you will have the liberty to sing your own song and everybody else will sing it" (cited in: ACR, Vol. XVII, B 262).

[53] In a crude way, one can distinguish a population of predominantly Bantu people in the Southern and Western part of the country (e.g. the Baganda) and a predominantly Nilotic population (e.g. the Acholi, Iteso, and Langi) in the North and East. This cultural division tends to structure Ugandan politics until today (see also Nzita/Mbaga 1993).

[54] In his writings Mutesa explained that Obote was a "herd boy" who decided that "life was too vigorous to him" (quoted in: Martin 1974: 101).

kabaka lost a referendum about returning two counties to the kingdom of Bunyoro, but refused to sign the results into law. Obote and the central government had supported the return. By November 1964, Obote was no longer dependent on the alliance because defections from YK and DP gave UPC a comfortable absolute majority in parliament.

Within less than a year, UPC and Baganda leadership were openly accusing each other of plotting assassinations and coups. Both groups attempted to win over parliamentarians from the other side. On 4 February 1966, a Buganda friendly UPC-MP introduced a successful motion in parliament that sought the suspension of second-in-command of the army Idi Amin Dada for alleged gold smuggling and an investigation of Obote's role in the affair. Obote countered the attack with a coup from above, suspended on 24 February the constitution and declared as null and void the posts of the President and Vice-President. A new interim constitution, nick-named 'pigeon-hole', made Obote in April Executive President and removed all federal privileges for Buganda. Subsequently, the Baganda representatives demanded the withdrawal of the central government from Buganda and civil unrest broke out in Buganda. The Ugandan Army took advantage of the situation and took over control of the *kabaka's* residence sending Mutesa II into exile (Ofcansky 1996: 40). "The victory over Mutesa II institutionalized violence as the main instrument of political control" (Kasozi 1994: 88). In September 1967 Obote abolished all kingdoms.

Obote banned all political parties, except for the UPC, after another attempt to assassinate him in October 1969 (Nsibambi 1994). Obote had made extensive use of military means to consolidate his position in national politics. Military expenditure rapidly grew from 4.4 per cent of the budget in 1964 to 12.3 per cent in 1967. New para-military organizations such as the Special Force and the General Service Unit (GSU) as an internal secret service increasingly used violence against the opposition, in particular in their attempts to remove the Buganda elite as a political force from national politics. Outside of the army Obote relied on the support of the 70,000 members of the Asian community which commercially competed with Buganda and dominated the industrial sector, trade but also government services. However, Obote's short-term use of the army against his civilian opponents contributed to the long-term demise of his power position (Khadiagala 1995: 36).

With conservative Buganda effectively shut out of national politics, UPC embarked on a program called "move to the left" by announcing in May 1970 the nationalization of major

firms and a ban on strikes. Buganda also lost its influence in the Ugandan Army where an increasingly independent commander Idi Amin began to recruit his private army from the West Nile. When cabinet ministers linked the growing autonomy of Amin with the coup attempt in December 1969, one of the fiercest critics of Amin, Brigadier Pierino Okoya was killed under mysterious circumstances. Prior to his departure for the Commonwealth Summit in Singapore in January 1971, Obote ordered Amin to disband any army units personally loyal to him and requested explanation for nearly 30 per cent overspending.

On 25 January 1971, Amin used Milton Obote's absence and took over the control of government. Apart from the military, Amin relied on the initial support from his home area West-Nile, the disenfranchised Baganda, and the benign neglect or disguised support by Western governments. The latter welcomed Amin because he promised an end to Obote's increasingly socialist-leaning economic policies (Clapham 1996: 188). Obote had also requested an end to the close military cooperation with Israel which had used Uganda and Idi Amin to channel military support to South Sudanese rebel groups. Moreover, The Ugandan president had also begun to attack the British government for selling arms to South Africa, and "it was a certainty that Obote would be a sharp thorn in the flesh of Britain. While Obote was at the conference, the coup took place, and there have been many suggestions that it took place with the connivance not only of Israel but of Britain also" (Furley 1989: 276; Martin 1974: 158-163). Both, Britain and Israel immediately recognized the new regime. Although colonial attitudes of superiority towards the African continent were no longer 'politically correct' they remained deep seated and informed the British public's perception of Uganda in 1971/72. "Amin's obvious lack of education, his love of showmanship, his self-awarded decorations and his claim to be the 'conqueror of the British Empire' caused the British public to see him in amiable light as a clown and figure of fun: hence the long-running series about him in *Punch* and the many cartoons in British newspapers" (Furley 1989: 277).[55]

Domestically, the coup was initially greeted by many Ugandans in spontaneous street demonstrations. The Baganda hoped for a restoration of their kingdom and its autonomy. Indeed,

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[55] The Daily Telegraph wrote on 26 January 1971 that "one good reason that might be advanced for holding Commonwealth conferences more often is that the number of undesirable rulers overthrown as a result of their temporary absence, as has now happened to Dr. Obote in Uganda, would thereby be increased". The Spectator held on 30 January that "if a choice is to be made between quiet military men and noisy civil dictators then I prefer, in Africa at least, the military" (quoted in: Martin 1974: 61).

Amin initially freed about one hundred political prisoners, most of them Baganda adopted by Amnesty International, and arranged for the return of the late *kabaka* Mutesa II to Uganda. However, the systematic killings of former supporters and tribal kinsmen of Obote (Acholi and Langi) within the Ugandan army and the police forces began already in July 1971 while Amin himself was soliciting arms and cash in London (Kyemba 1977: 46; Seftel 1994: 105-135). Within months after Amin took over power, gross violations of human rights targeted whole section of the population.[56] Soon, even minimal formal protections of human rights disappeared as Idi Amin assumed dictatorial powers and ruled by decree (Kasozi 1994: 114). The whole country was brought under the jurisdiction of military tribunals. The National Assembly was dissolved and the Cabinet was effectively substituted by a so called Defense Council. Spending on "state security" skyrocketed with the creation of new agencies such as the infamous State Research Bureau which had 3,000 employees alone. With growing repression, international and domestic support faded. Neither Britain nor Israel were willing to finance Amin's egregious plans for the further expansion of his military capabilities. Amin reacted with open aggression and shifted to the Arab world for financial aid.

In early 1972, Israeli military advisers were replaced by instructors from the German Democratic Republic (GDR) and the Palestine Liberation Organization (PLO). In August 1972 Amin announced publicly that he had had a dream in which God instructed him to expel 50,000 Asians within 90 days, including 30,000 holding British passports. The British government was completely taken by surprise and did little more than setting up camps in Britain to process the incoming flood of refugees (Furley 1989: 294; Humphrey/Ward 1974). Both, Israel and Britain now temporarily severed diplomatic relations and imposed a trade embargo. The US government closed its embassy in Kampala in fall 1973. Amin retaliated by seizing British assets in Uganda and recalling the High Commissioner in London. In September 1972, pro-Obote guerrillas under the command of Yoweri Museveni launched a military attack on Uganda from neighboring Tanzania. The invasion failed miserably and Amin retaliated with air attacks on two Tanzanian towns. Libyan leader Muammar el Qadhafi had provided troops and military equipment to Amin's disposal. In December Amin nationalized all British companies without compensation. In 1974 press reports about

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[56] Until 1971 between four hundred and one thousand people were killed for political reasons, while from 1971 to 1979 estimations range from 300,000 to half a million. From 1980 to 1985 between 500,000 and one million

massacres and public executions in Uganda dominated the Western press. Prominent victims were the Chief Justice and former DP leader Benedicto Kiwanuka and the Vice-Chancellor of Makerere University Frank Kalimozo (Melady/Melady 1977). By March 1974 the British community in Uganda had lost 6,000 out of the estimated 7,000 members. By 1975, virtually all foreign aid came either from the Soviet Union (about $50 million) or Arab countries which honored Amin's break with Israel. In June 1976, PLO terrorists hijacked an Air France plane and redirected it to Entebbe where Amin and the Ugandan army made only little efforts to disguise their support for the terrorists. An Israeli commando eventually freed all but three hostages, killing all terrorists and many Ugandan soldiers.

International human rights organizations provided since 1974/75 reports about the atrocities committed in Uganda. In 1974, David Martin published the book "General Amin", which detailed on 250 pages the deadly dictatorship under Amin.[57] Hence, it is certainly puzzling how long it took until these widely available reports and their monthly additions changed Uganda's international image. Despite the continuous non-governmental mobilization, the Amin dictatorship continued another five years until 1979. Chapter 4 will elaborate how international norms of state sovereignty helped Amin to stay in power, while human rights norms and institutions were simultaneously significant in delegitimizing authoritarian rule in front of the world public opinion.

3.3 Comparison

Kenya and Uganda were no exception to the general rule of establishing neopatrimonial rule in Africa. Despite the establishment of democratic institutions at the eve of political independence, both political systems were soon dominated by the executive branch headed by a strengthened president. However, differences in the institutional strength of main opposition groups and early failure of conflict-mediating mechanisms in Uganda accounted for the increasing autonomy of the military and more frequent use to violent means (negative integration) in domestic affairs. While the Buganda kingdom remained after independence a well-integrated entity within the new Ugandan state, KADU as main opposition force in Kenya was too weak to withstand the establishment of the Kenyatta state.

Ugandans were killed (Kasozi 1994: 4).
[57] The last sentence in Martin's book reads: "Uganda has suffered the most and will continue to suffer until the removal of the man who holds the bloodstained knife at her throat - Idi Amin Dada" (Martin 1974: 249).

The KADU leadership soon gave up its opposition role and was co-opted into the emerging neopatrimonial system, whereas the Baganda — being already part of the national government — challenged Obote's efforts to centralize national power. This led to the counterintuitive result that the smoother transition to political independence in Uganda was ultimately responsible for the failure of still weakly developed domestic conflict resolution mechanisms. All domestic actors vying for national power prior to and at independence were in Uganda included in a fragile arrangement of formally democratic institutions, whereas the more violent anti-colonial struggle in Kenya decidedly tipped the balance for Kenyatta and KANU after political independence. The weakness of the opposition in Kenya enabled the establishment of a prevalent mode of positive integration under neopatrimonial rule, whereas the strength of the Baganda and Obote's reaction to their resistance set Uganda — despite much better economic indicators than Kenya at that time — on the path of violence. In Kenya, violence against individual members of the opposition was not absent under Kenyatta, but increased significantly after Daniel arap Moi led the original KADU coalition (save the now politically insignificant white settlers) to national power. However, the institutional legacy prevented Kenya from Uganda's experience of recurring indiscriminate mass killings, because the logic of positive integration under neopatrimonial rule had been successfully established over almost two decades in Kenya, whereas during the same period dictatorship and civil war destroyed the basis of neopatrimonialism in Uganda.

In the following chapter, I will show how international human rights groups became aware of human rights abuses in both countries and began to mobilize. This principled challenge of authoritarian rule had important international and domestic repercussions and was an important causal factor for the initiation of regime change. The differences I described here with respect to the emergence of neopatrimonial rule accounts for the subsequent variation in the mode of transition. This fact and the growing strength of the human rights movements in the 1980s explains why mobilization took much longer to have an effect with regard to Uganda in the 1970s and 1980s, than in the late 1980s against the Moi regime.

4   Mobilization

In the previous chapter I have argued that variation in the paths of establishing authoritarian rule in Kenya and Uganda after political independence have led to significant differences in the use of violence as a means of securing national cohesion from the top. Milton Obote already planted the seeds of violence and his own removal from power in the mid-1960s when he mobilized the military to contain Buganda's demands for greater autonomy. Subsequently, his rule increasingly relied on violent means. After the coup in 1971 the situation worsened, when Idi Amin established a military dictatorship and removed all constitutional limits to executive dominance. The expulsion of the Asian population and increasing violent attacks on supporters of the former Obote government were early signs of the violent path Ugandan politics took.

In contrast, the Kenyan situation turned into a almost text-book version of neopatrimonial rule with the establishment of strong clientelist networks from the presidential center. While Kenyatta's rule surely contained elements of repression, it mainly relied on means of positive integration. This conclusion appears even more compelling if one contrasts his rule with the Amin dictatorship in neighboring Uganda during the same period. However, the neopatrimonial system only temporarily glossed over the underlying domestic divisions while the pre-independence ethnic coalitions were hardly affected. When Kenyatta died in 1978, the new president Daniel arap Moi promised to follow the footsteps of his predecessors ("Nyayo"). However, his ascendancy to power brought the former KADU coalition into power and led to an almost complete elite turnover at the national level. While means of positive integration remained an established part of the political culture, Moi increasingly resorted to open repression against the groups which had formerly build the base of the Kenyatta state.

The increasing repression in Uganda after 1972/73 and in Kenya about ten years later was the reason for international human rights mobilization whose early stages are the main subject of the following chapter. I will show how transnational human rights created highly visible campaigns against the authoritarian governments and affected domestic and international perceptions about them. These challenges ultimately contributed to sustainable regime change. The comparison also reveals differences with respect to the time it took until significant changes occurred. While the Ugandan situation deteriorated for still more than a decade after human rights groups raised their concerns in the United Nations, the human rights

conditions in Kenya never matched the level of atrocities committed in Uganda.

Despite the much worse conditions in Uganda, mobilization took much longer to have an effect than in Kenya. The evidence shows that three issues were responsible. First, the extent of violent repression in Uganda and its comparatively greater isolation from the outside world made mobilization a more time-consuming effort. Kampala was just another African capital, whereas Nairobi hosted not only various United Nations bodies, but also dozens of Western journalists. Second, Idi Amin was much less vulnerable to outside pressure than Daniel arap Moi. Amin mobilized other African states and successfully framed the issue as part of the anti-colonial struggle. Daniel arap Moi was to repeat that strategy, but with much less success. Third, the international human rights movement itself enjoyed greater international recognition and material support in mid- to late 1980s than ten years earlier. Campaigns such as the one against the Idi Amin dictatorship lay the groundwork for the success story 'Amnesty International'. When Kenya was caught up in the limelight of international human rights campaigns, Amnesty International was already a household name in the Western world.

From a theoretical perspective, the chapter reveals how international institutions — albeit not always human rights norms — played an important role in shaping international perceptions of Kenya and Uganda during the period under investigation. In particular, the chapter confirms the arguments about the role of state sovereignty in insulating materially weak authoritarian leaders from effective international pressure (see Clapham 1996; Jackson 1990). However, such a perspective neglects processes of transnational human rights mobilization which might not have immediate and measurable policy effects during this period, but crucially contributed to slowly shifting international public opinion and domestic power relations. Revealing these seemingly marginal processes is the main subject of this chapter.

4.1   Uganda 1974-1985: The Killing Fields

In their efforts to raise international attention about deteriorating human rights conditions in Uganda, Amnesty International and the International Commission of Jurists (ICJ) were initially keen to use mechanisms provided by the United Nations system. On 27 May 1974, the ICJ send the first letter concerning the human rights situation in Uganda to the Secretary-General of the United Nations (International Commission of Jurists 1977: 3). The application

was based on ECOSOC resolution 1503[58] and forwarded to the Sub-Commission on the Protection of Minorities and the Prevention of Discrimination. One week later the report was released'to the press and received world-wide publicity, especially in the British media. Idi Amin threatened to expel all British nationals, if the BBC would continue to report on these issues (Tolley Jr. 1994: 207). Amin also announced the appointment of a Ugandan Commission of Inquiry to investigate the allegations, while the practice of public executions and genocidal attacks on selected ethnic groups continued unabated. Consequently, the ICJ added three additional communications on 16 June, 26 July and 23 August 1974.

The Failure of UN Human Rights Mechanisms

Despite the urgency of the situation, the UN Commission on Human Rights decided in early 1975 to postpone its decision on the further treatment of the matter for one year. The commission had only looked at the first ICJ communication because the three others were not received within six weeks prior to meetings of the Sub-Commission. There was also considerable irritation because ICJ had published the same information it had provided under the confidential 1503 procedure. The commission appointed by Amin acknowledged in June 1975 that human rights problems persisted. However, it maintained that the President was free of any responsibility. No further action was taken. The same month Amin threatened in a letter to the Queen Elizabeth II. that the author Dennis Hills would be executed, if the British Foreign Minister, James Callaghan, would not himself come to Kampala within ten days time and ask for a pardon (Furley 1989: 278). Again, the British government accepted the terms set by Amin (Hills 1992).

On 1 October 1975, Amin declared in front of the United Nations General Assembly that Amnesty International was "fed on rumors and concoctions from discredited criminals and exiles"; Amin also accused Amnesty of having "taken no trouble to investigate or send a team

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[58] Exactly four years earlier (27 May 1970), the Economic and Social Council of the General Assembly had voted for resolution 1503 which enabled the UN Commission for Human Rights to investigate cases "which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms." Each year in August a working group of the Sub-Commission on the Protection of Minorities and the Prevention of Discrimination considers communications by states, non-governmental organizations or individuals to the UN which fall under the 1503 procedure. Together with a first response by the accused government (if received) the independent experts of the Sub-Commission decide which cases should be forwarded for discussion at the next meeting of the UN Commission on Human Rights (usually six months later in February/March). The whole procedure is confidential. In 1978 the commission began to announce the names of states those human rights situation had been under investigation.

to Uganda to see for themselves" (Amnesty International 1976: 104). The speech was a direct reaction to Amnesty's 1974/75 human rights report, which accused the Ugandan government of gross violations of human rights.[59] Prior to the UN meeting, the former US ambassador to Uganda had urged President Ford in a letter on 3 September "to instruct the US delegation (...) to be absent when President Amin speaks to that body." Melady referred in his letter to "gross violations of human rights as distinguished from repression" (Melady/Melady 1977: 62). The US administration decided that the Head of its mission to the UN would not be present, but other members were to go.

In a subsequent press conference in New York, Amin invited an Amnesty delegation to Uganda. One month later, the Secretary General of Amnesty International, Martin Ennals, followed up on Amin's speech and requested a meeting with the Ugandan ambassador at the United Nations. The ambassador confirmed Amin's invitation to Amnesty International, but would not agree on a specific time period for the mission. Subsequently, the Ugandan government did no longer respond to further inquiries by Amnesty representatives.

During the 1976 meeting of the UN Commission on Human Rights a large Ugandan delegation participated in the deliberations. No information about their responses were made public or communicated to the ICJ. The commission now decided to end its investigation and took no further action. Idi Amin immediately claimed that his government had been cleared by the United Nations. The ICJ decided to prepare a second report and sent it to the UN on 2 June 1976. In the following months, violence of security agencies became increasingly random. However, diplomatic relations with Western countries deteriorated only in mid-1976 as a result of the rescue operation by Israeli soldiers to free airline passengers held by Palestinian terrorists at Entebbe airport. The Israeli commando not only freed all but three hostages, but destroyed also Amin's air force. In retaliation, Amin's soldiers killed one of the hostages, Dora Bloch, who had been seriously ill and was treated at a hospital in Kampala at the time of the raid (Kyemba 1977: 166-178). On 28 July 1976, Britain broke off diplomatic relations with Uganda.

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[59] A.B.K. Kasozi provided a detailed list of massacres committed between 1971 and 1979 (Kasozi 1994: 249-253).

Based on the second ICJ report on Uganda, the Sub-Commission decided on 25 August 1976 to recommend to the Commission on Human Rights the resumption of an inquiry into the Ugandan human rights situation. The Sub-Commission requested the Commission to "make a through study of the human rights situation in Uganda, based on objective and reliably attested information." So far, similar studies had only been approved for South Africa, the Occupied Territories in the Middle East, and Chile. On 7 February 1977, Amnesty International supplemented the ICJ communication on Uganda under the 1503 procedure. However, the UN Commission on Human Rights was already in session (7 February-12 March) and failed to take the new material into consideration. Only in June 1978 Amnesty published its first comprehensive human rights report covering the period from 1977 to 1978 (Amnesty International 1978).

On 17 February, Archbishop Janani Luwum and two ministers were killed, probably by the hands of Amin himself (Kyemba 1977: 179-192). During the same week, the Ugandan Attorney General Godfrey Lule had to defend Uganda's human rights record in Geneva. It was now unnecessary for the Ugandan government to send an observer delegation, because it had been elected to the commission for a two-year period starting in 1977. According to Lule's account, Amin called him twice during that time. On one occasion he informed Lule about the death of the Archbishop and added that "God has punished them". With regard to the UN investigation Amin told Lule to decline all knowledge about the accusations. Lule himself knew that he could not simply deny the burgeoning evidence, because "I would not have been taken seriously." Instead he tried to further delay the procedures and told the UN Commission that more time should be given for the consideration of the allegations. Knowing that he was now in danger for his life, Lule fled into exile to London right after the Geneva sessions (Lule 1977). There was no follow-up by the UN bodies on Lule's departure to London or the human rights situation in Uganda. The issue was to be taken up again in the following year.

The End of Amin's Rule

It took until June 1977 until the Commonwealth of former British colonies issued a warning of possible action against the Ugandan government. The Head of States declared in a resolution that "cognizant of the accumulated evidence of sustained disregard for the sanctity of life and of massive violation of basic human rights inn Uganda, it was the overwhelming view of Commonwealth leaders that these excesses were so gross as to warrant the world's concern

and to evoke condemnation by the heads of governments in the strong and unequivocal terms" (Kyemba 1977: 237). However, no immediate action was taken. The same month, the US ambassador to the United Nations, Andrew Young, came out with a clear condemnation and compared Amin's regime to Hitler's genocide of the Jews.

In August 1977, Ugandan exile groups in Kenya, Tanzania, Great Britain and the United States formed an umbrella coalition and finally met in Lusaka (Omara-Otunnu 1987: 139). At the same time, exiles in London formed the Uganda Group for Human Rights (UGHR), began to intensify networking with organizations such as Amnesty International and raised their voices for sanctions against the Amin regime. Representatives from Amnesty International continued to ask for permits to visit the country, but such requests were not answered. Despite the additional evidence provided, the UN Commission on Human Rights decided in March 1978 to take no action, but to merely continue its observation of the Ugandan situation (Tolley Jr. 1994: 208). The commission had previously rejected a British proposal to further investigate the human rights situation and, in particular, the death of Archbishop Luwum. On 3 April 1978, Amin announced the creation of a national human rights committee composed of members of the security forces and other government agencies. It was charged with overseeing all contacts between the United Nations Human Rights Commission and the people of Uganda (Amnesty International 1979: 166) and had no other *raison d'être*, than to deflect further criticism without changing repressive policies.[60]

At the very end of Amin's rule (Smith 1980: ch. 14), there were only a few significant official responses to the human rights reports, which had little or no effect on the domestic situation. Following a hearing on the situation in Uganda in June 1978 (Committee on Foreign Relations 1978), the United States Congress demanded a trade embargo against the country. A majority of votes was only secured after three communist countries (Cambodia, Cuba, and Vietnam) had also been added to the list (Forsythe 1988: 78). However, the embargo did not go into effect until Amin was violently removed from power. After the break of diplomatic relations between Great Britain and Uganda, the United States was the single largest purchaser of Ugandan coffee. All airplanes used by Amin for his travels and imports of luxury goods continued to be serviced in the United States. After heated debates in the British press

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[60] See also the statement of Whitney Elsworth, former Chairman of the Board, US section of Amnesty International at a US Senate hearing in 1978 (Committee on Foreign Relations 1978: 25).

and parliament, the government finally agreed to ban Amin from attending the Common-wealth Summit in London in June 1979 (Omara-Otunnu 1987: 138). However, the Minister of State for Foreign and Commonwealth Affairs, Lord Goronwy-Roberts, refused to consider a suspension of Uganda from the Commonwealth arguing that Britain had to consider "how best to sustain and help the people of Uganda as a whole" (cited in Furley 1989: 279).

Considering the eight years of terror and the abundantly available documentation provided by NGOs at least since 1974/75, this response represented an instance of complete foreign policy failure. "[The] British press in 1977-79 was full of accounts of atrocities - but various types of trade were allowed to continue, along with the activities of British banks" (Furley 1989: 279). In particular, British companies supplied the infamous State Research Bureau up until 1979 with radio equipment and the army with night vision cameras and telephone tapping devices. In response to opposition queries, Prime Minister James Callaghan claimed that telecommuni-cation equipment was provided "to detect television license dodgers" only. A British company involved in the deliveries explained that it only traded through a third party in Nairobi which was "not always aware of the end-user application" (cited in: Furley 1989: 281).

In October 1978 Amnesty International sought to endorsed the human rights campaign with the release of *Human Rights Violations in Uganda* in cooperation with the UGHR. The report was widely published and repeated demands to cut off all trade in order "to create the conditions in which Ugandans themselves can remove the government" (The Guardian, 20 October 1978). The British government still failed to take further steps and defended its position of condemning the government, but refusing to "punish the Ugandan people". Despite growing demands for sanctions from Ugandans themselves, this justification was used to continue the supply of luxury goods (so called 'whiskey runs'). Indeed, in the last two years of his rule these weekly supplies allowed Amin to 'buy' enough loyalty within the army (Kyemba 1977: 254) to secure the survival of his regime.

In 1978 British exports to Uganda totaled 19.4 million Pounds, including 300,000 Pounds for alcoholic beverages alone. Criticism of the in the House of Lords was rebuked by Baroness Stedman by claiming that "we need to keep trade lines open for other things" (cited in: Furley 1989: 280). The supplies were only stopped after Tanzanian troops had already invaded Uganda in March 1979. Certainly, the pervasive norm of state sovereignty alluded to by Christopher Clapham and Robert Jackson played a crucial role in explaining why there was "a

time lag when it came to public absorption of catastrophes or crises in Uganda" (Furley 1989: 276). And even when this information could no longer be denied, the 'negative sovereignty regime' framed the options of Western policy makers in such a way that they failed to develop strategies against the ongoing gross violations of human rights. Nonetheless, in the end the transnational human rights movement succeeded in delegitimizing the Amin government as one of the worst human rights violating regimes. Human rights norms were now established competitors of the sovereignty norm when it came to international debates on Uganda.

The end to Amin's rule was a result of internal divisions within his regime and the dictator's efforts to control those divisions by launching a military attack on neighbouring Tanzania. Various army factions openly competed for scarce financial resources and control of the political arena (Ofcansky 1996: 47). In order to defuse the mounting tensions within the military, Amin ordered the violent annexation of Tanzanian border territory. The Ugandan army briefly occupied Tanzanian territory but was quickly rebuked by Tanzanian forces in November 1978. In January 1979, Tanzanian troops and about 1,000 pro-Obote exiles invaded Uganda. Airlifted troops from Libya and several hundred Palestinian fighters could not prevent the downfall of the Amin regime on 11 April 1979 (Sathyamurthy 1986: 513). Amin fled into exile to Libya and eventually to Saudi Arabia.

The Return of Milton Obote

Following two short-lived governments, Milton Obote returned to the presidency after his party Ugandan People's Congress (UPC) had been declared the winner of multiparty elections held on 10 December 1980 (Bwengye 1985: Ch. 5). Prior efforts by the Tanzanian government to form an all-inclusive exile government that would eventually take over power had already failed in the preparatory stages when a number of important representatives of the UPC were not invited to an important conference held in Moshi in March 1979. At this conference, the Uganda National Liberation Front (UNLF) and its armed wing Uganda National Liberation Army (UNLA) were formed to support the fight against Amin. According to the Moshi agreements, the Muganda Yusuf Lule was sworn in as president[61] on 11 April and a thirty-member National Consultative Council (NCC) entirely formed of exiles took over legislative functions. Great Britain reopened its High Commission and immediately recog-

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[61] In Moshi, the Obote supporter Muwanga had lost to Lule in elections for presidency among the participants.

nized the new government and sent an eight-man team of economic experts. The new president had already served as a minister for seven years under British rule in the 1950s.

Another significant newcomer on the Ugandan political scene was Yoweri Museveni who had started his political career within UPC, but left the party during the Amin period because he advocated a clear break with the existing Ugandan political establishment including Obote's UPC. Museveni came from Ankole which historically tended to side with UPC for fear of the Baganda dominance. However, the Obote rule discredited the party for many intellectuals which now either tried to reform the UPC from within or sought new platforms of political activism. During the worst part of the first Obote regime in the late 1960s Museveni studied Political Science and Economics at the University of Dar-es-Salaam. He developed strong Marxist views and visited for the first time in 1968 FRELIMO rebels in Mozambique. After finishing his studies, Museveni worked initially in the Ugandan Foreign Ministry and later in the President's Office.

Between 1971 and 1979, Museveni became the leader of a small guerilla group called Front for the National Salvation (FRONASA) and spent some time in guerilla training camps in Mozambique. In an interview in 1972, Museveni declared that FRONASA fought "to remove Amin's tyranny and when that is done questions such as leadership and ideology can be settled through a democratic process by the people of Uganda. In Africa we continuously talk about Sharpeville where 67 people were killed, but in terms of human waste that does not compare to Uganda. Life is so cheap in Uganda now, that it is useless to try to keep accounts" (cited in: Africa Contemporary Record, Vol. XVIII, B 474). After his return to Uganda in 1980/81, Museveni initially lacked a domestic power base outside his private army to defend his anti-Obote course (Sathyamurthy 1986: 663) and was left relatively vulnerable to attacks from Obote's representatives in Uganda, including Paulo Muwanga and David Oyite-Ojok.

The differences within the anti-Amin coalition surfaced as soon as Amin was in exile. Lule clashed on several occasions with the NCC as he tried to increase Buganda's influence on national affairs and reshuffled the Cabinet without consulting the NCC. Despite popular protests and a general strike, the NCC replaced Lule[62] after only 68 days and appointed

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[62] Lule fled to Tanzania and later formed, together with Yoweri Museveni, the National Resistance Movement (NRM). He died in January 1985 in London.

Godfrey Binaisa, a former Attorney General under Obote (Tumusiime 1992: 53). The British government did not recognize the new government as it feared that Binaisa was simply a transitory figure preparing the return of Obote. These fears were not entirely unsubstantiated. because non-UPC quarters within the fragile coalition only narrowly prevented the appointment of the Obote follower Paulo Muwanga to the presidency.

In August 1979 Binaisa declared a two year ban on all party activities except under the UNLF umbrella. Two months later he restored the Public Order and Security Act of 1967 which allowed for detention without trial (Ofcansky 1996: 50). In November 1979 Binaisa removed Yoweri Museveni from the post of Defense Minister (Omara-Otunnu 1987: 147) when it became clear that Museveni, Oyite-Ojok, and Muwanga maintained personal loyalties within their "private armies" and effectively refused to build a truly national armed force. In February 1980, Binaisa tried to also remove Paulo Muwanga from the Interior Ministry. Previously, Muwanga had banned several newspapers, arrested several journalists and claimed that the action was a Cabinet decision. Binaisa refused to back Muwanga and ordered the release of all journalists. However, Muwanga was supported by the NCC and rejected an offer to take up an ambassadorship in Geneva. At the same time, the Tanzanian President Nyerere and his Foreign Minister Ben Mkapa did not support Binaisa, but threatened to withdraw all Tanzanian troops from Ugandan territory if the president ignored the wishes of the NCC.

In the following weeks Binaisa lost the domestic power battle to the NCC. He failed with his plan to force all candidates for the upcoming general elections to run under a common UNLF umbrella.[63] Even though Binaisa was able to mobilize some domestic popular support and switched from Nyerere to Kenya's President Moi as regional ally, his position did hardly improve. On 3 May two close aides of Binaisa, the editor Roland Kakooza and a former UPC youth winger James Namakajo, were arrested by the Ugandan military and tortured at Makindye military prison. Only the presence of Tanzanian troops in the prison prevented their execution. The powerful Army Chief of Staff David Oyite-Ojok denied any knowledge of the affair. Binaisa retaliated on 10 May and appointed David Oyite-Ojok as new ambassador to Algeria, well knowing that this would be the end to his presidency (ACR, Vol. XIII, B 359). The same day, Oyite-Ojok ordered the army out of the barracks and took control of Kampala.

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[63] A few years later, Yoweri Museveni reintroduced that idea under his broad-based NRM government.

Within the next hours, a military commission consisting of Paulo Muwanga (chairman). Yoweri Museveni (vice chairman), Tito Okello, David Oyite Ojok, William Omaria. and Zeddi Maruru took over, placed Binaisa under house arrest, and scheduled multiparty elections for December. The commission declared in a statement that "whereas Ugandans and their Tanzanian allies who took up arms against Amin did so because they wanted and still want peace, stability and freedom re-established in Uganda, Godfrey Binaisa and most of his close colleagues made the politics if intrigue, greed for power and wealth and rampant corruption, their central concern and preoccupation. (...) Binaisa has made no attempt to build a clean government" (cited in: ACR, Vol. XIII, B 360). The commission appointed an entirely civilian Cabinet, declared that it did not act in the name of Obote and immediately send envoys to win the support of Tanzanian President Julius Nyerere.

On 27 May 1980, Milton Obote returned from exile. In his first public statements he revived his anti-Western rhetoric of the late 1960s and attacked Great Britain for having supported Amin. Western diplomats put their hopes on the upcoming elections and the Democratic Party (DP) which seemed to re-emerge as an equal rival to UPC. In June 1980, a party conference elected Paul Ssemogerere as the new DP leader, while Yusuf Lule was supposed to take over after his return from exile. However, the Military Commission refused to guarantee Lule's security and several DP supporters were shot dead when army personnel was send to disperse the crowds waiting for Lule's arrival. Consequently, Lule remained outside the country.

Despite early signs of pre-election manipulations in favor of UPC, Western donor governments stuck with their initial decision to financially support the election process. In the end, Britain alone covered one-third of the total costs. Apparently, British government officials were quite convinced that Western ballot boxes and a Commonwealth observer team would not only ensure a fair process, but ultimately a victory of the Democratic Party. "It now seems clear that if the West does not take some action to ensure a fair Ugandan election, yet another portion of former British Africa will be lost to the influences of the Eastern Bloc. Kenya will stand alone as last bastion of Western influence" (Daily Telegraph, 7 October 1980, cited in: Furley 1989: 283).

Prior to the elections, Yoweri Museveni formally broke with his UPC past and launched in July his own party, the Uganda Patriotic Movement (UPM). Along with other intellectuals and more radical former UPC members, Museveni argued that Uganda needed an entirely new political structure, ending the rule of hopelessly discredited parties. The Conservative Party (CP) completed the four-party elections as a more liberal successor of the *Kabaka Yekka* party. The pre-election period continued with strong disagreements about election procedures between the UPC and the other three parties' representatives. Although all parties had delegates in the Military Commission and the NCC, "the effective leadership was in the hands of UPC supporters" (ACR, Vol. XIII, B 369). On 27 November, 14 candidates of the DP and UPM were disqualified and UPC could already count on 14 unopposed seats two weeks prior to the elections. DP and UPM also protested without avail the creation of additional constituencies in the UPC-dominated Northern part of Uganda. Moreover, the 1967 constitution was biased in favor of UPC because it spelled out that a party gaining at least 40 per cent of the votes and forming the last government would automatically also form the new government. Despite these controversies, which were openly discussed in several daily and weekly newspapers, all parties finally agreed to participate in the elections.

On 10 December, voting commenced in 5,000 polling stations. In some areas, including the capital Kampala, the ballot papers arrived late for inexplicable reasons. When initial results showed a DP lead, its supporters took to the streets in celebration. In the midst of the counting procedure, UPC leader Muwanga declared that the electoral commission was no longer in charge of the process. Instead, Muwanga himself eventually announced the results. After this intervention, it came at no surprise that UPC gained absolute majority with 74 out of 126 parliamentary seats, leaving DP with 51, UPM with only one and CP with no seat.[64] After a few days of deliberation, the Commonwealth observers held that "despite the imperfections and deficiencies to which we have drawn attention, and subject to the concern expressed on the question of nominations and unopposed returns, we believe this has been a valid electoral exercise which should broadly reflect the freely expressed choice of the people of Uganda" (ACR, Vol. XIII, B 370).

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[64] The British press criticized the "dubious triumph" (*The Times*, 15 December 1980) of Obote. The *Sunday Telegraph* titled on 14 December "Observers Quit in Disgust as Obote 'Wins'". The *Daily Telegraph* wrote in an editorial on 13 December that Obote was returned to power "by whatever means". The Guardian on 12 December claimed that the "Military steps in as Obote loses elections".

On 15 December, Obote was sworn in as President for the second time in Ugandan history, while Paulo Muwanga was rewarded with the vice-presidency and the Defense portfolio. DP representatives agreed in January 1981 to acknowledge the results and to form a parliamentary opposition. Within a few months seven MPs crossed the floor from DP to UPC. More radical DP representatives such as secretary-general and Muganda Andrew Kayiira left Uganda, formed an exile wing of the DP and were soon joined by Yusuf Lule and Godfrey Binaisa. The British government quickly accepted the doubtful victory of UPC and established diplomatic relations with the new government. Obote successfully courted the British government by publicly distancing himself from socialist ideas and appointing Shafiq Arain, a Ugandan of Asian origin as High Commissioner in London. In light of the nightmare Amin brought to Great Britain in 1972 with the expulsion of Asian citizens, this highly symbolic decision ensured goodwill for years to come. Arain became a crucial force in selling a "new" Obote (Furley 1989: 284) and isolating the inter-governmental relations between Uganda and Great Britain from a generally hostile British press and reemerging human rights concerns soon to be expressed by Amnesty International.

The Deterioration of Human Rights Conditions

The domestic situation did not justify the optimism expressed by the British government. Yoweri Museveni abandoned his party and went underground to create the rebel group Popular Resistance Army (PRA) and soon thereafter the National Resistance Army (NRA). In August 1981, the NRM published its political program. It outlined that "after toppling the Obote regime, the NRM, in consultation with the other fighting and political groups working against the Obote dictatorship, will ask for a broad-based Interim Administration." In its effort to bring back a democratic government, "the NRM is anxious that this task should be approached with thoroughness at all stages, so as to ensure that democracy, once back in Uganda, will not be a temporary phenomenon. As part of laying the ground work for returning Uganda to democratic government, the Interim Administration shall see to it that a new Constitution, based on the popular will, *is drafted and promulgated by a Constituent Assembly elected by the peoples themselves* (emphasis added, HPS)" (cited in: Waliggo 1995: 22).

Only one year after the elections, the NRA controlled already significant parts of the country and enjoyed considerable popular support. In contrast, Obote's army perpetrated gross human

rights abuses throughout the country. Sensitized by the transnational human rights mobilization against Amin, it took only weeks to convince the British public opinion that the Obote regime was about to repeat atrocities from the Amin era.[65] Meanwhile the British government modified its approach only in so far as it now involved the Commonwealth as a whole in its support for an authoritarian regime. "The British press was [again] full of atrocity stories, it was now that the government responded to Uganda's request for a Commonwealth military training team to try to remedy the situation" (Furley 1989: 285). Hence, the Obote regime received support although the *Observer* held already on 15 November 1981 that "Britain and other Commonwealth countries would certainly hesitate to send troops to train an army set to crush a popular rebellion sparked by its own brutality."

In an effort to root out the rebels, the Obote government randomly recruited new army and police personnel which was only partly trained by the Tanzanian occupational force, the Commonwealth military training force and some North Korean advisers. The idea of the Commonwealth group "to train whose who would train the rest" (Furley 1989: 286) failed to have any positive effects on the conduct of the army in fighting the rebel insurgency.[66] At the same time, the counter insurgency operations only strengthened Museveni's rebels which now controlled three Buganda districts (Luwero, Mpigi, and Mukono) and even began to attack parts of the capital Kampala. The guerillas systematically attacked police stations and military installations where they captured large quantities of arms and met with little or untrained resistance. Afterwards they retreated to the bush in order to avoid any large-scale confrontations with government troops.

On 24 September 1981, leaders from the Anglican, Roman Catholic, and Orthodox churches as well as the Muslim community claimed in an open letter that "within three weeks, a total of over 100 innocent citizens have been murdered, mainly by the gun and by people who are there to protect and defend the people of Uganda. (...) Road-blocks around the country have

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[65] A.B.K. Kasozi provides a detailed list of massacres committed between 1981 and 1984 (Kasozi 1994: 240-248).

[66] During that time, the Uganda entry in the African Contemporary Record was heavily biased in favor of the second Obote government. However, even ACR had to admit gross violations of human rights perpetrated by the Obote regime as early as 1981/82. "Wherever they (Museveni's rebels, HPS) struck, (...) the army was routinely send in to deal with them; this sometimes brought innocent villagers and peasants into conflict with the security forces, who did not always behave well and, on occasion, behaved very badly indeed. Obote might be held responsible for sending soldiers, not notable for their discipline in troubled areas, but what was his alternative? (see ACR, Vol. XIV, B 298-308, 302).

become places of torture" (ACR, Vol. XIV, B 307/310). The church leaders demanded that the government should restore the rule of law, discipline the army and initiate round-table talks with the opposition. Obote countered the allegations and blamed the "incidents" on "bandits wearing army uniforms" (ACR, Vol. XIV, B 307).

By January 1982, the National Resistance Movement (NRM) had established itself as the main political body bringing together various anti-Obote forces, including Museveni's guerrillas, Binaisa, Lule, Kayiira, and also some former Amin supporters under the leadership of Amin's former Finance Minister Moses Ali. London became the center of the growing exile community, while the National Resistance Army (NRA) became the official military wing of the NRM inside Uganda. The same month, Obote invited a delegation of Amnesty International to visit the country. Government officials denied allegations of "systematic human rights abuses" and answered to 361 individual cases highlighted by Amnesty (Amnesty International 1983: 124). Amnesty remained unsatisfied and published in April an updated report which included another one hundred cases of torture and extra-judicial killings. Amnesty asked the government to create a commission for the thorough investigation of the incidences (International Herald Tribune, 16 April 1982).

The government refused to follow this suggestion and Obote criticized Amnesty International for not discussing the content of the follow-up report with his government. Later, the High Commissioner in London, Shafiq Arain, presented a 26-page rebuttal and claimed that "my government has nothing to hide on human rights in Uganda." The Information Minister, David Anyoti, claimed that his country's reputation was being damaged by "irresponsible reporting" and by "second-rate yellow journalists" to whom "sensationalism and subjectivity become the rule of their operations" (ACR, Vol. XIV, B 312). He added that only the Tanzanian (Shihata), the Sudanese (SUNA), the Soviet (TASS), and the Chinese news agencies were properly accredited and that new rules would make access for freelance journalists impossible (implemented in February 1982).

The Amnesty report of "widespread tortures and killings" sparked renewed debates about the British engagement in Uganda. While liberal and conservative papers more or less agreed on the dismal state of human rights in Uganda, they drew very different conclusions from that analysis. The *Times* described human rights conditions today as even worse than under Amin, but concluded that "the task of the Commonwealth training mission - disciplining the army -

is all the more pressing and urgent." A standard argument repeated in this article also held that Obote had proven to be incapable of unifying the country, but "yet it is not at all certain that anyone else could do it better" (The Times, 8 July 1982).

A November 1982 report by Sir Peter Archer for the Human Rights Group of the British House of Commons commended the Ugandan government for being "cooperative to a degree far in excess of what I have experienced from many governments in similar situations." The report identified the army as the main problem and recommended to Western observers to "temper their criticisms with a measure of understanding, to recognize and encourage real attempts at improvements, and to attempt to lower the emotional temperature and diminish the feeling of insecurity." Other independent observers invited by Obote in 1982 were the Roman Catholic Cardinal Emmanuel Nsubugu and the British Scholar Colin Legum. Both were allowed to visit Luzira Maximum Security Prison where they found conditions to be generally tolerable.

The main problem with these visits was their restricted character and the obvious attempt by Obote to counter negative international reporting on human rights conditions in Uganda. All military barracks were off limits although Amnesty International had for some time identified those installations as the main torture centers. Moreover, the ongoing massacres by UNLA soldiers in villages surrounding Kampala were completely ignored. When Colin Legum confronted Obote in an interview with his own experience (from visits in Kenya, Cyprus, and Algeria) on the differences between civilian and military prisons, the President admitted that "since liberation in 1979, something similar to what you have described has happened, but not on the scale you may have experienced elsewhere, or anything like that which was portrayed by our opponents or by the media abroad. The important point to note is that these happenings are now under control, and this is the great difference between the past and the present" (cited in: ACR, Vol. XV, B 312).

Despite Obote's efforts to uplift his government's international image, international reporting became worse rather than better. In May 1982, the Guardian and the Los Angeles Times simultaneously published two stories by Charles Powers titled 'Horror Story from Africa's True Heart of Darkness' and 'The Capitalist Lifeline that skirts Uganda's Graveside'. On 16 June the International Herald Tribune titled "Ugandans call Conditions worse than under Amin." Three weeks later *The Times* held in an editorial that despite some economic progress,

"very little progress has been made in the observance of human rights in Uganda" (cited in: ACR, Vol. XV, B 313). On 29 August the *Sunday Times* headline across eight columns held that "Obote's Uganda Plunges Back into Bloodbath." Hence, activities by human rights organizations such as Amnesty International had put Uganda back on the international agenda very shortly after Obote took power for the second time.

Although reports on the deteriorating human rights situation were already abundant in late 1981 and early 1982, the May 1982 donor meeting in Paris voted to give $557 million aid to the Obote government. Under a series of stand-by agreements the International Monetary Fund (IMF) borrowed Uganda a total of $305 million until 1984 (Henstridge 1994: 53). In return, the Ugandan government agreed to follow fiscal measures proposed by the IMF. Only West German, Danish and Dutch representatives expressed some concern of human rights issues by citing information provided by Amnesty International. There were two major reasons why the donor community largely ignored NGO input and failed to recognize the permanent instability emanating from the 1980 elections. First, donors were simply inclined to trust the 'elder statesman' Obote who was now supporting economic austerity programs developed by the IMF, including a sharp devaluation of the Ugandan Shilling and a privatization program of state-run companies. Second, in neighboring Kenya the opposition began in early 1982 to openly challenge the rule of Daniel arap Moi, who represented at that time the only reliable Western ally in the region. As one observer concluded, "the international community is lending support to Uganda because of its strategic significance, but it is ignoring a state of internal chaos that amounts to disaster for most of its citizens" (Anonymous 1984b: 220).

The International Community

At the end of 1982, the contract of the Commonwealth Military Training group was extended for another year and its strength doubled to 70 officers. At the same time, the Ugandan government hired the private British training group Falconstar to build a 5,000 men Special Force. Great Britain remained the largest provider of foreign aid, followed by the Soviet Union, Italy, West Germany, and France (ACR, Vol. XV, B 323). The year 1983 was marked by a continued worsening of human rights conditions, especially in the now infamous Luwero Triangle. Kampala remained insecure with reports of at least 16 people shot dead within only one week in April. From June to August 1983, government troops killed thousands of

peasants and filled detention camps with more than 100,000 people (Ofcansky 1996: 55). The army unit charged with the intensive sweep was specially trained by former British Special Air Service (SAS) officers (ACR, Vol. XVI, B 295). In many cases, the attacks were also ethnically motivated, because the army was again dominated by soldiers coming from Obote's home region in the Northern part of Uganda (Langi and Acholi). These soldiers now killed and looted in the South, but also in Amin's West Nile region as a revenge for the atrocities committed against the Northern population during the 1970s. In the South, the exile Banyarwanda[67] community became a major source for NRM recruits.

Videos taken by the NRA rebels documented the atrocities committed by the Ugandan army and were sent abroad to intensify international mobilization against the Obote regime (Kasozi 1994: 172). Church leaders and the dwindling parliamentary opposition repeated their demands for round-table talks with the opposition. Obote refused and argued that "parliamentary democracy will never be established in Uganda and unity will be illusory if after every dispute, be it on elections or something else, Ugandans decide to take to the gun and are appeased by the so-called round-table conference" (ACR, Vol. XVI, B 292/3).

Despite the evidence for gross violations of human rights provided to the international public, official reactions from foreign governments were hardly different from the Amin era. Well-intentioned diplomatic efforts to continue a bilateral dialogue with the Ugandan government on the human rights situation were conducted without decisive follow-up. In August 1983, Obote invited the Australian, British, and Canadian High Commissioners to a tour of the newly established detention camps in the Luwero triangle. During the visit he declared that "the people who had got displaced due to bandit activities were voluntarily returning to certain centers such as police stations, army posts, administrative headquarters and schools" (Kasozi 1994: 184).

Despite the horrendous violations of human rights committed by the army in early and mid-1983, the outgoing British High Commissioner Hillier-Frye commended the economic progress in the country and held that "Uganda's security position had improved considerably"

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[67] The Banyarwanda are an exile community originating from Rwanda. When the NRM rebels finally marched into Kampala they were the third largest group within the 14,000 man rebel army (following the Banyankole and the Baganda). On 1 October 1990 the Rwandan Patriotic Front (RPF) was supported by 4,000 former NRA soldiers in its attempt to overthrow the Rwandan government of Juvenal Habyarimana.

(ACR, Vol. XVI, B 307). Quite the opposite assessment was given by non-governmental sources also based in London. In response to Amnesty's continued criticism the Ugandan government accused the organization in September 1983 of "hostile criticism" and "rude behavior". In an interview with *Financial Times* the same year, Obote accused Amnesty of not being able to distinguish between political prisoners and common criminals (quoted in: Sathyamurthy 1986: 673).

The ongoing civil war effectively paralyzed the legislature and the judiciary. DP decided to boycott by-elections for nine vacant parliamentary seats in November 1983. UPC now had 90 seats (compared to 74 in 1980), while DP was left with 35 MPs (51). Moreover, several opposition MPs were imprisoned in 1983, one shot dead by an army soldier and another listed as disappeared. The remaining opposition press, largely controlled by DP supporters, came under growing pressure. The Vice-President Muwanga accused the press in July 1983 of "lies" and deliberate efforts to breed "antagonism among Ugandans." Despite all evidence, he refuted claims by the DP paper *Munnansi* that several thousand Ugandans had been killed in the Luwero Triangle. In his counterattack Muwanga alleged that *Munnansi* was financed by a "foreign source". He continued to warn the press that the government would not "sit and watch the country go to the dogs" (citations in: ACR, Vol. XVI, B 304). Despite the harassment of the press, opposition papers continued to be published and *Munnansi* remained the most widely read paper.

The Military Success of the NRM

Museveni's rebels slowly extended their control of the countryside and strongly enforced a code of conduct. The NRA became known for harsh disciplinary measures taken against its own members in case of human rights violations committed against civilians. Apart from the vastly different treatment of the indigenous population, the main reason for the rebel's success was the replacement of the chief's system by democratically elected resistance councils. Moreover, the NRM/A was the only rebel group with a coherent political program reflected in the so called 'Ten Point Program' (Tumusiime 1991: 5). In 1985, this program was officially adopted during a meeting of the NRM leadership in Austria. "The NRM believes that it is the inalienable right of all peoples to freely choose their government and determine the manner of that government. Rigged or manipulated elections are an insult to the people, and a sure recipe for instability, conflict and upheavals. Constitutions imposed on the people by guise, wile or

force cannot be the basis of stable and peaceful governance of men. It will be one of the primary duties of the NRM government to effect a swift but systematic return to democratic government after toppling the Obote regime" (National Resistance Movement 1985: 4).

While the Obote government further lost domestic and international legitimacy in 1984 and 1985, the rebels slowly extended their domestic power base and international recognition. Even the NRM's Marxist ideology did not deter support. "Their theoretical analysis meant little to their wider constituency, but the sense of outrage (about Obote's regime, HPS) was shared by almost everyone" (Brett 1994: 63). At the same time, even the remaining moderate part of DP had made human rights its main platform of parliamentary opposition. The downfall of Obote was further accelerated when the Army Chief of Staff David Oyite-Ojok died in a helicopter crash while visiting the Luwero war zone on 12 December 1983. The fellow Langi Oyite-Ojok had been together with Obote in exile during the Amin years and now represented the cornerstone of Obote's control over the army (ACR, Vol. XVIII, B 465). As a result of his death, different factions within the army reemerged and began to clash with one another, in particular along the lines of the two dominant Northern tribes Acholi and Langi.

The Uganda Consultative Group meeting of donors in Paris on 25-26 January 1984 passed without much criticism of the human rights situation. Again, donors pledged a total of $430 million in aid money. The only contagious issue arose when the donors refused to cover a debt of approximately $120 million incurred by Uganda in military contracts with Israel in the early 1970s. The debt was still open after Amin had abruptly ended diplomatic relations with Israel and turned to its Arabic enemies instead. Continuous input by Amnesty International only slowly changed perceptions of foreign governments, the least in Amnesty's host country Great Britain. In March 1984, all Commonwealth countries except for Britain finally pulled out of the military training program. This decision followed an unexplained massacre of several dozen Ugandans in Muduuma. While the other countries cited the massacre and other human rights concerns, the British Minister for Overseas Development, Timothy Raison, announced that Great Britain would continued its aid after being "satisfied that the Muduuma massacre had been carried out by gangs with an aim of discrediting Obote's government" (Furley 1989: 287).

Only in May 1984 United States government officials, including the Assistant Secretary of State for Human Rights Elliott Abrams and the ambassador Allen Davis began to openly accuse Obote of systematic killings and torture. The diplomatic attacks followed a massacre of students, teachers, and priests committed by the army at Namugongo Anglican Theological College close to Kampala. In August, another Congress hearing on the human rights situation in Uganda was held. Finally, the United States government accepted the numbers provided by Amnesty International. In his report to Congress, Abrams described the human rights situation as "horrendous" and "one of the worst in the world." Without naming its sources the report claimed more than 100,000 deaths due to direct army action and following starvation mainly in the Luwero Triangle (see also Anonymous 1984a: 529). The Ugandan government reacted by expelling a US military attaché and canceling a training program for army officers in the United States. In its rejoinder Kampala dismissed the numbers circulating in Western capitals and claimed that about 15,000 Ugandans had been killed by both sides in the civil war since 1981.

While Germany, Denmark and the Netherlands also distanced themselves from Obote, the British government continued its military and financial support. The British High Commission in Kampala declared that it had not found sufficient evidence for the allegations contained in the Abrams report (Furley 1989: 288). The British private firm Falconstar was even encouraged to complete its training of a 3,000 man special force in 1984 (ACR, Vol. XVI, B 298). Not only the British, but representatives from various donor governments, the World Bank, and the IMF now preferred to emphasize the economic progress Uganda experienced since Obote had agreed to follow a fiscal stabilization program in 1981. Indeed, credit ceilings imposed by the IMF led to a drop of the inflation rate from 100 per cent in April 1982 to 16 per cent in June 1984. However, the macroeconomic balance briefly achieved in 1982/83 was immediately lost again when Obote discontinued the IMF agreement for the fiscal year 1984/85 in order to raise more money for the army and inflation rates increased to 141 per cent by mid-1985 (Henstridge 1994: 53).

The non-governmental human rights pressure had finally also significant effects on the British government. In September 1984, British Minister of State for African Affairs in the Foreign and Commonwealth Office, Malcolm Rifkind, slowly retracted from the initial rejection of the Abrams report. "This was quite a switch, and he was responding to strong criticism from the

Cambridge group of Amnesty International, which had accused the Foreign Office of being 'craven' and 'pussy footing' in its response to the Abrams claims" (Furley 1989: 290).

As a result of the continued transnational mobilization against the Obote regime, its domestic position was considerably weakened. Against Without Obote's explicit order, Defense Minister Paulo Muwanga began talks with the insurgent groups and started to plan a coup. In October 1984 Muwanga met secretly with senior NRA representatives (ACR, Vol. XVIII, B 466). At the same time, the Northern coalition between the Langi and Acholi further disintegrated, when Obote was openly accused to favor his own Langi tribesmen over Acholis in military appointments. The dispute peaked in August 1984 when Obote named the Langi Smith Opon-Acak as new Army Chief of Staff and successor of the late Oyite-Ojok. Acholi soldiers and officers under the leadership of Tito Lutwa Okello also began to plot a coup. From late 1984 until mid-1985, the executive was effectively paralyzed, while prominent members of the Obote regime prepared for a coup against the president.

Reacting to Amnesty International's report *Six Years after Amin: Torture, Killings, Disappearances* published in June 1985, The British government finally "cautioned the Ugandan High Commissioner that if the human rights situation in Uganda did not improve, Britain might terminate its (...) assistance program to Uganda (Furley 1989: 291; Ofcansky 1996: 56).[68] However, the British government did still not take any immediate action against the Ugandan government and maintained its military advisers in the country. On 20 June 1985, Obote defended his human rights record in his budget speech before parliament. He claimed that "no one here or abroad" should "entertain the false belief that this government is not interested in the rule of law, human rights, the unity of the people of Uganda, or in the promotion of democracy and democratic institutions" (ACR, Vol. XVII, B 396).

In his official response to the Amnesty report, Obote invited an Amnesty delegation to visit the country and also asked the British government as well as the European Community to send parliamentary delegations for on-the-spot investigations. He claimed that virtually all twelve demands for human rights improvements listed by Amnesty were actually government

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[68] "Malcom Rifkind, le sécretaire d'État britannique aux Affaires africaines qui se rendit à Kampala peu après, contena d'exprimer sa "preoccupation". Ceci n'empêcha pas le renouvellement de l'aide britannique, y compris de l'aide militaire, l'argument en faveur de cette mesure étant que, si les Occidentaux ne le faisaient pas, le président Obote s'adrasserait de manière croissante au bloc communiste" (Prunier 1994: 144).

policy. Obote admitted that he was not sure if Uganda had already accepted international instruments against torture, but would be anxious to do so: "This government is fully committed to the observance of human rights in all parts of Uganda. Members of this government led the struggle against the regime of Idi Amin and it is most painful and disheartening that this government should be equated, either here or abroad, with the atrocious regime of Idi Amin. To do so cannot be supported by the facts of the situation and borders on a deliberate campaign to undermine the image and the authority of the government. Even in the report of Amnesty International it is acknowledged, though indirectly, that peace has returned to the whole country, except in areas where we have had armed dissident activities. Members of this government cannot negate the very objective - the enjoyment of human rights by all Ugandans - for which they fought and many of their colleagues lost their lives, by resorting to and condoning massive violations of human rights in Uganda." Obote sought to explain existing human rights violations in reference to the problems created by the Amin tyranny: "We inherited a most difficult security and economic situation. We inherited a very young army and a demoralized and depleted police force. (...) We have not banned or proscribed any political party, organization or institution" (citations in: ACR, Vol. XVII, B 396/405). Before Amnesty International and other international observers could react to the invitations and defenses, Obote was deposed by sections of his own military.

The Military Government

Following massacres of Acholi soldiers perpetrated by Langi army personnel in early July, the Acholi Brigadier Basilio Okello led his troops from Gulu to Kampala and seized the capital on 27 July 1985. Another Acholi and Army General, Tito Lutwa Okello became Head of State and declared in a first radio message the "total end to Obote's tribalistic rule." He accused Obote of having brought to Uganda "heinous murders, arsons, kidnappings, looting, robbery, destruction of property, rape, corruption, arbitrary arrests, detention without trial, flagrant abuse of human rights, contempt, disregard of the rule of law *as testified by Amnesty International* (emphasis, HPS), all based on ethnic, tribal, religious, political and regional considerations and groupings. (...) Our only aim is to put an end to Obote's despotic rule" (citations in: ACR, Vol. XVII, B 392). Consequently, parliament was dissolved, the constitution suspended and all ministers dismissed. Obote fled into exile to Kenya and later to Zambia.

The new Military Council identified the formation of a national coalition government and negotiations with the rebels as its two most important tasks. The DP leader Ssemogerere was appoihted Interior Minister, Paulo Muwanga Prime Minister, and several close associates of Obote were also included in the Cabinet. Yoweri Museveni demanded half of the seats in the Military Council and answered all attempts by the Council to bring in either prominent Obote or Amin supporters with continued military action. The failure of the Military Council to bring in Museveni did little to convince Western governments and media about the good intentions of the new government. Instead, revengeful killings continued unabated. Whereas the Acholi and Langi soldiers had reduced Amin's West Nile region between 1981 and 1984 to ashes, the Amin soldiers came now back and devastated Obote's Langi provincial capital Lira.

At the same time, the NRM/A further consolidated its position in the Southwestern part of Uganda. This also included a functioning democratic decision-making system on the local level, the so-called Resistance Councils (RC). "The RCs were first organized to enlist sympathetic civilians in the acquisition of food, recruits, and intelligence for the NRA war effort..." (Kasfir 1998: 55). However, after some time, and still during the bush war, the NRA leadership made them elective. Whereas independence in 1961 only secured formal external sovereignty for the Ugandan people, the NRM rebels were the first to bring the idea of a "citizen" to the countryside (Mamdani 1996: 200-203). This resulted in a "unprecedented degree of village level participation in decision-making" (de Waal 1997: 631) and reinforced growing international recognition of Museveni. Over time the rebel leadership was positively integrated into the transnational human rights network, or as Mamdani chose to put it, "bathed as it was in global ideological influences" (Mamdani 1996: 207). Yoweri Museveni frequently traveled to Western capitals and was invited by increasingly prominent hosts.

During 1984-85, Museveni and other NRM leaders made several semi-official visits to European countries in preparation of their likely future role in Uganda and had continuous contacts with international human rights groups (Weyel 1995: 555). In August 1985, Museveni wrote in the *Guardian* about his movement, that "we have been labeled 'Marxist radicals', but of course such labels do not matter. I would very much like to be a 'conservative' if I am shown something worth conserving. What should I conserve in the present situation? Intestinal worms, malnutrition, a high infant mortality rate, a low average life-expectancy, a low calorie

and protein intake etc. in the population? Or the complete denial of basic human rights by the present regimes, including the security of human life? (The Guardian, 23 August 1985). Domestically, Museveni strengthened local coalitions mainly with reliable anti-Obote groups such as the Baganda (Mamdani 1996: 207-210).

The Military Council agreed to hold peace talks in Kenya, where Kenyan President Daniel arap Moi chaired the negotiations between 26 August and 17 December.[69] Museveni also agreed in principle but stated that he considered the others at the table to be "part of an endless system which has been responsible for the massacre of one million Ugandans since independence in 1962" (ACR, Vol. XVIII, B 469). The NRA used the negotiations to extend its control to important areas such as Mbarara, Masaka, Kasese or Fort Portal. By the end of November the NRA camped some 20 miles from Kampala and could have easily invaded Kampala. However, its leadership continued negotiations until mid-December and finally agreed on a peace accord guaranteed by Daniel arap Moi. This agreement included an immediate cease-fire, the demilitarization of Kampala, the dissolution of the local governmental structures created by the NRA in southwestern Uganda, the creation of a Military Council representing all militarily relevant forces, and the establishment of an multinational force made up of Tanzanian and Kenyan troops. The peace accord was never implemented and the NRA seized Kampala on 26 January 1986. Three days later, Museveni was sworn in as new President.

4.2   Kenya 1983-1989: Executive Outcomes

By 1983/84, Daniel arap Moi had defeated all immediate threats to his presidency and began to increase his control over the political system and society at large. All spheres of competence Moi deemed vital for his government were formally moved from ministries, parliament or the judiciary to a quickly expanding Office of the President. Using a system of directly controlled Provincial and District Commissioners, the President's Office reached every corner of the country. While the Kenyan African National Union (KANU) had lost political significance during the Kenyatta years, Moi now revived its structures to solidify his national position. In 1985 the government forced all members of the civil service to become members of KANU. At the same time, KANU created its own youth organization whose members served as de facto 'body guards' for party officials and often used violent means to intimidate

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[69] For the details of the six rounds of negotiations see ACR, Vol. XVIII, B 468-471.

the political opposition (Widner 1992b: 153). By 1985, KANU experienced a significant but calculated revival for the purpose of serving as a "vehicle for transmitting the views of the president to the grass roots and for controlling the expression of interests within the country and their influence over policy. (...) And in that sense Kenya had become what some have called a 'no-party state'. The use of the party structures by the Office of the President had distinct consequences for patterns of political behavior..." (Widner 1992b: 158 and 161).

Establishing One-Party Rule

In the following years, executive tolerance for dissenting voices decreased sharply and the human rights situation deteriorated (Africa Watch/Human Rights Watch 1991; Howard 1991). In 1985 and 1986, several hundred people were arrested, mistreated, and disappeared temporarily as part of the clampdown of student protests in Nairobi (Anonymous 1987). In March 1986 six university members, including a close friend of Oginga Odinga were arrested under the Preservation of Public Security Act and received sentences between 18 months and five years in prison. Moi claimed that they were part of the *MwaKenya* conspiracy which allegedly involved persons supporting the 1982 coup.

International human rights organizations now began to raise alarm about the human rights conditions in the country (Amnesty International 1987b). They reported also hundreds of killings and detentions in the North-eastern part of Kenya where security forces tried to control feuds between various Somali clans (Africa Watch/Human Rights Watch 1991: xi; Amnesty International 1985a: 66). In one such incident in February 1984 government forces rounded up hundreds of members from the Degodia clan which they blamed for a recent outbreak of violence. Many of Degodia held for days on the Wagalla airstrip died of thirst, while others were killed when they tried to escape. A month after the massacre, the issue was raised in the Kenyan parliament and the government admitted that 57 people were killed as part of an effort to disarm the Degodia. These numbers were widely disputed and local observers claimed that up to 1,000 were left dead by the security forces (see Daily Nation, 30 October 1998).

The incident was also noticed outside of Kenya. Similar to the Ugandan story, the first to take up the issue were individuals and non-governmental organizations whose perceptions were not framed by norms of state sovereignty. Instead, they interpreted the incident in reference to universal human rights standards and soon came into conflict with their own government's

diverging norms hierarchy. "Three Norwegian volunteers stationed in the area had witnessed the aftermath of a massacre of ethnic Somalis on the airstrip at Wagalla near the provincial capital of Wajir. Very upset about what they had seen, they reported the incident to the Norwegian ambassador to Kenya. His muted reaction, which they interpreted as hushing the matter up, disgusted them" (Baehr, Selbervik, and Tostensen 1995: 64). At the same time, Amnesty International demanded the creation of an independent commission to investigate the massacre. After returning back to Norway, the volunteers contacted the foreign ministry and the issue was raised in the Norwegian parliament. The issue was now established within the Norwegian domestic political discourse.

In September 1986, Norway granted political asylum to the former Kenyan MP and Cornell University student Koigi wa Wamwere, who had been jailed during the *MwaKenya* purges. With his charisma he became a crucial figure in the process of moral consciousness-raising and redefinition of Kenya's image abroad. "Arguably, he was the most important opinion leader in Kenyan affairs in Norway in the late 1980s" (Baehr, Selbervik, and Tostensen 1995: 68). The bilateral relations between Norway and Kenya slowly deteriorated as sections of the Norwegian public began to criticize the foreign ministry and the Norwegian embassy in Nairobi for allegedly suppressing information about human rights abuses in Kenya. Thus, Norway became the first Western donor country which was profoundly affected by the activities of the human rights network on Kenya. From there, long-held perceptions of Kenya changed in concentric circles starting in neighboring Scandinavian countries and moving to Continental Europe and the United States.

In November 1986, Moi declared the revival of KANU a success and claimed that the party was now "supreme over Parliament and the High Court" (ACR, Vol. XIX, B 324). On 2 December 1986, the Kenyan parliament further strengthened executive powers by curtailing the right to bail (24. amendment) and by abolishing constitutionally guaranteed tenure for the Attorney and Auditor General (23. amendment). The amendments passed parliament with 131 votes in favor and 38 abstentions. KANU's Governing Council was also empowered to discipline or even expel KANU members, including ministers and civil servants. Finally, KANU substituted the secret ballot in its primaries with a public queue-voting system, which

also increased party control over the election process.[70] Voters were now asked to line up in front of the preferred candidate's poster. Two MPs who dared to criticize the measures in public were briefly detained in January 1987.

The Emergence of Domestic Dissent

At this point, church officials and political dissidents began to raise concerns about the growing powers of the executive. The National Council of Churches of Kenya (NCCK) and the Law Society of Kenya (LSK) sharply protested Moi's increasingly authoritarian style. The NCCK released in September 1986 an open protest letter in which the 1,200 signing pastors threatened to boycott elections as long as the secret ballot was not reintroduced (Sabar-Friedmann 1997: 33). Moi retorted in October 1986 in his usual ominous style by demanding that dissidents should "stop hiding behind a certain church" which now produced "subversive pamphlets" (cited in: ACR, Vol. XIX, B 328). In December, other ministers openly linked leading churchmen to the *MwaKenya* conspiracy and one of the NCCK employees, Dr. Walter Osewe, was arrested and charged with being a member of the alleged underground organization (Throup 1995: 155).

In the following years, the NCCK became the only significant domestic actor which could preserve its institutional independence and consistently challenge government repression. During the 1950s and early 1960s the NCCK had emerged as an ecumenical organization supported by significant amounts of church donations from overseas to "meet the Christian challenge of the post-Mau Mau reconstruction (...). New missionaries were recruited, employed directly by the NCCK rather than its member churches. Their theology was liberal, their gospel as much social as individual. (...) The NCCK staff had no organic or historical connection with the local environment. (...) [It] was free to be 'alongside' the new African politics (...) in a way in which the local churches would have found difficult even if their leaders had thought it desirable" (Lonsdale, Booth-Clibborn, and Hake 1978: 269/70). Consequently, in the period right after independence the NCCK became the major "focus of cooperation between Church and State," while the organization continued to develop its

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[70] If someone gained 70 per cent of the votes during this queue-voting procedure, he or she was elected to parliament. In all other cases the candidates reaching at least 30 per cent were allowed to contest the seat in the general elections and under secret ballot procedures. In 70 out of 188 constituencies a candidate attained the required 70 per cent during the primaries.

international contacts. Lonsdale et al. point out that during that period "the presence of its expatriate staff bears witness to the fact that Nairobi is a suburb of Ecumenopolis, World City" (Lonsdale, Booth-Clibborn, and Hake 1978: 272/3). During the 1960s and 1970s the NCCK worked closely with government agencies mainly in areas of education and health.

The brief history of NCCK activism shows that the organization was an early transnational actor which transported liberal values into Kenyan society even prior to political independence. In the immediate post-independence period, it aligned with the government to improve the living conditions of the local population. However, this alliance and the NCCK work was already ethnically biased because the Kenyatta government itself tended to represent a Kikuyu dominance in national affairs. Once the Kenyan government turned more repressive under Moi, the close relationship between the NCCK and the state had already broken down because Kikuyu membership within the NCCK was relatively high. Church representatives became now major government critics not only as a result of the adherence to principled human rights values, but also because the state was now captured by a competing ethnic alliance. Based on its reputation as a representative of various church organizations as well as the international contacts (Throup 1995: 160), the NCCK was able to defend its independence and even mobilize domestic and international resistance. Other representatives of societal modernization such as lawyers and university lecturers joined the dissident movement. Again, many of them were members of the now disenfranchised ethnicities, mainly the Kikuyu and Luo.

The Internationalization of Human Rights

When Daniel arap Moi announced two state visits to Europe and the United States for 1987 transnational human rights groups transformed the picture of domestic dissent, repression, and initial international mobilization into a powerful human rights campaign. The Kenyan government contributed to this campaign by arresting prominent opposition members shortly before Moi's departure to the United States. One of them, Gibson Kamau Kuria, a Oxford-educated defense lawyer in the *MwaKenya* trials, filed a lawsuit against the security organs accusing them of torturing the suspects. In anticipation of the likely consequences, Kuria provided Blaine Harden, the *Washington Post* correspondent in Nairobi, with the compiled evidence. On 26 February 1987, Kuria disappeared.

On 12 March, one day before Moi met with President Reagan in Washington, the government announced his arrest under the Preservation of Public Security Act and accused him of "disrespect of the President." At the same time, Congressman Howard E. Wolpe, chairman of the US Foreign Affairs Sub-Committee on Africa diagnosed during a press conference in Nairobi an "emasculation of the Kenyan parliament" and a "concentration of executive power". The US State Department took the Kuria case and other allegations seriously and its spokesman, Charles Redman, declared that human rights would be on the agenda for the talks between Moi and Reagan. "The allegations of torture, apparently supported by signed affidavits from those in Kenya who claim to have been tortured, raise serious questions of human rights abuses" (citations in: ACR, Vol. XIX, B 334).

The day after the talks between Moi and Reagan, the *Washington Post* subtitled a picture of both politicians on the front page with 'Police Torture is Charged in Kenya'. The Kenyan government had clearly underestimated the international interest in the disappearance of Kuria whose fate immediately turned into a *cause célèbre* (ACR, Vol. XX, B 324). The same day, State Department officials and members of Congress demanded full explanation and an impartial investigation of the allegations (Africa Watch/Human Rights Watch 1991: 374). Moi cancelled his planned visit to New York and a meeting with the Secretary General of the United Nations and flew directly to less hostile Great Britain. Upon his return to Nairobi,[71] Moi declared that all torture allegations against his government were false. Moi dismissed allegations by the foreign press that torture existed in Kenya. He made specific reference to allegations that detainees were held in flooded cells. "Who could survive in water for two weeks? No one could survive 10 hours, let alone two weeks. The passengers trapped when a British ferry sank did not survive more than 30 minutes. (...) We know about a few detainees, ten or eleven, and their records from 1965 show that they have been in and out of jail. In 1978, I personally released all of them in the belief that they harbored good intentions toward this country. When they came out, they behaved like pigs who soil themselves even after you have washed them" (FBIS-MEA, Vol. 5, No.051, P. R1, 17 March 1987).[72] Moi also denied that he was trying to solicit support from the United States and claimed that only the people of

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[71] On the day of Moi's return, Blaine Harden was notified that he had to leave Kenya within 48 hours. After protests of the US embassy and a personal meeting, Moi agreed to extend his license for another two years (Harden 1990: 256).

[72] All the domestic speeches of Moi are in Swahili. Words spoken in English are quoted in italics.

Kenya could be addressed for that. He accused Wolpe of supporting "dissidents, crooks, and swindlers" and claimed that "Kenya was the freest country in Africa."

Throughout 1987 several journalists were briefly detained, whereas four Western journalists were beaten at police stations after they had reported about riots at Nairobi universities. The Minister for Information, Noah Ngala, alleged "a deliberate move by Nairobi-based foreign correspondents to disinform the world about events in Kenya." Moi himself threatened to ban the *Daily Nation*, the main independent news paper. A dozen US missionaries were rounded up and ordered to leave Kenya after a forged letter surfaced alleging that they were part of a "Klu [sic] Klux Klan operation" to topple the Kenyan and other African governments. One missionary died of a heart attack in police custody. After it became clear that the story was untrue, the Kenyan government withdrew the expulsion orders without explanation or apology. It also refused a request by the US government to explain its wrongdoing to the general public.

As a result, even British newspapers began to report more critically about the situation in Kenya. In an editorial, *The Times* held that "suppressing student protesters, while treating Western correspondents and American missionaries as subversive elements, will do nothing to (...) strengthen the President's position" (cited in: ACR, Vol. XX, B 322). In April 1987, the Bishop of Nairobi (Anglican Church of the Province of Kenya, CPK), Rev. Alexander Muge,[73] told a congregation in Eldoret that "human rights abuses in Kenya were worse than those in South Africa." In May, the Catholic Bishops of Kenya openly joined the critical voices in the country. In a letter to the President they accused KANU of "assuming a totalitarian role. (...) Officials of KANU were now unable to distinguish between constructive criticism and subversive conspiracy" (citations in: ACR, Vol. XIX, B 328).

In July, Amnesty International followed up on the Kuria affair and published the report *Kenya: Torture, Political Detention and Unfair Trials* (Amnesty International 1987b). The Kenyan government immediately denied all allegations contained in the report. Moreover, the Assistant Minister John Michuki demanded in parliament that Amnesty International should

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[73] Muge was the first Kalenjin Anglican Bishop. The CPK had always been dominated by Kikuyu, because the christianization of its predecessor missionary organization focused on Kikuyu areas. Despite the ascendancy of an Kalenjin, this did not brig the church closer to the government. To the contrary, strong disagreements emerged when Muge became involved in an intra-KANU struggle for the local leadership (Throup 1995: 157).

be brought before the International Court of Justice because it allegedly financed a coup of London dissidents against the Kenyan government. Pressure by human rights groups continued throughout the rest of the year and peaked again in fall when Moi planned to travel to a number of European countries. Contrary to his original plans, Moi only visited Finland and Romania, but decided to skip Sweden and Norway because of the negative press coverage prior to his visit (Baehr, Selbervik, and Tostensen 1995: 69). In Finland, members of his delegation met with representatives from Amnesty International. Upon his arrival back to Nairobi, he called the press reports "malicious and baseless" emanating from "a few criminal fugitives". He argued that South Africa was a much better target than Kenya for the Norwegian and Swedish press and that the existence of 150 foreign correspondents in Nairobi were a clear indication of peace and stability. He said this situation "had probably made envious outsiders become hostile to Kenya" (FBIS-WEU-87-172, 4 September 1987, p. 8). In his Independence Day speech on 12 December 1987 Moi called Amnesty International a "South-African agent", promised to "arrest all members of Amnesty International found in Kenya" and advised them "to go to hell" (Amnesty International 1988: 86).

The Kenyan government was from the beginning acutely sensitive to the human rights issue. International norms and their supporters were not simply ignored, even during the initial period between 1983 and 1987, where Western governments still preferred to ignore the non-governmental reports from Kenya. From these early stages on government actors in Kenya continuously took notice of the issue and consciously devised strategies to deal with it. In their reactions, government officials made explicit reference to the competing norm of state sovereignty. The emerging human rights discourse pitted mainly Western supporters of universal values against Moi whose reaction was not only influenced by the international norm of non-intervention but also by domestic values he himself regarded as constitutive to his rule. Moi had a very peculiar interpretation of the human rights issue and his reactions followed according to it. This interpretation was strongly influenced by the experience of national independence and cultural factors. As a leader of an African nation, Moi could neither accept the criticism leveled against his country from a mainly Western community nor was he willing to ignore the fact that the human rights criticism expressed fundamental disrespect for what he believed to be "African values". Consequently, his behavior did not follow a narrowly rational strategy that is guided by the desire to stay in power as the main preference.

Protecting Domestic Human Rights Actors

While the international mobilization had still little effects on major donor governments, it protected individual members of the opposition and consistently challenged the Kenyan government and its allies on principled grounds. Occasionally, domestic dissent became even institutionalized, although government repression remained a constant threat. In September 1987, the first issue of the journal *Nairobi Law Monthly* was published, soon to be one of the most important and influential independent journals devoted to human rights and the administration of justice. Until 1991, the journal was banned several times and government lawyers kept charging its editor, the lawyer Gitobu Imanyara, with sedition (see FBIS-AFR-90-147, 31 July 1990, p. 6). In the virtual absence of independent societal organizations, individual lawyers and church officials from both, Catholic and Protestant denominations, remained the main human rights critics of the regime (Peters 1996: 20-23).

Despite the increasingly successful efforts of human rights groups to deconstruct Kenya's international image as a stable Western ally, domestic repression levels tended to increase for the time being. In late-1987 the University of Nairobi was again closed. One student leader, Robert Wafula Buke, was sentenced to five years in prison for "spearheading a Libyan-backed plot that had led to the closure of the university" (ACR, Vol. XX, B 329). At the same time, the judiciary was further streamlined in order to avoid embarrassing revelations or even defeats in court rooms. In October 1987, High Court Justice Derek Schofield resigned after the Chief Justice had removed him from a "sensitive case". After he had left Kenya, Schofield exposed and harshly criticized the executive interference in judicial affairs (Schofield 1992).

Outside relations with Western governments now became more strained, but decisive steps were only taken by the Scandinavian nations. Norway and Sweden temporarily halted their bilateral aid in 1987. During state visits of German chancellor Kohl in November 1987 and British Prime Minister Margaret Thatcher in January 1988 the human rights issue was not raised. A British parliamentary delegation visiting the country in December 1987 also avoided any criticism and explicitly commended the state of the Kenyan political system. In January 1988, several visiting members of foreign NGOs, including the Lawyers Committee on Human Rights and the American Association for the Advancement of Science (AAAS) were temporarily detained in Nairobi. The government-critical journal *Beyond*, published by the National Council of Churches of Kenya (NCCK) was banned in March, because it had repeat-

edly criticized the abolishment of secret voting procedures for KANU primary elections (Widner 1992b: 191). In the following months several church officials and government representative openly clashed on the issue of queue-voting. The *Kenya Times* declared towards Alexander Muge that he was not "as you would like to be the country's answer to Archbishop Tutu" (ACR, Vol. XX, B 321).

At the height of his personal rule and after the General Elections in early 1988, Moi removed the moderate Kikuyu Mwai Kibaki from the post of the Vice-President and appointed him to the position of the insignificant Health Minister. Moi replaced Kibaki with another Kikuyu Josephat Karanja who had no substantial following in his own community. Only one month later Karanja was also removed and replaced by George Saitoti. Robert Ouko returned to his post as Minister for Foreign Affairs. Frequent reshuffles of the cabinet and the subsequent distribution of material benefits remained an important means to secure loyalties from local communities. After his reelection Moi announced the release of ten political prisoners, including Raila Odinga. Amnesty International welcomed the step, but demanded the review of sentences given to other dissidents still in prison. In August 1988 new amendments to the constitution removed tenure for all judges in Kenya,[74] while the period a suspect of a capital offence could be held before brought to a courtroom was extended from 24 hours to 14 days (25. amendment).

Moi continued his attacks on the independent media and claimed that his critics were "disgruntled enemies with foreign masters." In another interview he demanded that KANU should set up branches in every hotel, because this is "where gossip is at its most open" (citations in: ACR, Vol. XXI, B 317). He also claimed that the Kenyan laws "had been inherited from Britain and, as such, were based on British traditions and customs." Hence, "our law is clear on the question of human rights, the dignity of men, and the sanctity of life. This was indeed the main objective of our struggle for independence." However, the continued attacks also led to occasional rhetorical missteps such as admitting the use of torture on a visit in London in March 1989: "Of course we torture people. But we don't torture everybody. We torture the ringleaders of *MwaKenya*; otherwise, how do we find out information from them?" (all quotes in: ACR, Vol. XXI, B 317).

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[74] The executive interference in judicial affairs was covered by a great number of publications (see African Rights 1996; Days et al. 1992; International Bar Association 1997; Kibwana 1992; Nowrojee 1995; Ross 1992).

Mounting Pressure

Members of the human rights network answered the continued executive dominance with an intensification of their transnational activities. The Robert F. Kennedy Memorial Center for Human Rights honored Gibson Kamau Kuria in March 1989 with its Human Rights Award during a ceremony held in Nairobi. Prior to that, Kuria was denied a passport which would have enabled him to receive the prize in the United States.[75] Consequently, the board of the Memorial Center decided to send a delegation to Kenya in order to hand over the award in a public ceremony. The delegation included the wife of the later Robert F. Kennedy and their daughter. Surprisingly, the delegation's request for a meeting with President Moi (Nairobi Law Monthly 1989) was answered positively. The award, its presentation to Kuria in Nairobi, and the meeting at State House significantly contributed to the continued mobilization on human rights issues. On the international level, the general awareness of the political situation in Kenya further increased, while on the domestic level, international norms and the extend of their respect remained an important political topic.

The day following the delegation's departure, Moi flatly rejected the ideas expressed by the visitors during the talks. "A young person born not long ago, born after independence. She comes here, why? There are people in other parts of the world who are harassed, why don't they go there? They even say Kenya should not hold people for 14 days for interrogation. We do not keep ordinary people for 14 days, it is the troublemaker who wants to kill, who wants to overthrow the government. [...] People should respect us, so that we can respect them. *We are not children, to be told you have made a mistake here. You must do this, you must do that. We are no longer under colonialism. What we demand is equality, equality, and it is our right. It is not a demand, it is our right. We are equal with anyone, regardless.* The thing I want to tell you is respect yourself. When you meet a person do not open your mouth wide telling everything. Such a person will despise you" (FBIS-AFR-89-063, 4 April 1989, p. 8).

In June 1989, Moi announced a general amnesty during a public rally in Nakuru and declared that "problems affecting Africa were subtle and only Africans could understand them better, but not foreigners" (FBIS-AFR-89-107, 7 June 1989, p. 6). Two weeks later he addressed a

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[75] One year later, Kuria was awarded another human rights prize by the American Bar Association. Again, he was refused a passport to travel to the United States.

KANU delegates conference at Nyayo Stadium on the issue of human rights. "All the propaganda being spread about Kenya is completely baseless, because outsiders do not understand the Kenyan people. They do not know that Kenya is *number one in propaganda.* (...) Even this morning I received a strange letter from Amnesty International. It said: *I am very concerned about the fact that Mr. Noah arap Too has been detained without charge [laughter] or trial under the republic security regulations of the Preservation of Public Security Act....* [Moi reads the whole letter in English]. Do you hear this filth? I do not know whether Too himself is here. The head of CID is here. And this comes from West Germany, the Amnesty International People. This shows that all those people with all their lies, write filthy and non-existing stories. [...] When people are released from detention, they run to the BBC. Why don't they run to the NATION or the KENYA TIMES and tell them 'the mistakes I saw are such and such'. Instead you run to the BBC. Is the BBC mother? (applause). It is not mother. Is it not an imperialist? And if it is an imperialist, then it is the mother of an imperialist. You are afraid, but the settler was nothing but a settler. What I believe is equality (applause). If you believe you are *number two* it is your own affair" (FBIS-AFR-89-116, 19 June 1989, p. 4/5).

By mid-1989, the continuous efforts of the human rights groups to reframe the domestic and international image of the Kenyan government showed considerable effects. Targets of these efforts, such as other state actors and the general public in and outside of Kenya were increasingly willing to filter information coming from Kenya through the interpretative framework provided by transnational human rights organizations. However, until 1989 only the Scandinavian countries openly criticized the Kenyan government for its human rights policy. Denmark was the first country to commission as study on Kenya's past use of foreign aid and the possible effects of human rights abuses on the proper use of aid. Kenya lost its image of a relatively stable and reliable partner not as a result of the changes in Eastern Europe, but following the continued activities of non-governmental organizations since the mid-1980s.

As a result, mobilization against the Kenyan government occurred now almost instantaneously whenever security organs were accused of committing human rights abuses. Moreover, the new interpretative framework provided by international human rights groups did not only cover the most apparent abuses, but even extended to cases where the responsibility remained

initially unclear. Most prominently, in this respect, the violent deaths of Foreign Minister Robert Ouko in February 1990 and government-critical Bishop Alexander Muge in mid-August 1990 outraged the Kenyan public and many donors (Nairobi Law Monthly 1990). Although there was no immediate evidence that the government was directly involved in the deaths, dominant interpretations of the events focused almost exclusively on the alleged responsibility of government officials. The gap between the outside perceptions of Kenya and the Western-leaning self-image promoted by Kenyan government officials widened considerably. In the following chapter, I will describe how this reconstruction of Kenya's image abroad ultimately influenced donors and motivated the government to make significant tactical concessions.

4.3 Comparison

Uganda and Kenya came under scrutiny by international media and non-governmental organizations soon after domestic patterns of human rights abuses became visible. Within a few years, human rights issues played a major role in the external relations of both countries. Transnational human rights groups had successfully changed the international image of both countries and seriously challenged the legitimacy of the respective governments. Without the work of organizations such as the International Commission of Jurists or Amnesty International, neither the United Nations nor the general Western public would have learned about the details of ongoing human rights abuses. In both cases, individuals and non-governmental groups successfully challenged a dominant norm of state sovereignty which framed for a long time the perceptions of the international public and Western governments. While it was certainly easier to target Norway on Kenya in the mid-1980s than Great Britain on Uganda in the 1970s, both stories show an initially strong norm-driven resistance and the success of non-governmental mobilization over time.

Domestically, the Amin dictatorship and the civil war under Obote contrasted sharply with the Kenyatta era, but also the first decade of the Moi presidency. The violent death of almost one million Ugandans during the period from 1972 to 1985 indicates the dominance of *negative integration* and the destruction of neopatrimonial rule. In Kenya, the system of neopatrimonial rule with an emphasis on *positive integration* essentially survived the transition from Kenyatta to Moi, but the main beneficiary of the system was now the ethnic coalition behind Moi. The subsequent expressions of discontent by the now marginalized Kikuyu and Luo elites led to an

increase of government-sponsored human rights violations.

The effects of human rights mobilization differed considerably, mainly because of the variation in authoritarian rule but also because Uganda came into the international spotlight about ten years earlier than Kenya. During the Amin and the Obote era, non-governmental human rights reporting had little effect on the behavior of other states towards Uganda. Only shortly before both regimes were violently removed from power, serious actions on the part of the international community were considered. The widely available information and considerable mobilization since 1974 did affect the Western public, UN experts in the Sub-Commission on Minorities and the Prevention of Discrimination, and a number of individuals in Western foreign offices.

While the mobilization failed to elicit adequate responses from the UN Commission on Human Rights and major donor governments, it profoundly changed the international discourse on Uganda. The Amin and Obote regimes were sustained by outside material aid, but they were simultaneously delegitimized by transnational human rights mobilization. At the end of Amin's rule, no one could any longer ignore the persistent principled challenges to the dominant 'negative sovereignty regime.' I argue that the changes in discourse as expressed by competing international norms is a crucial long-term factor in slowly reframing actor's perceptions and interests. These changes are usually underestimated when the focus is solely on short term, material effects of norms mobilization. I argue that Uganda between 1974 and 1985 provides a prime example for the independent influence of (competing) international norms. First, the norm of sovereignty protected the Amin government even when it broke all diplomatic conventions and directly challenged British national interests. The British government was initially guided in its behavior by norms of state sovereignty and diplomatic convention, rather than its material interests *or* human rights norms (see also Clapham 1996: 189).

The gross violations of human rights committed by the Amin regime also led to the formation of non-governmental, norms-based resistance. While this resistance had hardly any short-term effect on the behavior of states or the domestic situation in Uganda, it successfully challenged the sovereignty discourse and forced state actors to justify actions they previously took for granted. The international human rights movement presented a new and compelling frame for interpreting the Ugandan situation also based on international institutions. Moreover, in

: the norm of state sovereignty, this set of norms was now represented by a rapidly

.ng form of 'agency' creating transnational networks which began to include individuals

..om government agencies.

Following the establishment of human rights in the international discourse on Uganda, the period after 1980 witnessed the diffusion of this issue into the domestic realm. Similar to the previous period of international mobilization, the changes I refer to were initially mainly visible in the discourse rather than the human rights situation on the ground. Despite even worsening human rights conditions, I argue that these changes and their long-term effects merit greater attention. Since 1984, Museveni regularly traveled to Western countries and met with the media, NGO representatives, but also parliamentarians and even a number government officials. The NRM's Ten-Point program was written during a retreat in Austria. In 1985 he was the only credible Ugandan leader recognized by a concerned non-governmental part of international society. Museveni was certainly one of the first African political leaders who understood and utilized the opportunity to use such international support. Even without the involvement of UN human rights bodies, Obote lost domestic and international credibility much faster than Idi Amin. At the same time, due to the overall destruction of the infrastructure but also the IMF programs, his domestic material base was so weak, that he was unable to rebuild a system of positive integration under neopatrimonial rule.

In contrast to the Ugandan experience between 1974 and 1985, non-governmental human rights criticism with respect to Kenya diffused much faster and had more visible effects in a shorter period of time. This is remarkable because the human rights abuses under Amin and Obote were much worse than in Kenya throughout the whole period. When Daniel arap Moi visited the United States in 1987, the US State Department issued highly critical statements with regard to the Kenyan human rights situation based on only one available major human rights report. Domestic mobilization against the Kenyan government in Scandinavia also led Moi to cancel his visits to Norway and Sweden in the same year.

As a result of the international mobilization, existing human rights defenders such as lawyers and churches representatives enjoyed greater personal protection and more opportunities to criticize the government. Within a short period of time, they became 'celebrities' of the international human rights movement on Kenya. The National Council of Churches (NCCK) and the Law Society of Kenya (LSK) became in the 1980s the main organizations for the

expression of dissent. Again, it was the international dimension which explains the relatively independent position of both organizations despite increasing governmental repression. In contrast to other societal organizations, which were streamlined under KANU rule in the same period, these two groups had always exceptionally strong relations to the international arena and mobilized these connections to defend domestic independence. In contrast to Uganda, where church leaders were hopelessly divided and often co-opted by state authorities, the ecumenical NCCK enjoyed greater independence simply because it emerged as an organization only in the 1950s and was not a direct outgrow of the missionary societies. Hence, its connections to the state were less established and it was theologically more liberal. However, ethnicity was not absent from the confrontation, as many of the most outspoken government critics were Kikuyu or Luo.

Several other issues also question a bias for material interests in the explanation of the Kenyan political development between 1983 and 1988. First, Kenya became a subject of international human rights campaigns about ten years after Uganda. Meanwhile Amnesty International had received the Nobel Prize for Peace (1977) and Human Rights Watch (founded in 1978) as a second major transnational human rights actor had emerged on the international scene. Second, the levels of repression were lower in Kenya than in Uganda. Communication between the inside and the outside was generally possible throughout the whole period. Despite frequent threats at the address of foreign journalists, Nairobi always served as the base for all major international media agencies between Cairo and Cape Town.

Third, independent Kenya experienced relative political stability and comparatively positive economic development until the mid-1980s. The reservoir for politically active and Western-trained intellectuals remained intact and contributed to the sharp increase of mobilization between 1983 and 1988. By African standards, tourism and strategic Western interests kept the country continuously on the international agenda. Kenya is one of the most attractive tourist sites in Africa. Hence, it is more likely that an average European or US citizen is interested in the political affairs of Kenya, simply because he or she had been there on vacation. During the period, charismatic exiles such as Koigi wa Wamwere were successful in changing the international image of Kenya in Norway and also in other Western countries. Fourth, for all these reasons Kenya was an attractive target simply because reports on it promised to find more publicity than other, more remote countries. The very fact that Kenya

was always portrayed as a reliable Western ally and stable country contributed to the success of human rights organizations' efforts to replace this picture with the opposite. The greater the contrast to dominant perceptions in the international arena, the greater the expected attention from the targeted audience.

Finally, a considerable measure of path dependency with respect to network's activities also contributed to the fact that Kenya moved into the limelight of international attention. Transnational human rights organizations gained mainly international recognition and prominence because they pointed their fingers at authoritarian regimes at the fringes of the Western alliance. They exploited the tension between the rhetorical claim to be part of a liberal community of states and ongoing violations of constitutive liberal values internally. Target states included Portugal and Greece in the 1960s and South American dictatorships in the 1970s. In the 1980s, Kenya became another case fitting this logic.

5 Regime Change

International human rights organizations reconstructed the international image of three East African governments in the 1970s and 1980s. Amin, Obote in his second term and Moi after 1985 faced principled international challenges to their domestic rule. In all three cases, the initial effects of these morally-based challenges showed significant similarities, but also some important differences. For some time, the human rights criticism did not elicit significant material pressure from fellow governments, mainly because non-governmental organizations had to initially remove the protective shield of state sovereignty. However, the mobilization — even in the early stages — had crucial consequences. Domestic actors in support of human rights emerged and were empowered. Even when the norm of sovereignty was still effective, the targeted governments did not simply ignore the challenge but were vulnerable to the published information and sought to counteract the efforts to delegitimize their rule internationally and domestically.

In Uganda, the military government following the second Obote regime was violently removed from power by the National Resistance Movement which had gained domestic and international recognition by enforcing human rights standards and presenting a political vision for the country. From 1986 to 1992, the new NRM government implemented much of its political program, but also met with significant violent resistance. Human rights conditions as a pre-condition for meaningful democratic participation of the population improved in most areas of the country. In Kenya, the outside and domestic pressure further increased from 1989 to 1991. The still unorganized opposition was able to extent the protests to the streets and mobilize not only discontent and politically active students, but increasingly also other sections of society. As a consequence, the government made several tactical concessions and loosened its control of the press and civil society. However, intimidation and harassment of the strengthening opposition continued. In contrast to the virtual breakdown of legitimate domestic rule in Uganda between 1972 and 1985, the Kenyan government was not removed by a revolution from below, but was able to control regime change with reforms from above.

5.1 Uganda 1986-1992: Revolution from below

In his swearing-in-address on 29 January 1986, the new President of Uganda, Yoweri Museveni, announced that "no one should think what is happening today is a mere change of

guard: it is a fundamental change in the politics of our country." He continued with the first three points of the NRM program and declared that "the people of Africa - the people of Uganda - are entitled to democratic government. (...) In our liberated zones, the first thing we started with was the election of village Resistance Committees. (...) Later we shall set up a national parliament directly elected by the people. This way we shall have both committee and parliamentary democracy. We don't want to elect people who will change sides once they are in parliament. If you want to change sides, you must go back and seek the mandate of the people who elected you. (...) Past regimes have used sectarianism to divide people along religious and tribal lines. (...) We want people to have different individualities, tribes, religions, but this must not be used in politics" (Museveni 1992: 21/23).

On 1 February 1986, Yoweri Museveni converted the still existing Military Council into the 21-member National Resistance Council (NRC). He also announced that the elections planned by Obote for 1985, were now postponed for four years. Parties were still allowed to exist and maintain headquarter offices as well as publish newspapers, but they were now prevented from holding public gatherings and rallies. Instead of party competition, the new government invited all Ugandans to participate in a broad-based government. In his inaugural speech Museveni also emphasized the discipline of the NRA and the Code of Conduct now applicable to all national army units (Amnesty International 1989: 15). The code explicitly prohibited the killing of a civilian or prisoner, drinking of alcohol during service, and taking anything from civilians without cash payment. All political detainees at Luzira prison were released until August 1986 and new judges were appointed to the High Court. A former member of the East African Court of Appeal Samuel Wambuzi was named Chief Justice. Several former ministers of Obote and Amin were arrested by the NRA and charged with human rights violations. On 3 November 1986 Uganda acceded to the UN Convention against Torture.

Museveni's double-edged strategy to simultaneously create a broad-based government and exclude or punish some of the worst human rights offenders, led to a split of the opposition. While some UPC, DP, and even original Amin supporters where integrated into the NRM, many prominent representatives of those regimes who refused to support the new government, chose to go into exile. These individuals gradually regrouped in 1986/87 and formed either exile organizations in London or rebel groups, including the Uganda People's Democratic Movement/Army (UPDM/A, mainly Acholi), the Holy Spirit Movement (HSM, mainly

Acholi), and the Ugandan Freedom Movement (UFM, mainly Baganda). Over time, only the rebel groups forming in the Northern part of the country (Obote's home area) survived and were able to find some indigenous support against an allegedly "Southern"- and Banyar-wanda-dominated new government. All other rebel groups fell apart or joined the NRA after negotiations.

Political Reconstruction

The NRM government instituted a "truth commission" which was charged with the investigation of the human rights abuses committed between 1962 and 1986. The commission was initially supposed to complete its work within two years time, but the report was finally published after eight years in 1994 (Republic of Uganda 1994). At the same time, an Inspector General of Government was appointed and his office charged with investigating current cases of human rights abuses and corruption. The first NRM cabinet included the DP leader Paul Ssemogerere as Interior Minister and consisted of representatives from all major political bodies, including the NRM, DP, UPM, UPC, and CP. Immediate efforts of the Baganda to reestablish their kingdom failed and Museveni declared that kingdoms could only be reintroduced as cultural not as political entities. However, one of the first major political initiatives by the new government was a proposal to draft a new constitution. The NRM now extended its idea of grassroots democracy throughout the country and created a pyramid of about 40,000 Resistance Councils on the village, parish, sub-county, county and district level (Tumusiime 1991: 15). On the national level, the main decision body of the former rebel organization, the National Resistance Council (NRC, initially created in 1981), and its 21 members now fulfilled legislative functions. In 1987, the membership in the NRC was extended to 96 members to also include district council representatives (RC V) and all government ministers.

The British government immediately recognized the new regime and declared that its "principal concern was to help Uganda establish security and to assist in its economic recovery" (cited in: ACR, Vol. XVIII, B 481). Little more than a month earlier the same government had announced that its further aid to Uganda was depended on strict adherence of all parties of the December 1985 Nairobi peace accord. The small British Military Training Unit continued its work. US-Ugandan relations also improved dramatically in early 1986. The US ambassador in Kampala commended "the dramatic improvement in the security situation"

(ACR, Vol. XVIII, B 481) and President Reagan claimed that Museveni had "ended the terrible human rights abuses of an earlier era" (ACR, Vol. XIX, B 484). American aid to Uganda was immediately restored.

The first Amnesty delegation visited the country in April 1987. A member of the delegation, Richard Carver, declared that Amnesty commended the appointment of a truth commission. He went on saying that the current problems identified by Amnesty should be seen "in the context of a massive qualitative improvement in the human rights situation. (...) The past patterns of mass killings by the army and of torture had ended. The delegation found no indication of "widespread use of torture" but alerted the authorities to the fate of more than one thousand detainees without trial, mainly soldiers of Obote's UNLA (The Guardian, 1 May 1987). On 15 April 1987, the government-owned *Kenya Times* published a summary of a 17-page-report by the Ugandan Human Rights Activists and claimed that "human torturers in Uganda are said to have invented a host of other savage methods, quite a good deal have been tried by neo-fascists elsewhere in the world" (cited in: ACR, Vol. XIX, B 474). Apparently, the article reflected more accurately the indignation of Daniel arap Moi over the failed peace talks and Museveni's military victory, than the human rights situation in Uganda at that time. Relations with Kenya remained uneasy for the following years.

In order to bring rebel activities further down, Museveni announced in 1987 another amnesty for soldiers willing to lay down their arms. However, several groups in the Northern part of the country continued to engaged the NRA in serious military action. Consequently, the generally positive reporting on the human rights development in Uganda was questioned by continuous information on the NRA's efforts to fight the armed resistance (e.g. *The Independent*, 11 September 1987). The exile opposition tried to copy the successful NRM strategy to involve international societal forces into the fight against the government, but remained largely unheard in the Western world. A document named "Memorandum to the International Community" and published on 9 October 1987 in contained information about alleged atrocities committed by the NRA in 1986-87 (cited in: ACR, Vol. XX, B 448). However, these attempts invariably failed as organizations such as Amnesty International refused to accept information provided by former members of the Amin and Obote governments. In contrast to the early 1980s, the new Ugandan exile community in Great Britain and the United States remained largely illegitimate representatives of the Ugandan people.

The international community maintained its positive attitude towards the NRM and gave the new government the benefit of doubt. Museveni attended his first Commonwealth Summit in October 1987 and was invited by US-President Ronald Reagan the same month. In his first speech at the United Nations General Assembly, Museveni declared in October 1987 that "the Ugandan government under the NRM begins in the first place with an immutable commitment to guarantee human rights and the inviolability of human life" (cited in: Amnesty International 1992a: 7). Museveni became a regular guest not only in governmental circles, but also aimed his public relations directly at the media and the non-governmental world. During his first years as President he regularly met with international staff and editorial boards of the *Washington Post*, *Washington Times*, *USA Today*, and *Los Angeles Times*. Museveni became also popular because he broke with taboos such as explicitly blaming Africans themselves (instead of colonialism etc.) for much of the economic failures since independence (Museveni 1992: 51). These efforts were rewarded with increasing economic but also military aid programs.[76]

Domestically, the NRC was formally declared the national legislature in May 1988. In July the "Bill on Sectarianism" was passed and now regulated party activities. Party activities in public remained outlawed. As a result of the amnesty offer and decreasing rebel activities, the number of NRA soldiers doubled within only two years time (at about 50,000 in 1990). While the security situation in the North and West did not improve until the early 1990s, the government succeeded in pacifying the Southern and Eastern part of the Ugandan territory. While the new leadership had come to power by military force, it actively sought to build its legitimacy on broad-based grassroots support and elite consensus.

Resistance Council (RC) elections in 1989

The first major nation-wide elections were held in February 1989. The proclaimed goal was to increase the membership of the National Resistance Council from 96 to 278.[77] Underlying this effort was a need to infuse the NRM government with new popular legitimacy because it approached the end the self-proclaimed four-year interim period (January 1990). Instead of

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[76] One of the Ugandan officers who was trained in the United States (Fort Leavenworth, Kansas) was Paul Kagame. He led in 1994 the Rwandan Patriotic Front (RPF) to military victory in Rwanda.

[77] The expanded NRC consisted of 38 historical members (from the bush war period), 149 elected members, ten army representatives, 20 presidential nominees, as well as 34 women, 19 municipality, five youth, and three

secret ballot procedures, queue voting was used during the elections held for about one month in February and March (Ddungu/Wabwire 1991: 14). In a first stage, all adults over the age of 18 elected the village council (RC I) with nine representatives. In turn, all village committees in a parish elected a parish committee (RC II). The same process applied to the next two levels, the sub-county and the county committees (RC III/IV). However, the powerful RC V as well as the NRC representatives were excluded from the system and directly elected by the RC III representatives. Additionally, candidates for the NRC were not required to go through the whole RC election process but stood directly at the RC III level for election.

International observers agreed after the elections that the exercise was largely free and fair. Prior to the exercise, domestic political parties were split about the appropriate election strategy. While the UPC headquarters had called for a boycott, other UPC members joined DP officials and advocated a strategy of subverting the NRM from within (Ddungu/Wabwire 1991: 28). In the end, a number of former UPC ministers of the Obote regime and many DP leaders were elected to the NRC. The elections showed that the old parties maintained control of many of their former strongholds. Even though the opposition was weakened by the ban on party activities (Kasfir 1995: 149), party allegiance remained surprisingly stable. A total of ten Cabinet and four deputy ministers lost their positions because they did not win their respective constituency (Kasfir 1991: 261).

While the elections represented a step towards democracy simply because the national parliament was no longer dominated by non-elective ministers and veterans of the civil war period, the re-establishment of the legislature intensified the conflict between grassroots and representative democracy. There were no provisions as to what the relationship between the NRC and the RC system should be or how grassroots input on the national level could be extended beyond election day (Ddungu/Wabwire 1991: 15).[78] Indeed, the top-RC V level representatives occasionally clashed with appointed District Administrators, in particular if the RC V was not a supporter of the movement system. While the NRC was gradually transformed into a genuine national parliament, the grassroots level became less and less

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workers representatives (Tumusiime 1991: 19-23).

[78] "Our findings suggest that there is an essential difference between Resistance Councils during the war and afterwards, following their countrywide establishment. (...) The legal and political conditions for the organiza-tion of RCs were uniform throughout the country. Yet, RCs tended to mean different things in different parts of the country" (Ddungu 1994: 402).

significant. The executive did not directly gain power in that process, but it made sure beforehand that the exercise would not lead to a loss of control either.

The 1989 elections represented a skilled effort of the Ugandan government to slowly liberalize the political system from a position of strength. On the one hand, these were the first relatively free and fair elections in the country's history. Even the ban on party activities had, at least, one democratizing effect: "In practice the ban on campaigning succeeded in greatly reducing the opportunity for politicians to corrupt voters" (Kasfir 1991: 268). On the other hand, the elections were not about the NRM, the presidency, or the policies on the national level. It remained an open question if the RCs should primarily be viewed as checks against state dominance, represent the state on the local level, or even form the local arm of the NRM.

In March 1989, the government finally embarked on the promised constitutional reform and appointed a 21-member Constitutional Commission (Waliggo 1995) under the leadership of Judge Odoki. At the early stages there was considerable confusion within the NRM government as to how the process of constitutional reform should actually proceed. The commission's mandate included the presentation of a draft constitution after having collected views of the ordinary citizens and stimulated "public discussion and awareness of constitutional issues." A majority of its members were NRM-friendly, but a number of critics and independents were also appointed. There were no provisions as to how the new constitution would ultimately be promulgated, and "the appointing authorities, the Minister for Constitutional Affairs and the President, were not in *una voce* on this matter" (Furley/Katalikawe 1997: 247).[79] Three of the appointed members were given other government posts before they were supposed to be sworn in.

The commission did not commence its work until late 1990. In July 1989 Amnesty International criticized continued human rights problems in its first comprehensive report after 1986. *Uganda: The Human Rights Record: 1986-1989* opened a series of four human rights reports on Uganda which came out annually until 1992. The main target were the armed forces and violations connected to operations in the insurgency areas. In reaction to the first report, Museveni pledged to investigate the individual allegations and convened a four-day NRA Council meeting in September. During that occasion he reiterated the government's commit-

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[79] For the terms of reference see: The Uganda Constitutional Commission Statute, 21 December 1988.

ment to human rights and pointed out that several dozen NRA soldiers were in detention because of human rights abuses.

The Extension of NRM Rule

In late September 1989, the NRM government tabled its motion to extend the term of its office from four to nine years until 25 January 1995. The Attorney General justified the motion on the grounds of several achievements of the NRM rule since 1986. These included economic growth (1), the building of a democratic mass movement (2), the restoration of Uganda's respectability abroad (3), the reestablishment of the rule of law, human rights and peace in almost all parts of the country (4), the rebuilding of an ethnically diverse national army (5), and the elimination of a massive refugee problem the country had caused for many of its neighbors (6). He noted that some of those achievements were still incomplete and required an extension of the interim NRM rule and a continuation of the broad based national government. Most importantly, the extension should be used to complete rehabilitation programs (1) and the constitution making process (2), and stop the violence in the insurgency areas (3).[80]

Despite heavy criticism from the opposition, the NRC voted on 10 October 1989 unanimously in favor of the extension of the NRM mandate. Only one NRC member, Wasswa Ziritwawula (DP), resigned in protest of the extension. Still, the debate on the further extension of the NRM rule exposed again the contradictory character of the movement and contributed to a narrowing of its societal basis. The relationship between movement and parties remained unclear and tense. Paradoxically, the NRM was dependent on the political parties because only by contrasting a 'non-partisan' broad-based movement it was able to sustain the ban on party activities. Indeed, while this strategy potentially undermined the credibility of the NRM government, it still continued to split the opposition before it could backfire on the movement. While the moderates accepted the conditions of the political game set out by the NRM, more radical members of the parties advocated a further boycott until the ban on their activities was lifted.

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[80] The proposed time table included a completion of the constitution making process until 1992, prison reform until 1993, police and civil service reform, professionalization of the army, and basic infrastructure rehabilitation until 1994, and reform of the judiciary until 1995. Museveni himself claimed that the rehabilitation of the war-ravaged areas in the North had also priority (Museveni 1992: 64).

The Constitutional Reform Process

After the 1989 elections, the NRM government sought to fulfil its promises and focused on the constitutional reform process, the continued rebel activities in the North and the rehabilitation of the infrastructure. Shortly before the Odoki Commission began its work, the NRA embarked on a major military effort to end the rebellion in the North. During the campaign, the army forced several thousand peasants out of their villages into guarded camps and held them as so-called "lodgers" (ACR, Vol. XXIII, B 407). Officially, the NRA declared that these measures were taken to protect the population from rebel attacks and massacres. However, critics argued that these camps served to hold suspected supporters of the rebels without trial. After continued domestic and international criticism several thousand of those "lodgers" were released in April 1990. In December, Amnesty International continued its series of annual human rights reports and published *Uganda. Death in the Countryside. Killings of Civilians by the Army in 1990* (Amnesty International 1990). While the army succeeded in pushing the rebels back into Sudan, it failed to meet the original goal of ending the rebellion.

The military campaign in the North contrasted with the deliberations on a new constitution which some observers called "an integral part of nation-building and a means of establishing common values" (Apter 1995: 171). In the early stages, the Ugandan process of drafting a new constitution was indeed exceptionally inclusive and broad-based. In late 1990 and throughout 1991, the Odoki Commission traveled around the country, held dozens of seminars and collected a total of over 25,000 written suggestions for the reform of the constitution. "The most contentious issues with which the Commission was concerned were the form of government suitable for a democratic Uganda, the position of traditional rulers, and the role of political parties in the post-NRM era. Every effort was made to ensure that both the 'Guidelines' and the 'Guiding Questions' were simple so that they were easily understood by the majority of the people and the Commission was at pains to emphasize the neutrality and objectivity of both documents" (Furley/Katalikawe 1997: 250). "Never before has constitution-making been so central and taken so long in the politics of and African nation. Never before have the Ugandan people been so actively involved at every level and placed so much hope for stability and democratization in the constitutional process" (Waliggo 1995: 22). However, the bottom-up approach had its limits. In reality, the whole process remained

'guided' in the sense that more often than not it was the commission which produced extensive materials and explanations. Moreover, in many rural areas, the process tended to be dominated by local elites. Finally, the commission collected not only popular views, but also received materials from donor agencies and reviewed foreign constitutions.

Even though the human rights situation in Northern Uganda remained problematic and Museveni openly defied some the emerging clamor for *good governance*, the donor community maintained its exceptionally friendly position towards the NRM government. Museveni had clearly passed other leaders in the region as the new "darling of the donors". Like his predecessor, Milton Obote, Museveni ensured the fulfillment of economic conditions attached to the aid programs, including the privatization of parastatals, the return of property to the Asian community, and the reduction of government spending. In return, the donor community increased aid flows to unprecedented levels, covering more than 60 per cent of the government budget in the early 1990s. The total aid committed by the Consultative Group rose from \$550 Mio. in 1988 to \$640 Mio. in 1989, and reached more than \$800 Mio. annually in the early 1990s (Africa South of the Sahara, Vol. 25, 1996, p. 1002). In meticulously fulfilling donor requests such as the return of Asian property, Museveni effectively prevented that the extension of the NRM rule and the ban on party activities would surface as a serious donor concern.

Human Rights and the Civil War in the North

After it had become clear that neither the efforts to include the Northern and Northwestern Uganda into a broad-based government nor the military campaign of the NRA were success-ful, the NRM government briefly targeted political representatives of the area in Kampala. In February 1990, the Minister for Culture, Youth, and Sports, Brig. Moses Ali was dismissed and charged with plotting a coup against the government. In January 1991, the government had to drop all charges except for the illegal possession of ammunition. In mid-April 1991 security organs arrested and mistreated 18 politicians from the North, including the Minister of State for Foreign Affairs, Daniel Omara Atubo, and two other members of the NRC. They were accused of high treason in connection with the rebel activities in their home areas. Again, the government eventually dropped all charges and the accused were released in January 1992. Similar arrests of leading DP and UPC politicians occurred in January 1992, but equally resulted in acquittals.

The failure of the government to integrate the North on equal footing into Ugandan politics did not strengthen the cause of the rebel groups active in the area. To the contrary, while the rebels used to enjoy some local support right after Museveni became president, the situation markedly changed in the early 1990s. Unlike Museveni's rebel movement, these groups failed to offer legitimate political alternatives, relied on support by the Islamist government in Sudan and increasingly resorted to terrorist methods against the rural Ugandan population. By the end of 1991 the Lord Resistance Movement (LRA) remained as the most visible rebel group in the North. It was led by Joseph Kony, the successor of the self-proclaimed mystic Alice Lakwena, who had initially led the so-called Holy Spirit Movement (HSM) against the Museveni's government (Behrend 1993).[81]

The war in the North slowly turned from a rebellion against a new government into a protracted conflict where rebels and government troops fought a battle between Islamist Sudan and US-supported Uganda. While the Ugandan government supported the south-Sudanese rebel group Sudanese People's Liberation Army (SPLA) under the leadership of John Garang, the Islamist regime in Khartoum retaliated by sheltering and supplying the LRA. When indigenous support for the rebels in the Northern part of Uganda waned, Kony shifted his strategy away from battlefield action to kidnappings, rapes and killings of innocent civilians (ACR, Vol. XXII, B 375).

At the time when the 18 Northern politicians were still incarcerated, Amnesty International published *Uganda. Human Rights Violations by the National Resistance Army* (Amnesty International 1991) on 4 December 1991. Two weeks later the Ugandan Minister of Justice claimed that all individual abuses of human rights would be harshly punished and denied that the named abuses were sanctioned by the government. Despite the growing criticism, the government remained largely cooperative. During 1991, representatives from the International Committee of the Red Cross (ICRC) visited a total of 23 Ugandan prisons,[82] 26 police stations and 31 NRA barracks. Unlike Amnesty International the ICRC does not make its information public but discusses human rights issues directly with respective government agencies.

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[81] Kony proclaimed the "extension of the ten commandments across Uganda" as his main goal.
[82] As a result of an ongoing dialogue with donors, domestic and international NGOs, the government took in 1996 control of all local prisons in the country after a survey revealed that conditions at local prisons were on average much more prone to human rights abuses than in state-run facilities.

In 1992, domestic critics tried to take advantage of the temporary international focus on Uganda as a result of the intensified military campaign in the North. The government critic and Deputy Inspector General of Government Waswa Lule claimed that the IGG was still to weak to go beyond isolated cases and had to avoid issues of national significance (Oloka-Onyango 1993). On 18 August 1992, Lule was removed from his post by NRM hardliners. This episode shows the obvious. In periods of domestic crisis, governmental human rights agencies are likely to fail, if they stand alone. The virtual absence of an independent civil society especially in the area of human rights allowed the sections of the Ugandan government to get away with increasingly repressive policies. Although the Museveni government was generally inclined to take seriously issues raised by Amnesty International, such 'inclination' is not enough to produce the desired outcomes.

In September 1992, Amnesty International followed up and published *Uganda. The Failure to Safeguard Human Rights* (Amnesty International 1992b). The Ugandan government called the report "politically biased and outdated." Even though it was true that some of the issues raised in the report had diminished in significance due to decreasing rebel activities in the North, the fear that institutional safeguards for human rights in Uganda were insufficiently still developed had been vindicated by the recent events. Amnesty International took the information collected during the last three years to the United Nations where the Human Rights Commission decided in early 1992 to investigate the Ugandan situation under the confidential 1503 procedure. For the first time, the NRM government had to officially justify alleged human rights violations in front of the international community.

This was certainly enough to raise alarm in the President's office. In direct response to the imminent threat of international pillorying, Museveni ordered in late October 1992 by presidential decree the establishment of a Human Rights Desk in the Ministry of Justice. This measure clearly expressed his dissatisfaction with the performance of existing governmental agencies charged with human rights issues. As another result of the human rights criticism the Ugandan government also temporarily changed its position towards the Lord's Resistance Army. The government, represented by the Minister for the North, Betty Bigombe, held secret negotiations with Joseph Kony in order to find a peaceful solution to the conflict. While the security situation improved for some time, the negotiations failed to resolve the underlying differences.

Finally, the NRA leadership also agreed to a substantial reduction of army personnel (ACR. Vol. XXIII, B 406), which had increased from about 20,000 in 1986 to close to 100,000 in 1991/92. Various offers of Amnesty and peace treaties with rebel groups represented a major source of the increase, because the individual rebel soldiers were usually included in the payroll of the NRA. Donor governments had expressed for some time their uneasiness about this development and eventually covered almost all the costs of the demobilization. As a result, the army was cut to about half its size and 40 to 50,000 soldiers were discharged. Although critics of the NRM rightly argued that "Uganda's political grammar (...) has remained essentially the same: soldiers and not civilians form the backbone of those in power" (Omara-Otunnu 1992: 460; see also Ddungu/Wabwire 1991: 38-41), the crucial change occurred within this military regime. While many human rights problems after 1986 were directly related to the special status of the armed forces, the political reforms promoted by the NRM profoundly changed civil-military relations in Uganda. However, in taking the rhetorical leadership with respect to political regime change, the Museveni government faced the continuous challenge of living up to the self-proclaimed standards.

In 1991/92, a de facto truce as a result of ongoing negotiations had greatly improved the security situation in the North. Amnesty International discontinued its campaign against the NRA and published from 1993 to 1998 only smaller reports or press releases on Uganda.[13] The ongoing demobilization, economic and constitutional reforms further contributed to positive outside perceptions of Museveni's rule. However, his reform agenda did not only contribute to his international and domestic reputation, but also offered mid- and long-term opportunities to challenge his rule. "The capacity of the state to restore security destroyed its principal reason for sustaining the essentially soft authoritarian pact with all political parties: the further he moved the country from the civil wars of past decades, the greater the support for the resumption of multipartyism" (Khadiagala 1995: 40). Although the political opposition remained weak, the remaining gaps between rhetoric and reality offered now more numerous opportunities to challenge the all-dominant movement system.

Although these challenges were no serious short term threat to Museveni's rule, the reactions to those arguments and the apparent effects of global changes on Africa indicated a subtle but

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[13] Only in its most recent 1999 World Report, Human Rights Watch began to cover Uganda.

significant shift in Museveni's position on regime change towards democracy. While the NRM started out with an alternative grassroots model of democracy and rejected representational systems, the establishment of the NRC and the increasingly unclear role of the RC system as a whole indicated a failure of the grassroots model and a return to representative democracy as a model for regime change. The desire to increase control from above was a main reason why the NRM resorted to this strategy. It was simply easier to transfer powers to the NRC and control its members than to control grassroots elections throughout the country. However, in doing so, the NRM government unwittingly brought parties as main vehicles for societal interest formation back into the picture and created an additional tension between the theory of representational democracy and the reality of the ban on party activities. After 1992, this tension was more or less successfully exploited by domestic critics of the movement system.

Facing those challenges and the profound global changes affecting now also Africa, Museveni himself resorted to the old modernization arguments and held that "some in Africa think if we have multi-parties we will have prosperity. This is putting the cart before the horse. If we are going to follow Europe's lead, then let us first eliminate the peasants, industrialize and achieve the same level of skilled manpower before embarking on multiparty politics. That is what Europe had to do, why should we be any different?" (cited in: Khadiagala 1995: 40). Interestingly enough, donors at that time forced Moi to reintroduce multipartyism while Museveni was hardly pushed to give up the movement system. This marked difference can only be explained with reference to the transnational human rights activism and the subsequent de- and reconstruction of state images on the international level. While the actual government policies on the ground were similar, the international reactions to them were almost the opposite. These differences are the main subject of the following section on Kenya.

5.2   Kenya 1989-1991: Reforms from above

During 1989/90 the NGO-led reconstruction of the foreign and domestic image of Kenya was completed. This had two major consequences. First, the domestic playing field became increasingly inseparable from the international arena. Domestic and international mobilization reinforced each other in critical ways. Although the rhetoric of Kenyan government officials towards human rights critics was still outright hostile, the government had to accept a significant increase in societal autonomy and resorted to tactical concessions in order to tame the

mounting pressure. A whole array of new non-governmental organizations sprung up and began to reclaim political space, while parts off the press began to report more openly and even favorably about the emerging political opposition. When the mounting domestic pressure finally convinced parts of the ruling elite that an imminent loss of power was possible, these sections revived ideas of ethnic segregation (majimbo) and fuelled violent clashes between different ethnic groups. Second, diplomatic relations with many Western governments worsened considerably. Within the previously rather quiet and supportive international donor community voices critical of the Kenyan government's human rights record increased significantly in number and strength. Cracks within the previously relatively closed ranks of donor countries emerged as individual countries and their representatives in charge adjusted their images of Kenya at different speeds.

In October 1989, the conservative Republican and former journalist Smith Hempstone arrived as the new US Ambassador in Kenya. He was a political appointee and had no incentives to follow the beaten (and rather quiet) path of a life as a career diplomat. During the next four years he became an outspoken supporter of democratic change who was joined by his German counterpart Berndt Mützelburg in 1991. For Smith Hempstone this meant not only constant personal attacks by Kenyan government newspapers and KANU officials for allegedly defying the norm of diplomatic neutrality. Moreover, even within the US State Department he became soon isolated, because of his "undiplomatic" efforts to go beyond rhetorical support for democracy and match words with deeds.

The fall of communist regimes in Eastern Europe reinforced the efforts of the international and domestic human rights activists to reconstruct the image the Kenyan government. While Moi (like Museveni) declared early on that the conditions in Africa were vastly different from Eastern Europe, his new image as an unrelenting authoritarian leader became increasingly a liability. From late 1989 on, street demonstrations against the regime became more frequent and better organized.[84] Right after the fall of the Berlin wall, about 3000 students held a demonstration for democracy. Other major and increasingly violent demonstrations with several ten thousand participants followed in February 1990 and around *Saba Saba* in July (see below).

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[84] Lafargue listed the major street demonstrations from 1987 to 1994 (Lafargue 1996: 250-253).

The Death of Foreign Minister Robert Ouko

At the end of 1989, Moi planned another official state visit to the United States in order to secure further international support. The White House and the State Department rebuffed this request and Moi was forced to declare his visit a private affair. Nonetheless, Moi traveled with his usual large entourage including his Foreign Minister Robert Ouko. The United States government had made clear for some time now that current circumstances in Kenya made it impossible to welcome Kenyan government officials in good faith. "Following his dressing down in Washington, Moi had returned to the Kenyan High Commission in London in a fury, refusing to have anything to do with Ouko, whom he blamed for the fiasco" (Throup/Hornsby 1998: 59). The Foreign Minister and staunch supporter of Moi, Robert Ouko, was the only exception to that position and rumors in Nairobi had it that the United States government favored him as a possible successor of the current President. Ouko had distinguished himself with a relatively moderate position within the Kenyan government and had just begun to confront some of his Cabinet colleagues on the issue of corruption.

Upon arrival back in Nairobi, Moi declared that he "has received a proper hearing and our relationship with the U.S. Government has now improved." However, the rest of the speech and the manner in which Moi repeatedly stopped short of certain remarks indicated that the results of the visit did probably not meet his expectations. "*You know some people take me for granted sometimes because I am a peaceful man.* I have no need to quarrel with anyone. But all this...[changes thought] if only people were patriots, who did whatever they were doing with the purpose of building their country. [...] All these bad things we hear about in this country are spread by those who have made it. Those experiencing hardship and who do not even know where there next meal will come from are not the type of people who incite and bring about chaos. It is the rich ones who board planes and spread rumors to ruin the country. [applause] (FBIS-AFR-90-026, 7 February 1990, p. 7). Two weeks after the speech, the Foreign Minister Ouko was found murdered not far from his home. Immediately, rumors developed that Ouko died because he became a threat to some of his Cabinet colleagues and even the President.[15]

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[15] Widner held that "Moi was so furious with Ouko that he ordered his assassination" (Widner 1992b: 193; see also Hempstone 1997: 66-70). In 1998, the former District Commissioner, who had been charged with the murder but not convicted, published his own account of the mystery (Anguka 1998).

The Challenge to One-Party Rule

Despite the difficult situation of the government, its security organs continued to arrest and harass opposition figures, close newspapers and, thus, provoked continuous violence on the streets. Encouraged by the global demise of authoritarianism, the opposition answered the repression with growing defiance. On 3 May, the former Cabinet Ministers and successful business men Charles Rubia and Kenneth Matiba publicly demanded the end of single-party rule in Kenya (Throup/Hornsby 1998: 61). Prior to their press conference they "had been carefully coached by Paul Muite and Gibson Kamau Kuria on precisely how far they could go" (Throup/Hornsby 1998: 64). Obviously, the political opposition tried to take advantage of the global changes and had selected two reputable former ministers to start its campaign for multipartyism. Incidentally, Smith Hempstone was invited to address the Rotary Club in Nairobi the same day on economic issues. Hempstone largely stuck to the original theme of his address, but made a few remarks on the overall political situation towards the end of the speech. He reminded the audience that "a strong political tide is flowing in our Congress (...) to concentrate our economic assistance on those of the world's nations that nourish democratic institutions, defend human rights, and practice multiparty politics" (Hempstone 1997: 91).

The Kenyan government and the media controlled by it subsequently alleged that there was a previous collusion between Hempstone and the emerging political opposition. In his reaction to the mounting political challenges, President Moi denounced Matiba and Rubia as traitors who were paid by foreign sources. Two weeks later the US Assistant Secretary of State for African Affairs Hank Cohen clarified in a meeting with Moi in Nairobi that his government was not making multipartyism a condition for aid as of now.[86] He also refused to meet opposition leaders and left the impression that Hempstone was isolated within his own government (Clough 1992: 100). "From then on it was the Kenyan government's position that relations between the United States and Kenya were fine (...), but Hempstone was a maverick acting on his own" (Hempstone 1997: 95). On 10 May, Moi declared that "we have experienced the shortcomings of having two or three parties in the 1960s. Many people were killed because we had many parties. As you know, when matters come to opposition, Africans

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[86] Between 1962 and 1988 Kenya received a total of about one Billion US-Dollar in aid. It had been the third largest recipient country following Sudan and Zaire. 63 per cent of the aid went directly to government sources (Clough 1992: 78). After 1990 aid packages were generally cut and redirected to the non-governmental sector.

do not take things easily; they can not understand. Fighting each other, that is what Africans are. We saw hell. Why? Because tribalism is still deeply rooted" (ACR, Vol. XXII, B 287).

The opening created by the Rubia/Matiba press conference led to intensified domestic mobilization for democratic change. On 4 July, the Kenyan police detained Matiba, Rubia and others. Gibson Kamau Kuria took refuge at the US embassy and asked for political asylum. Subsequent street demonstrations in the capital Nairobi and provincial centers culminated on 7 July 1990 when at least 29 civilians were killed during so-called *Saba Saba*.[17] The international response came almost instantaneously. The International Bar Association canceled its biannual meeting with more than 3,000 participants to be held in Nairobi in September (Muthoga 1990), citing the general insecurity in the country. Bringing the IBA conference to Nairobi would have been a major success for the Kenyan government in regaining some of its international reputation. Now, the opposite was the case: The cancellation reaffirmed outside perceptions about a serious domestic crisis.

President Moi remained unimpressed by the political developments. On 30 July 1990, Moi declared during a speech in Meru that "the only thing you hear from Voice of America and BBC are ugly things intended to stir up discord. They say there is war in Kenya. Is there war here in Meru? [Response: No] They say there is war in Meru and elsewhere but we don't disturbances here or anywhere else. If you Kenyans do not listen well and understand what people are saying, you could be misled by unfair reports. (...) If the citizens do what I have told them to do, no one will be deprived of his rights. If a certain law is not observed it is not my fault or the government's fault" (FBIS-AFR-90-147, 31 July 1990, p. 3). On the same day, 34 Kenyan diplomats from Kenyan embassies abroad met in Mombasa in order to discuss ways of improving the international image of Kenya. Foreign Minister Ayah claimed that efforts to defend Kenya internationally need to be increased or otherwise it is left to "foreigners to create views about Kenya" (FBIS-AFR-90-147, 31 July 1991, p. 5).

On 25 August 1990 Moi attacked human rights activists at Jomo Kenyatta airport, upon returning from a state visit to Botswana. "Many people are using the concept of human rights as their hiding place. They think that if they do evil things, the human rights organizations

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[17] In the following years, the opposition movement used days with symbolic meanings to call for demonstrations. Saba Saba is the seventh day of the seventh month in the year.

will cover them. [laughter] I will get hold of you. Even if you find sanctuary in the human rights organizations, I will drag you out because if you breach Kenyan law you cannot expect to be protected by Amnesty International [applause]. The Kenyan government will never do anything which contrary to the country's constitutional laws. (...) If you decide to hide yourself in such a place, we will allow them [Moi apparently refers here to foreign donors, HPS] to feed you but we will wait for you here at the airport and all the borders will be closed for you until you get tired and come out (FBIS-AFR-90-166, 27 August 1990, p. 8). The Kenyan executive came increasingly to the opinion that the "bid for democracy [was] a movement under the control of the rival Kikuyu ethnic group" (Widner 1992a: 216).

Diplomatic Crisis and Tactical Concessions

In October 1990, the Norwegian ambassador Niels Dahl, along with other international observers, attended another trial against Koigi wa Wamwere, after he had been allegedly abducted from Uganda by Kenyan security forces (Saulnier 1997: 30)." On Kenyatta Day (20 October) Moi complained that Norway had protested that "we arrested a criminal (Koigi wa Wamwere, HPS),... I suppose what he has been planning was at the behest of the Norwegian government. We are not a colony of anyone, let them know that." In other speeches during 1990 Moi claimed that "Marxists" were "plotting armed insurrection" (citations in: ACR, Vol. XXII, B 285). Consequently, Moi interpreted the actions of the Norwegian ambassador as another act of foreign intrusion. Over the next weekend, the inner circle of Moi's personal advisers decided to severe diplomatic relations with Norway (Baehr, Selbervik, and Tostensen 1995: 69) without involving the Foreign Ministry or other concerned government agencies. The decision was announced on 22 October. In turn, the Norwegian government ended all aid programs. Attempts by the Kenyan foreign ministry to downplay the issue and rescue the aid programs failed.

The outside relationships of the Kenyan government were now openly strained as representatives from Western donor countries had to react to the diplomatic stand-off between Kenya and Norway. For the first time in October 1990, US Congress attached human rights issues to

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" In 1975, Wamwere studied for one year at Cornell University. On 29 April 1977 he appeared for the first time on an Amnesty International list of jailed journalists published in the *New York Times*. He had been arrested under Kenyatta from 1977 to 1978 and won a parliamentary seat in 1979. After the 1982 coup he was jailed again for more than two years. In 1986 he fled to Norway (see chapter 4).

foreign aid appropriations for Kenya.[89] Within five years the transnational network had successfully completed its task of "re-mapping" (Brysk 1993: 268) Western perceptions of Kenya. At this point opposition figures like Gitobu Imanyara or Gibson Kamau Kuria were regularly invited to London, New York, and Washington D.C. by international human rights organizations and met with journalists, members of Congress and government officials (Human Rights Watch 1991: 43). The global discourse now associated the country with issues like corruption, torture, and insecurity instead of stability and economic development. Moreover, these changes in perception were no longer checked by the norm of sovereignty (as in the case of Uganda between 1972 and 1984), but became increasingly relevant for policy decisions.

Apart from the growing international policy relevance of the transnational human rights mobilization and the increase in societal autonomy, the crucial period between the end of 1989 and 1991 was also marked by significant governmental concessions. One of the first victims was the Attorney General Matthew Greg Muli. On 22 March 1991, Hempstone asked Muli for an appointment to discuss the recently released US State Department Report on the Kenyan human rights situation and an Amnesty report. He complained to Muli about the prison conditions of recently detained opposition activists and the allegedly restricted access for visitors. Specifically, Hempstone demanded a list of prison visits to the three most prominent detainees (Charles Rubia, Kenneth Matiba, and Oginga Odinga) for the last nine months. Muli promised improvements and provided the US embassy with the requested information, but generally held that "all nations at one time or another in their history employed detention without trial" (Hempstone 1997: 163).

Subsequently, the government-owned Kenyan press mounted its usual attacks on Hempstone and accused him of interfering in the internal affairs of Kenya. However, more independent Kenyan newspapers used the opportunity to expose Muli's generally dismal performance as Attorney General (Weekly Review, 12 April 1991). Only two weeks later, Amos Wako, a Luhya and internationally well-known human rights lawyer, replaced Muli as Attorney

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[89] The US Congress asked the Kenyan government to "charge and try or release all prisoners, including detainees, stop the mistreatment of prisoners, restore the independence of the judiciary and permit freedom of expression (Human Rights Watch 1991: 42). Kenya continued to receive unconditional military aid amounting to $5 Mio. in 1991 and $3,73 Mio. in 1993).

General.[90] Another significant measure taken during that period was the reinstatement of tenure for judges in December 1990 (Gathii 1994: 19).

These developments only reinforced Moi's almost paranoid perceptions of his domestic and international environment at that time. When the opposition continued its pressure for change, he proved to be uncompromising. "Frequently, we hear that Kenya is a bad country. I can only say that Europeans are fools. When a lone African cries, they say he is being oppressed. They do not know the secrets of an African. There are others who go abroad and *demonstrate how people can be tortured* using the television in those countries, and then take it to Europe claiming that Kenyans are being tortured. So they see people being tortured; however that is not happening here. It is portrayed as such to cause chaos in Kenya. (...) No one should shield himself behind human rights. All that is said is being fabricated outside of Kenya through television everywhere and then sent to Europe, America, and elsewhere under the pretext that this is what is happening in Kenya, while it is concocted outside Kenya by others, not even by Kenyans" (FBIS-AFR-91-087, 6 May 1991, p. 4).

The End of One-Party Rule

Considering these frequent rhetorical attacks, the tactical concessions offered by the Kenyan government failed to make a lasting impression on the donors and other international and domestic observers. To the contrary, the human rights movement countered these efforts by publishing first comprehensive human rights report on Kenya (Africa Watch/Human Rights Watch 1991). On 30 July 1991, Africa Watch presented on 432 pages and in 22 chapters (including appendices) detailed accounts of human rights abuses committed by security agencies during the 1980s, discussed some of the background conditions and also criticized the recent official British and US attitudes towards the country. The report included extensive documentation concerning the murder of Foreign Minister Robert Ouko and the regular use of sedition laws, detention without trial, and torture to suppress public dissent. It also criticized the lack of judicial independence, horrendous prison conditions, open discrimination of ethnic Somalis in the Northern part of the country, and increasing police brutality.

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[90] Amos Wako was appointed UN Special Rapporteur for Summary and Arbitrary Executions in 1982. He was later an elected deputy chairman of the UN Human Rights Committee. In defying these credentials, he claimed in his inaugural speech that "no one, save the President, was above the law" (Kiai 1993).

While the report contained little new information, it successfully re-emphasized that the human rights violations in Kenya were the result of systematic and intentional government policy rather than isolated acts of individuals. Hence, the report did not mainly alert people to new facts, but brought together the available information and, thus, supported the case for an actual policy change on the part of the donor governments. This move was again paralleled by domestic mobilization. On 2 August 1991, the opposition created a broad coalition called the Forum for the Restoration of Democracy (FORD) which was "inspired by Civil Forum in East Germany and Czechoslovakia" (Throup 1993: 390).

The opposition was now strong enough to bypass the government's ban on political parties and represented a loose coalition of clergy, radical lawyers, and individual dissidents. While the National Council of Churches in Kenya (NCCK) and the Law Society of Kenya (LSK) had been the main institutional bodies backing opposition dissent during the 1980s, the formation of FORD was a breakthrough in establishing a direct challenge to KANU and Moi. Initially formed as a pressure group, FORD's leadership was an ethnically broad coalition which included Oginga Odinga (Luo), Martin Shikuku (Luhya), Masinde Muliro (Luhya), Philip Gachoka (Kikuyu), George Nthenge (Kamba), and the Muslim Ahmed Salim Bahmariz from the Coast region. Many of the 'human rights celebrities' such as the former LSK chairman, Paul Muite, and the editor of the Nairobi Law Monthly, Gitobu Imanyara, also joined FORD.

The formation of FORD was simultaneously inspired by the global changes and the Kenyan independence history. In contrast to prior unsuccessful attempts of institutionalizing political opposition, FORD mobilized both international support but also revived the historic Kikuyu-Luo alliance. "The FORD of 1990 echoed the KANU coalition of the 1960s, not only in its leadership but also in its middle class and urban base and its successful mobilization of rural support from its 'ethnic areas.' FORD opposed a KANU that resembled the 1960 KADU coalition of minority groups led by largely middle- and upper class leaders whose base remained rural and who were unable to attract an urban following" (Ndegwa 1997: 609). However, in contrast to KANU in the 1960s, FORD was merely an opposition movement which lacked the resources to secure internal cohesion. Already shortly after its formation, internal conflicts about the future role of FORD and the leadership emerged. While one section of FORD advocated the transformation of the movement into a political party a second

group wanted to keep FORD as a united opposition movement to press for reforms.

The government and its 'new' KANU (former KADU) coalition reacted to the challenge with a revival of the Majimbo-agenda, which had already been part of KADU's political program in the early 1960s (see chapter 3). They demanded greater local autonomy and the reintroduction of federal provisions in order to protect the smaller tribes from the dominance of a coalition of the larger Kikuyu and Luo groups. Essentially, majimbo would institutionalize the idea of a 'one-tribe party' and divide Kenya in autonomous regions. In September and October 1991, the minority coalition supporting the current government held five mass rallies in Kalenjin and Maasai areas (Ndegwa 1997: 609-610). During one of those rallies, one of the prominent KANU hawks, Minister for Local Government and Maasai William ole Ntimama, warned the Kikuyu that they would be "cut down to the size like the Ibo" of Nigeria during the Biafra war.[91] Nicholas Biwott claimed that FORD members would be "crushed" by KANU youth-wingers. The main organizers of the rallies called for a majimbo system as an alternative to political pluralism and threatened to push for such constitutional changes if multiparty activists would persist in their crusade. The meetings usually openly advocated 'ethnic cleansing' and held that under a new constitution "outsiders in the Rift Valley would be required to go back to their 'motherland'" (Republic of Kenya 1992: 9). Other resolutions included a ban on opposition politicians to enter the area. On 29 October this counter mobilization turned violent when the first instance of 'ethnic cleansing' was reported from Nandi District in the Rift Valley. In the next months, the number of violent incidents in border regions between different ethnic groups increased dramatically and hundreds of Kenyans were killed (Republic of Kenya 1992: 67).[92] Beyond the intimidation of opposition voters, the ethnic violence also aimed at closing the ranks of the fragile KANU coalition (Throup/Hornsby 1998: 199).

By late 1991, the Moi government had lost control over domestic affairs and even had problems to keep its own ranks closed. The consistent use of violence in dealing with the

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[91] When the US journalist Bill Berkeley later asked Attorney General Amos Wako in 1995, why Ntimama or others were never charged in court for the incitements to violence, he replied: "If you arrest Ntimama, there would be riots" (Berkeley 1996).

[92] Existing land conflicts between various ethnic groups represented the background for the violent attacks. The conflicts originated in the colonial period when white settlers took over large sections of the Rift Valley and allowed mainly Kikuyu squatters to move into areas previously owned by Maasai and Kalenjin groups (see chapter 3). Over the decades, the sharp population increase also intensified land pressure.

opposition only strengthened the latter, although it was divided from the start. In early November 1991, Smith Hempstone brokered talks between the Kenyan government and the opposition in order to avoid further confrontation. However, the talks finally broke down on 14 November and several members of the opposition were arrested by Kenyan security organs during the following night. The next day, the opposition called for street demonstrations against the government. Mützelburg and Hempstone lodged their protests during a meeting with the Permanent Secretary of the Foreign Ministry Bethuel Kiplagat. When the demonstrations turned violent again, the group of the most critical ambassadors (Canada, Denmark, Germany, Finland, Sweden, and United States) was summoned to the Foreign Ministry on 18 November. They were accused of organizing the demonstrations and of interference in the internal affairs of the country. Hempstone was personally accused by the minister Ayah of being a "racist" and "trying to overthrow the Kenyan government" (Hempstone 1997: 252). The German foreign ministry recalled Mützelburg for consultations and instructed him to issue "the strongest of protests in the Foreign Ministry in Nairobi" on the human rights situation in the country.[93]

In a rare moment of unity, the international community reacted to this crisis by temporarily suspending on 26 November 1991. After the joint declaration on democratic governance at the Harare Commonwealth summit in October 1991, even Great Britain finally had joined the critical voices, although its High Commissioner Tomkys still refused to carry out the new directives.[94] Prior to the donor decision, last minute efforts by the Kenyan government to avert the crisis failed. Moi even ordered the arrest of his closest aide, Nicholas Biwott, who was accused of being involved in the Ouko murder.[95] These efforts could not make up for the continuous and successful reconstruction of Kenya's international image by non-governmental human rights groups. "Kenya, the long-time favorite of the West, was being treated as one of Africa's pariah regimes" (Throup/Hornsby 1998: 84).

Shortly after the donor decision, the Kenyan government through its Foreign Ministry

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[93] Foreign Broadcast Information Service/Daily Reports, 18 November 1991 (FBIS-WEU-91-222, p. 17).

[94] "Tomkys confessed that he had lost the battle over the direction of British policy towards Kenya when he visited London the week of November 16-23. (...) He said he had delivered a list of steps to Moi on his return to Nairobi" (Hempstone 1997: 256).

[95] A detective from Scotland Yard named Biwott as one of two prime suspects. Shortly before his death Ouko had challenged Cabinet Ministers, because of misappropriation of foreign aid (including the total Swedish aid package of 1989) for private use (Widner 1992b: 196). Biwott was released after 14 days, but lost his position in

published a 85-page response to the July Africa Watch report titled "Nailing Lies" (Republic of Kenya 1991). Most of the 13 sections directly addressed issues raised in the Africa Watch report. The defense also made reference to criticism contained in British media reports and recently expressed by some of the now internationally well-known Kenyan lawyers. It gave a lengthy (and at the point of publication outdated) justification of "single-party democracy" and argued that "Kenya's situation is entirely different from those African countries now apparently turning to multi-partyism" (Republic of Kenya 1991: 13). The report reaffirmed Kenya's "commitment to the cause of human rights" and claimed that "as Kenya's political system evolves, so greater attention is being paid to the rights and freedoms of individuals (p. 5). In the following sections, the authors cited the full respect for press freedom as a major democratic accomplishment in Kenya. They rejected accusations that the judiciary was not independent, torture was rampant, and refugees were mistreated.

Four days after the donor decision, on 30 November, Hempstone and the visiting US Deputy Assistant Secretary of State for African Affairs, Bob Houdek, met with President Moi and Foreign Minister Ayah. Houdek said that he had been instructed to pursue two essential issues. First, he wanted to know a precise date when the opposition could hold its first legal public meeting. Second, he asked Moi to announce publicly elections with non-KANU candidates. Moi flatly rejected both demands and complained instead about the alleged misconduct of donors and embassy personnel. He asked the US to "detach itself from the dissidents and follow diplomatic conventions" (Hempstone 1997: 257). On 2 December, however, Moi announced the end of the one-party era in Kenya. FORD was officially registered as a party on 31 December.

5.3   Comparison

Successful transnational human rights activism requires intensive and sustained mobilization. This was obviously true for Kenya in the crucial period between 1989 and 1991, but also for Uganda between 1986 and 1992. Hence, international attention and mobilization are an important factor in processes of regime change, no matter, if governments denounce such criticism or are generally open to it. Norms can take different paths of diffusion, most basically like bottom-up or top-down. These differences were the subject of this chapter and

the Cabinet. He returned as Minister in the Office of the President in January 1997 (see chapter 6).

are understood as consequential for the sustainability of norms adoption.

During the 1989-91 period, the human rights situation in Kenya remained by and large unchanged. Although the breakdown of communism in Eastern Europe was a crucial reinforcement, the process of changing the image of the Kenyan government was already completed in 1989 and led now to the successful pressure for significant tactical concessions. The non-governmental mobilization since the mid-1980s provided a interpretative framework so that demonstrations and the repression by the Kenyan police further solidify the authoritarian image of Moi. After 1989, the human rights mobilization on Kenya could no longer be controlled by the government. International and domestic events now reinforced each other on the basis of the work previously done by the transnational human rights network. In late 1991, tactical concessions and repeated references to the norm of sovereignty finally failed to protect the government from serious consequences.

Under the global pressure for multipartyism, KANU representatives now revived the idea of majimbo as an alternative to political pluralism. They sought to subordinate national to ethnic citizenship in an effort to counter the threat of a renewed dominance of the larger over the smaller ethnicities. As a result of this counter-mobilization, Kikuyu and Luo became the main victims of 'ethnic cleansing' in areas neighboring the Maasai and Kalenjin heartland. Majimbo was the logical preference of the incumbent minority to secure their maximum control of the political process. In contrast, representatives from the larger ethnic groups advocated national unity, liberal values, and majority rule not only for principled reasons but because such a position held the best prospects for their own access to power.

In contrast to Kenya, a similar attitude of the Ugandan government towards multipartyism had no negative repercussions for its international standing and aid flows. Unlike Moi and despite continuous human rights problems, Museveni was perceived as a "new breed" of African leadership and positively integrated into the international liberal community. Even the strategic interests of the United States as the last remaining super power can not account for the difference, because both countries were equally important to US global strategies at that point in time. After 1986, the impact of the non-governmental human rights activism on Uganda was mainly top-down. The repeated publication of human rights reports by Amnesty International between 1989 and 1992 and the official communication of this information to the UN Commission on Human Rights caused the government to establish a Human Rights Desk

within the Department of Justice and reinforced the consideration of an extended Bill of Rights and an independent human rights body in the ongoing constitutional reform process. At the same time, independent domestic pressure for human rights hardly existed.

Despite the virtual absence of either domestic or international pressure for regime change, the NRM establishment failed to complete its original reform agenda, in particular in trying to replace the old party structure with a grassroots movement system. While the lack of pressure accounted for the overall delay of reforms and the extension of NRM rule, the domestic political opposition could, at least, exploit the rhetorical commitment of the NRM to the cause of human rights and change. Although the political parties were in a very weak position after 1986, they remained the most important political challengers and kept the issue of multipartyism firmly on the political agenda. The main reason for this was the de facto failure of taking grassroots democracy to the national level and the NRM's (self-interested) decision to foster representational forms of democracy instead.

6 Transition Path

The international human rights mobilization delegitimized in Kenya and Uganda authoritarian regimes during the 1970s and 1980s. The campaigns also empowered domestic actors with a convincing human rights agenda. Variation occurred with respect to the successful mobilization of state actors and the ultimate outcomes of the campaigns. In the Ugandan case, the transnational human rights movement largely failed to mobilize Western states against Amin and Obote, mainly because of the competing norm of sovereignty. Nonetheless, the military victory of the NRM in early 1986 represented also a success for the transnational human rights network. The combined domestic and international mobilization led to a 'revolution from below' because the incumbent regime was left with hardly any means of positive integration, except for the human rights violating army. Between 1986 and 1992, only Amnesty International continued its systematic work on Uganda. Its interventions led to a further domestic institutionalization of human rights norms in the early 1990s. However, the overall decrease of international attention contributed to an general slow down of the reform process. In particular, until 1992 the Ugandan government was never seriously challenged by international actors to return to multiparty rule. Hence, the transition path put constitutional reforms and participation ahead of electoral competition. In this chapter, I will show how those initial reforms only partly succeeded and how the government slowly included electoral elements in its reform agenda.

During the 1980s, the transnational human rights mobilization with respect to Kenya successfully reversed international perceptions of the country within a short period of time. As a result of the ongoing confrontation, donor governments decided to cut aid and the Kenyan president agreed to the reintroduction of multipartyism. Due to a functioning system of neopatrimonial rule, the outcome was not a 'revolution from below', but 'reforms from above'. More importantly, however, the international mobilization greatly expanded the autonomy of the societal sector, which became now a major force in promoting change from within. When the Moi government finally caved in to the pressure, it still controlled the transition process by choosing an electoralist path and rejecting simultaneous constitutional reforms aimed at expanding participation to the disenfranchised ethnic groups. This will be the main subject of the second part of this chapter.

6.1   Uganda 1993-1998: The End of Broad-Based Government

The Odoki commission presented its 700-pages final report on 31 December 1992 (Odoki Commission 1992). It recommended, *inter alia*, the convening of a constitutional assembly for further deliberations, presidential elections and an extension of the no-party system until a national referendum would decide on the future shape of Uganda's political system. The commission ascertained a majority within the population against the immediate introduction of multipartyism. The NRM government drew two lessons from the preliminary results of the constitutional reform process. First, it announced the creation of a Constituent Assembly (CA) based on nation-wide direct elections. This decision was in line with the shift away from the original grassroots approach and further side-lined the RC-system. "Oddly, after putting great energy into developing RCs in every village and at higher levels, the NRM quietly handed over the shaping of Ugandan democracy to a state-appointed Constitutional Commission an a subsequent Constituent Assembly" (Kasfir 1998: 51).

Second, Museveni lost no time and immediately entered the campaign trail by announcing the revival of the traditional kingdoms as cultural (but not political) entities. This was a first concession to the Baganda those votes were a crucial factor in the upcoming CA elections. These moves were consistent with the NRM's preference for constitutional reforms and a reluctance to fully face the political competition with other parties. On the one hand, it is remarkable that the NRM government returned with the formation of a CA to one of its promises contained in its original political program of 1981 (see chapter 4). This clearly set the NRM government apart from its predecessors. On the other hand, the NRM was left with few alternatives to legitimize its rule, after it had come to power and ruled for almost ten years unconstitutionally.

The CA elections as a symbol for a shift towards representational democracy transformed the movement system. Although much had changed on the grassroots level in many areas of Uganda, the NRM had ultimately failed to make the grassroots the real basis of national politics. While the system had worked surprisingly well under the conditions of civil war, it proved exceedingly difficult to built up ongoing local mobilization beyond the realization of the original goals and into the peace time period. Hence, the original enthusiasm of this bottom-up perspective was increasingly substituted by a bureaucratic top-down approach. What was left intact was the other parts of this policy, including the ban on party activities

and the requirement that candidates had to stand in elections in their individual capacities. By early 1992, the Ugandan democratic experiment was basically abandoned. The parties, originally identified as 'the main problem' of Ugandan politics had survived. The political competition in the 1990s pitted now 'movementists' against 'multipartyists' even if all of them had to be member of the NRM.

On 14 July 1993 the NRC reversed Obote's constitutional ban on kingdoms from 1967. Although a total of four kingdoms were reinstated, the measure mainly benefited Buganda as the largest and still relatively well organized entity. Two weeks after the decision, the Buganda parliament (*lukiiko*) was reopened, Ronald Mutebi was officially named *kabaka* (king) and the property (palace and other buildings) was officially returned (*ebyaffe*). While the NRM and Museveni had always maintained that all questions of national significance should be decided directly by the people, the crucial issue of Buganda's status within Uganda was suddenly de-linked from the whole process of constitutional reform. The NRM preferred to restore the traditional kingdoms in return for political support, rather than running the risk of alienating the Buganda elites prior to the CA elections.

Still, this strategy entailed political risks. The sudden favoritism towards Buganda put a question mark behind the NRM's claim to promote a non-sectarian and anti-tribal policy. Moreover, the concession towards Buganda did also encourage the Baganda to mobilize for greater political autonomy as well and signaled a return to the situation of the 1960s where the conflicts between national and Baganda leadership were finally resolved by military means (see chapter 3). The Baganda leadership now began to lobby for a federal system which would increase the region's influence in national politics. However, the NRM rejected these attempts and maintained its preference for a process of decentralization.

The CA elections and the conclusion of the constitutional reform process

The CA elections were held in March 1994. Prior to the elections, the number of constituencies was increased by about 25 per cent. The geographical distribution of new constituencies was solely based on updated population figures and corrected the past overrepresentation of the North. One CA delegate represented about 70,000 residents (Kasfir 1995: 160).[96] For

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[96] Buganda gained 55 per cent in its representation (59 instead of 38 seats). The West and the East gained about 25 per cent in seats, while the North rose only from 42 to 44 seats.

many domestic but also an increasing number of international critics the ban on party activities was certainly the most contagious issue. However, the party ban not only failed to undo existing strong party allegiance, it also "allowed the parties to paper over the internal splits that have emerged in the last two to three years" (Geist 1995: 95)." In the whole exercise the RC system was only used as a platform for the opposing candidate's non-partisan campaigns, who were required to tour in groups from parish to parish. "The electorate was encouraged to examine actively the candidates' views on important issues, in question-and-answer sessions which followed the candidates' addresses" (Geist 1995: 94).

The direct involvement of the population increased voters' interest," but simultaneously revealed many misperceptions about the future role of the CA. While nation-wide 85 per cent of eligible voters registered and another 87 per cent of them finally voted (Kasfir 1995: 156)," the population often raised in campaign meetings traditional concerns such as the construction of roads, hospitals and schools rather than more narrow constitutional issues. "The opportunity afforded to the electorate to question the candidates, both stellar political figures and unknowns alike, *produced the most dramatic levelling of the playing field of the campaign*, far more effectively than the presidential and Commission bans on use of official facilities" (Geist 1995: 96).¹⁰⁰ The NRM secured a comfortable victory with about 120-140 out of the 214 seats, against 70 multipartyists and 10-20 'independents'. Despite an average number of more than five candidates per constituency, 90 per cent of the elected representatives gained more than one third of the respective vote.¹⁰¹ The NRM lost in most

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[97] "The campaign method probably did not hurt the parties very much, all of their protestations to the contrary notwithstanding. They were the unwitting beneficiaries of a breathing space in which their party machinery's defects were not trotted out for much public inspection, and the non-partisan process provided a carpet under which the internal divisions could be conveniently swept" (Geist 1995: 96).

[98] Certainly, the remarkable effort of the Odoki Commission to reach as many Ugandans as possible in collecting popular views on the new constitution contributed to the exceptional interest in the CA elections. The Constituent Assembly Statute (section 7b) also encouraged participation because voters were allowed to either register where they were born, where they currently lived or where they worked.

[99] More importantly, there were no significant regional differences. Voter registration and turnout were invariably above 80 per cent, no matter if the area was NRM-friendly or not. Registration levels tended to be even higher in opposition areas (North and parts of the East) than in Western Uganda and Buganda. In Gulu and Kitgum 93 per cent of the eligible population registered and 89 per cent voted, in Apac and Lira the same numbers stood at 91 and 94 per cent, while in Kumi and Soroti they were as high as 97 and 90 per cent, respectively (Kasfir 1995: 157).

[100] The total number of candidates was 1,120 for 214 constituencies, an average of over five candidates for each seat. Only in three constituencies candidates were elected unopposed (Kasfir 1995: 159).

[101] In Buganda, the West and the North, winners gained on average slightly more than 50 per cent of the total vote, in the East 42 per cent.

constituencies of the North, where its candidates were rejected in favor of UPC's prominent multipartyists. A total of nine Cabinet and assistant ministers lost in the exercise to competing candidates, 24 succeeded in the electoral race.[102]

Despite the dominance of the NRM, one can attest a strengthening of representational democracy based on the high levels of registration and voter turnout, overall campaign conduct, and the fact that incumbency was hardly a safe ticket for office. The elections did not fully test "the rulers' commitment to democracy", but there was more at stake than "simply the preparation of a new constitution" (Kasfir 1995: 151 and 154). Hence, the NRM government succeeded to hold reasonably free and fair elections, which enhanced the legitimacy of the ongoing constitutional reform process. Candidates were forced to prove their credentials with respect to substantive issues rather than resort to mere electoral campaigning. "This was an unprecedented development in political education. In previous Ugandan elections, party rallies had been the main form of public campaigning, making it virtually impossible for prospective voters to convey their issue preferences to candidates" (Kasfir 1995: 165). Although the CA elections were held as a means to constitutional reforms, the logic of electoral competition had important repercussions for the NRM. It not only suspended efforts to establish the RC system as an alternative to party politics, but was itself now slowly transformed into a political party.

The newly elected CA appointed a close associate of Museveni, James Wapakhabulo, as its speaker. Within the first few weeks of deliberations the original time table of seven months was overturned to give more room for debate. In the end, the CA worked for seventeen months on the draft constitution. While smaller issues were open for debate, the NRM leadership used its majority to decide the crucial questions of federalism versus decentralization and movement versus multiparty system in its favor. The 'constitutional' year 1995 began with the discussion of Uganda's belated response to the allegations made by Amnesty International under the UN 1503 procedure (see chapter 5). After hearing the Ugandan representative, the UN Commission on Human Rights decided to discontinue the investigation. The 49-page response (Republic of Uganda 1995c) defended Uganda's human rights record (1) by pointing

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[102] 85 per cent of the elected NRC members (a total of 140) competed also for CA seats, but significantly less from the specially appointed members. None of the NRC army representatives and only one third of the 'historical' members stood in the CA election.

to the economic situation of the country, particularly after 20 years of civil war, (2) by attributing abuses to ignorance instead of intention,[103] (3) by blaming rebel groups or criminals for committing the abuses (Republic of Uganda 1995c: 21), (4) and by questioning the full application of international standards disregarding the peculiar situation of the country.[104] The report further highlighted the fact that the Uganda government had "accorded maximum co-operation to Amnesty International" and that the NGO used to have a "proper appreciation of the country's human rights situation" (Republic of Uganda 1995c: 2), but also admitted individual cases of human rights abuses, even torture, committed by government agencies and mentioned the payment of compensation to victims and families (39f.).[105]

In late May, the Ugandan government acceded to the International Covenant on Civil and Political Rights (ICCPR) and in September it signed the first protocol which provided for an individual complaint procedure (Republic of Uganda 1995b). In June 1995, the CA voted with 199 against 68 votes against an amendment aimed at an immediate restoration of multiparty-ism.[106] Instead, the NRM majority within the CA secured another extension of the movement system until 1999/2000 (Article 273, Sect. 3). The final product detailed on almost 200 pages 19 chapters and 287 Articles (Republic of Uganda 1995a). Compared to the 1962 and 1967 constitutions, the Bill of Rights was significantly extended (Chapter IV, Articles 20-58).[107] A newly created Human Rights Commission (UHRC) was charged with investigations "on its own initiative", "visits of jails, prisons, and places of detention and related facilities", human rights education, and monitoring of the "Government's compliance with international treaty

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[103] "It is true that the army had problems with honoring writs of *habeas corpus*. (...) The army simply did not understand what *habeas corpus* is all about. They did not know how to draw a return on writ of *habeas corpus* to present to court" (Republic of Uganda 1995c: 45).

[104] The Ugandan Government argued that it is unfair to judge, as Amnesty International does, Uganda and the United States against the same standards, because the latter "has experienced two hundred years of strong economy, political stability and human rights observance. (...) AI gives real credit when perfection is achieved and not when genuine efforts are being made as in the case of Uganda..." (Republic of Uganda 1995c: 23).

[105] A few weeks later, the Minister of Justice, Joseph K. Ekemu, demanded in a speech at the second extraordinary session of the African Commission on Human and Peoples' Rights the creation of a "supra-national Court of Human Rights" in Africa, "a court whose decisions will be binding on individual governments" (Ekemu 1995: 4). In his speech he further maintained that "human rights have grown beyond the exclusive concern of individual states".

[106] Amendments to the existing draft constitution required a two-third majority within the CA.

[107] Art. 43 and 44 define freedom from 'political persecution', 'detention without trial', 'torture', 'slavery', and the right to 'habeas corpus' and fair hearing as non-derogative rights under any circumstances, including a state of emergency. In Article 48 the Uganda Human Rights Commission is charged with reviewing detentions under emergency law "no later than 21 days after the commencement" and thereafter "at intervals of not more than thirty days." UHRC is empowered to release a person after it reviewed the case (Art. 48, Sect. 3).

and convention obligations on human rights" (Art. 51). The UHRC "shall publish periodical reports" and provide an "annual report to parliament on the state of human rights and freedoms in the country" (Art. 52, Sect. 2). In order to fulfil these functions it was given the powers of a court (Art. 53).

Outstanding was also the effort to promote and protect the rights of women. The constitution held that "the state shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realize their full potential and advancement". Furthermore, "women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom" (Article 33, Sect. 2 and 5). Following the CA's rejection of multipartyism, the almost model character of the Bill of Rights was partly contradicted by the constitutional provisions regarding party activities because the draft constitution reaffirmed the limits imposed by the government in 1986. In Article 269, political activities were sharply limited by outlawing the opening of branch offices (1), the holding of delegates' conferences (2) or public rallies (3), the support for a candidate for any public elections (4), and any activities that may interfere with the movement political system for the time being in force (5). The constitution was promulgated on 8 October 1995.

The political opposition remained naturally dissatisfied with the results of the constitutional reform process. Although parliament and judiciary were given extended powers to control the executive, the alleged dominance of the NRM on all levels of society provoked increasing dissent. "It is, in fact doubtful whether the multi-partyists' irrational suspicion of anything to do with the NRM government could have been set at rest" (Furley/Katalikawe 1997: 250). Some of these suspicions were based on the still ambiguous relationship between movement and state institutions, whose separation remained incomplete. The NRA was now 'replaced' by the Ugandan People's Defense Forces (UPDF) and the RC system was to be integrated into a process of decentralization aimed at further strengthening the local government (chapter 11).[108] However, the army only changed its name while its political wing, the NRM as a "transitional government" was to "continue in office until a new government is elected" (Art. 263). Although the new constitution required the NRM to develop some institutional contours to distinguish it more clearly from the state, there were no requirements for internal democracy

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[108] A separate law followed on 17 December 1995. The RCs were renamed as Local Councils (LCs).

within the NRM. These issues were now carried over into the electoral campaigns of the upcoming presidential and parliamentary elections.

The constitutional process did not change the donor community's generally favorable attitude towards the Ugandan government and the NRM. Despite the extension of the movement system and de-facto one-party rule, most donor representatives were contend with the economic advancements and felt that the process as a whole was a step in the right direction. Open criticism with respect to the limits to freedom of assembly and party activities came only from the British and the US embassies. The US ambassador called those sections of the constitution a "serious defect" and a "blot on the face of this constitution [...] which we urge Ugandans to correct at the earliest possible date" (released by the United States Information Service, 13 October 1995) Although this statement expressed the dissatisfaction of the US government, it also made clear that it was up the Ugandan people and not the donor community to bring about the desired changes. The US government had no intention to press its Ugandan counterpart on this issue. To the contrary, the United States even intensified a military training program which had been started in 1993.

The Resurgence of Armed Rebellions

During the CA deliberations, the Lord's Resistance Army (LRA) stepped up its attacks in the North, while a new rebel group, the Allied Democratic Forces (ADF), opened on 13 November 1995 a new front by attacking villages in South-Western Uganda from Zairian territory. Soon the rebel attacks caused a major diplomatic stand-off between the Ugandan and the Sudanese government. Since early 1994, the latter supplied the LRA with arms (Amnesty International 1997a: 6) and used the rebels as a militia to fight the South Sudanese People's Liberation Army (SPLA) which controlled large parts of Southern Sudan. After a massacre of the LRA in Atiak, 19 kilometers from the Sudanese border, the Ugandan government accused the Sudanese government of complicity and severed diplomatic relations.

The ADF in Eastern Zaire recruited mainly former Hutu soldiers (Interahamwe) who had been responsible for the 1994 genocide in Rwanda and were later defeated by the Tutsi-dominated Rwandan Patriotic Front (RPF). After the Interahamwe militia had regrouped in the refugee camps of the border region between Rwanda, Uganda, and Zaire, it formed various rebel groups which now attacked Rwandan and Ugandan villages. One year later, the continued threat of a second front in the West became a major incentive for Museveni to support the

rebel movement led by Laurent Kabila against Zairian dictator Mobutu Sese Seko. Museveni hoped (in vain) that Kabila would reassert Kinshasa's control of Eastern Zaire and help Uganda in destroying the rebel hide-outs in the area (see below).

In the following three years, Uganda was drawn into regional conflicts and its domestic stability became increasingly threatened by this outside engagement. Not the results of the domestic constitutional reform process but the regional military situation had the most visible short-term effects on regime change in Uganda. This was most apparent in the border regions, which were effectively not controlled by any of the neighboring governments. However, growing military threats in the Northern and Western part of Uganda also adversely affected the rest of the country. After the completion of the original NRM reform agenda, the Movement now faced not only growing guerilla activities but also the task of finding a new legitimate base for its continued domestic dominance. Hardliners within the NRM increasingly linked both issues and called for less lenient treatment of the violent as well as civilian opposition.

Presidential and Parliamentary Elections in 1996

After ten years in power, Museveni finally stood in May 1996 against other candidates for the president's office. In contrast to Kenya in 1992 and 1997, the main opposition parties UPC and DP were able to agree on one single challenger and presented the DP leader Paul Ssemogerere as joint candidate. He had been a minister in Museveni's cabinet and stepped down in late 1995 to focus on his electoral campaign. UPC and DP also formed the Inter-Political Forces Cooperation (IPFC) to break the NRM's dominance in previous parliamentary elections. The campaigns of the presidential candidates were state-financed, but Museveni used all the privileges of the incumbency. In his campaign, Museveni emphasized the accomplishments of his NRM government and promised free education for at least four children from every Ugandan family. Ssemogerere repeated the demands for multipartyism, but failed to offer a profound economic or social alternative.

Although Ssemogerere was a popular political leader and united the political opposition, Museveni clearly won the presidential race with 74.2 per cent of the vote against 23.7 per cent. His convincing victory also affected the parliamentary elections two weeks later, where the NRM was able to maintain its overall dominance. The NRM made solid inroads in many parts of the country, in particular in Buganda where Museveni won about 80 per cent of the

vote. Apparently, the bonus given to Museveni for his revival of the Buganda kingdom was still a strong enough incentive. Only the North remained solidly in the hands of the opposition. Ssemogerere won the UPC strongholds Lira (85.5 per cent), Kitgum (88.4 per cent), and Gulu (90.5 per cent).

In late July 1996, the LRA launched a major attack on smaller villages in the Ugandan/Sudanese border region and killed more than 100 civilians and UPDF soldiers. After its virtual defeat in the early 1990s, the LRA now returned with a new tactic of killing and abducting the civilians those interests it previously claimed to represent. Briefly, the LRA succeeded in cutting off virtually all roads to the main Northern city Gulu. The Ugandan government dispatched more than 10,000 soldiers to the area. For the first time since 1986, the army command, represented by Museveni's brother, Maj. General Salim Saleh, imposed censorship on journalists reporting from the insurgency area. The UPDF succeeded in pushing the rebels back into Sudanese territory and began to (re)establish so called "protected villages". Museveni himself defended this measure in parliament as the only way of saving innocent Ugandan from abduction and rape. Despite the strong presence of the UPDF, hundreds of civilians were tortured and killed by the rebels and thousands of children were abducted after 1994. The issue soon was soon to become a new focus of transnational human rights activism.

The UPDF was also unable to contain the Allied Democratic Forces (ADF) in Western Uganda whose headquarters were situated in the mountainous regions of Eastern Zaire. Zairian president Mobutu Sese Seko did not respond to Museveni's request for a joint military campaign against the ADF. When the UPDF began to pursue ADF rebels across the border this provoked diplomatic irritations. Museveni's support for the anti-Mobutu coalition led by Laurent Kabila was linked to the hope that a new government would join with Uganda to flush out the rebels in this area.

The Formalization of the 'Movement System'

In early 1997, the NRM government fulfilled the promise to formalize the movement as an all-embracing body. The National Resistance Movement was renamed and from now on only referred to as 'the Movement'. Article 69 of the constitution stipulated that "the people of Uganda shall have the right to choose and adopt a political system of their choice in free and fair elections or referenda." In the second clause, three political systems were offered to the

Ugandan people: the movement system (1), the multi-party system (2), and "any other democratic and representative political system" (3). Until the year 2000 this choice was hypothetical, because of the extension of the NRM rule until a popular referendum was held. Until then, the new constitution entrusted parliament with creating "organs under the movement political system" and prescribing "from time to time, any other democratic principle of the movement political system, as it may consider necessary" (Art. 70, Sect. 2).

The new act provided that every Ugandan was automatically member of the Movement. It also created movement organs for all administrative levels (Parish-, Sub-County, Municipal-, and District Movement Committees). The highest decision-making organ was the National Conference, which was to be convened biannually. For day-to-day decisions responsibility rested with the National Executive Committee (NEC) and the Movement Secretariat led by a National Political Commissar (NPC). Within the Secretariat several departments on issues such as "research", "mobilization", "external affairs", "information" and "economy" were created and headed by newly appointed directors. According the Movement Act, the NEC dominated the secretariat because the NEC chairman (Museveni) was empowered to remove the NPC and all directors at short notice and without giving reasons.

The formal institutionalization of the movement system paralleled the loss of its integrative force based on economic, social and political initiatives. The Movement experienced a serious crisis after all its major political initiatives had either been completed (e.g. the new constitution) or were never fully realized (e.g. the RC system). Critics of the NRM accused its leadership that the formalization was an effort to cement the movement system and the dominance of the old elite. Declaring automatic membership of all Ugandans in the Movement was certainly a less convincing way of securing a broad base than more competitive and voluntary strategies to attain such a goal. The apparent conclusion of the NRM agenda after ten years in power strengthened the arguments of the domestic civil opposition. Despite convincing electoral victories and strong outside material support, the sacrosanct refusal of the NRM to allow party activities and its non-compromising attitude towards the various rebel groups came increasingly under pressure. Despite the humiliating electoral defeats and continued reliance on its old leadership, the civilian opposition gained rather than lost strength.

For the first time, the NRM leadership lost control of the political agenda because it could no longer offer new political issues for mobilization, but became increasingly corrupted by the acquired wealth and power positions. The opposition was now more successful in exploiting the gap between a rhetorical commitment to individual rights and the reality of banned party activities. At the same time, the NRM leadership became more defensive not the least because it had previously given up the vision of an alternative model of grassroots democracy. At the same time, younger members of the opposition realized that a successful challenge to the movement system would have to originate outside the traditional parties. One such group, The Free Movement (TFM), circumvented the ban on party activities and presented a platform for many multipartyists who saw their credibility compromised as long as they were still identified with DP and UPC. Additionally, the growing guerilla activities also strengthened critical voices because it questioned the NRM's claim that it had finally brought peace to Uganda.

While Museveni came under increasing domestic pressure, his international reputation made neighboring state leaders envious. In April 1997 Uganda was selected as the first country to profit from the World Bank's newly established Highly Indebted Poor Countries Debt (HIPC) Initiative. The total package reduced Uganda's debt by $338 million and ultimately exceeded $700 million (The World Bank, News Release 97/1324-S).[109] A wave of admiration for Museveni as a 'new breed' of African leaders hit the foreign media in early 1997.[110] While the relatively free and fair 1996 elections were certainly helpful, the main reason for this international publicity were his activities in the Great Lakes region. After the downfall of Mobutu in May, many observers assumed (prematurely) the emergence of enlightened leadership in the region. Museveni was seen as the first African leader in this tradition. This strength of international support allowed the NRM leadership to ignore or to buy off domestic criticism.

In early July 1997 parliament rejected motions by the opposition to give parties direct representation and influence in the NRM's supreme organ, the newly created National Conference. While movementists defended the principle of "election based only on individual merit", one critic stated in a heated debate that the Movement is nothing but "state-level thuggery by

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[109] Total foreign assistance rose again from $622 million in 1995/96 to $720 million in 1996/97. This was four times more than the total debt service in that period.

[110] See for example the telling headline: "Shaking up Africa. From the Great Lakes Highlands to the Red Sea to the revolution-racked Zaire, Ugandan President Museveni's Disciples are transforming the Lost Continent"; Time Magazine, 14 April 1997.

which the people of Uganda are being held at ransom by a corrupt group who call themselves strugglists" (New Vision, 10 July 1997, p. 1). One day later, parliament finally passed the so called Movement Act which established its organs on all levels of society. Most of the multipartyists boycotted the final debate and voting. DP representatives declared that they would also call for a boycott of the 2000 referendum on the question of the political system.

Within the donor community, only US ambassador Michael Southwick took a principled line against the entrenchment of the movement system and the idea of holding a referendum to determine the fate of political parties. "You don't have a referendum on religious or press freedom, so why have it on freedom of association and assembly" (New Vision, 20 July 1997). On the same occasion, Southwick ruled out that the US government would provide funding for the 2000 referendum and labeled the 1996 elections as "transitional" rather than "free and fair in the sense that they meet international norms". It remains to be seen, if the US government will stick to that position when the date of the referendum will approach. The newly elected Labour government in Great Britain declared in early October 1997 that it had no intention to press for multiparty reforms in Uganda. The British Secretary of State for International Development, Clare Short, clarified that the question of political parties was to be decided by Ugandans alone in the 2000 referendum. "I don't think it is necessarily right for Uganda to have the same kind of political system like Britain" (cited in: New Vision, 8 October 1997).

Shifting Targets: Human Rights and the War in the North

These domestic issues were pushed to the back when Museveni moved to Gulu to command the counter-insurgency operations against the LRA. He refused to open talks with the rebels on the grounds that he was not prepared to negotiate peace with rebels who had committed serious crimes against humanity. Such suggestions for talks were frequently made by local leaders and the political opposition in parliament. International human rights observers such as Amnesty International but also UNICEF had just begun to target the LRA for its practice of abducting children, forced recruitment and widespread rape. On 18 July 1996 Amnesty International condemned "callous and calculated killings" by the LRA following a massacre of more than 300 civilians on 12 and 13 July in Northern Uganda (News Release, AFR 54/14/96). In December 1996 and March 1997, the United Nations Department for Humanitarian Affairs/Integrated Regional Information Network published a report on the

humanitarian situation in Northern Uganda. The report criticized the UPDF practice of 'protected villages' in Gulu District and the rebels for committing indiscriminate atrocities against the civilian population.

International interest in Uganda solidly focused in early to mid-1997 on the situation in Zaire and the human rights abuses committed by the LRA. While the United States supported Museveni in his regional policies, the transnational human rights community supplemented that support by targeting the rebels for their widespread human rights abuses.[111] In June 1997, a Amnesty International delegation followed up on its 1996 report and visited Northern Ugandan for two weeks. Afterwards, Andrew Mawson declared that he was "shocked at the systematic nature of gross abuses the rebels are perpetuating." He added that the Ugandan army committed fewer human rights abuses than the rebels, but was still guilty of many violations committed in the course of military action (Daily Nation, 17 June 1997). During the rest of the year, international human rights groups compiled more comprehensive reports on the situation in Northern Uganda.

On 18 September 1997, Amnesty International, Human Rights Watch, domestic human rights groups and UNICEF presented their respective reports in a joined press conference in Kampala. Amnesty International claimed that the LRA abducted more than 8,000 children during the last three years (Amnesty International 1997a). Amnesty International and Human Rights Watch published simultaneously reports on the LRA's conduct in the North and accused Joseph Kony of gross human rights violations (Human Rights Watch/Africa 1997c). They also blamed the Sudanese authorities for supporting the LRA and failing to stop the violence. Amnesty International went also into the history of the conflict and questioned the current government's sincerity in helping the North and admitting to own human rights abuses. "An inquiry set up in 1988 into alleged human rights violations in Gulu District spluttered in and out of existence until 1991 when it produced a confidential work in progress report and asked government for more funds. Since then it has collapsed" (Amnesty International 1997a: 32). The Amnesty report requested a full investigation of abuses committed by all sides. "So far, there has not been a focused, public confrontation of the human rights experience of people in northern Uganda during the 11-year long war" (Amnesty

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[111] At its bi-annual International Council Meeting in 1991, Amnesty International decided to also target opposition groups violating human rights.

International 1997a: 33). The graphic description of torture methods used against children had an immense impact in the Western media.[112]

In light of the new quality of the Northern rebellion, local leaders in the North and domestic human rights groups stepped up their demands for a dialogue with the aim of ending the rebellion in the North (New Vision, 15 October 1997). Reports on secret talks between Kony and government representatives claimed that these had finally broken down after Museveni gave the rebels an ultimatum of seven days to turn in their arms. Some critics blamed ethnic animosities within the NRM for the deadlock and alleged that the government was unwilling to negotiate and the army unwilling to stop the rebellion because the North had overwhelmingly voted for the opposition in the 1996 elections. The government rejected these claims and accused its critics of collaborating with the rebels. The conflict began to resemble the situation of the early 1990s when similar accusations were traded between the NRM leadership and Acholi politicians from the North (see chapter 5).

The transnational human rights groups blamed both sides for human rights abuses, while the international public almost entirely focused on the atrocities committed by the LRA, in particular the abduction and abuse of children. The US government supported Museveni in his refusal to (re-)open talks with the rebel groups and took full advantage of the fact that this prominent international human rights issue could be exploited for narrow strategic interests. During an official visit to Gulu in December 1997, US Secretary of State, Madeleine Albright declared that "the US government will stand by the Ugandan government to contain the threat of Sudanese sponsored terrorism and improve security in the region, especially of children" (cited in: New Vision, 11 December 1997). Western support was easily mobilized because the concern for children nicely coincided with the fight against the Islamic fundamentalist regime in Khartoum. The same applied to Museveni's engagement in former Zaire, where he could claim that he was fighting the Interahamwe militia, the perpetrators of the Rwandan genocide.

During his March 1998 visit to Africa, US President Bill Clinton reaffirmed the close cooperation between the US and the Ugandan government. The focus was clearly on questions of common interest in regional affairs rather than the United States position on multipartyism. In a joint statement with the presidents from Ethiopia, Kenya, Tanzania,

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[112] See Washington Post, 14 October 1997, p. A14.

Rwanda, and Uganda Clinton agreed that there was "no fixed model for democratic institutions and transitions" (New Vision, 28 March 1998). In a speech at Makerere University, First Lady Hillary Clinton repeated attacks on the LRA and the Sudanese government. She told the audience that "when I met President Museveni he told me about the 10,000 children abducted by the LRA. One of the children was Charlotte who has never returned. Her mother came to see me in Washington and told me what happened that night when she was abducted. They broke the windows, tied up the girls, beat them up as they cried and took them away into a life of unspeakable horror" (The Monitor, 26 March 1998, p. 1). Mrs. Clinton promised financial support for indigenous children NGO's such as the Concerned Parent's Association (CPA).

In early 1998, the United Nations Children's Fund (UNICEF) brought the conduct of the Lord's Resistance Army in Northern Uganda to the attention of the United Nations Human Rights Commission in Geneva. UNICEF based its report on the information contained in non-governmental reports and claimed that the rebels fought "a psychotic war on children" abducting 6,000 to 8,000 children over the last five years. The UNICEF representative in Uganda, Leila Takkala, declared that about half of the abducted children had returned home while the other half is still missing. She also estimated that about eighty per cent of the LRA soldiers are abducted children. During 1997 and 1998, UNICEF representatives regularly visited Northern Uganda and cooperated with newly-established local NGOs such as the CPA. UNICEF's Executive Director, Carol Bellamy, said that the "world must take responsibility instead of taking cover" because "whatever the origins and complexities of these intricate and tragic crises [are], there is no 'just cause' for the death or torture of a child."

A number of domestic and international NGOs, such as World Vision, set up health and counseling centers for traumatized children mainly in Gulu and Kitgum district (Muhumuza 1997).[113] During that time, dozens of international TV teams, journalists and representatives from international organizations or governments passed through Gulu. The problem of child soldiers in general and the atrocities committed by the LRA in Northern Uganda continued to catch the attention of mainstream international media (Rubin 1998). On 22 April 1998, the United Nations Human Rights Commission demanded "the immediate cessation of all abduc-

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[113] Since March 1995, more than 4,800 children have participated in programs at World Vision Children of War centers in Gulu and Kiryandongo. For a critique of the recent proliferation of such centers see (Bracken, Giller, and Summerfield 1997).

tions and attacks on all civilian populations and in particular women and children, in northern Uganda by the Lord's Resistance Army" (Resolution 1998/75; 24 in favor, one against, 27 abstentions). In a letter to the parents, Secretary General Kofi Annan promised in May that the "UN will do all in its efforts to rescue the children held in Sudan."

The LRA initially reacted to the international accusations by declaring all Western NGOs active in the North as "legitimate military targets because they support the Government policy of extermination". A spokesman of the rebel group accused Western NGOs of not condemning the practice of setting up 'protected villages' which he referred to as "concentration camps" (cited in: New Vision, 13 April 1998). However, within weeks the international shaming changed the position of the LRA and the supportive Sudanese government. In mid-May the leadership in Khartoum admitted for the first time that the LRA was indeed based in Sudan. The Sudanese government also promised that it would push for the release of abducted children.

The same month, the British Secretary of International Development Clare Short used the example of the LRA to attack international human rights pressure groups for spending too much time on "carping" about illegal arrests and torture while ignoring health, education and economic issues. In an interview for Amnesty International she warned that ignoring economic and social problems would ultimately result in "losing an audience in a large chunk of the world." She specifically rejected a recent Amnesty report which "seemed to treat the LRA - which kidnaps children, and turns boys into soldiers and the girls into sex slaves - and the government of Uganda as equally bad people" (The Guardian, 15 May 1998).

The international focus on the LRA's gross violations of human rights reinforced the domestic hardline approach by the Ugandan government. While the Ugandan government maintained its offer of amnesty to individual rebel soldiers, it remained adamantly opposed to peace talks with the rebel leadership. Rather, it suggested that those leaders should be tried for their alleged crimes against humanity. During the whole period, Northern MPs repeatedly introduced motions into parliament which asked the government and rebels to immediately stop hostilities and open talks (New Vision, 4 September 1998). After watching the parliamentary debates for some time, an angry Museveni declared in mid-September that "these barbarians (rebels, HPS) are supported by some politicians here, receiving wonderful allowances from the state. But the NRM has got a very long hand, we shall one day get to the

root cause of the problem. (...) I want you (MPs, HPS) to visit the 30 mass graves in Luwero Triangle, each with 2000 skulls. There are skulls of small children and those who killed our people in cold blood are here" (cited in: New Vision, 17 September 1998).

In September 1998 the Ugandan government received additional international support for its counter-insurgency operations in the North and West. The World Bank accepted defense expenditures at ten per cent of the total public expenditure although this meant a 26 per cent increase for 1998/99 (from about $100 million to $131 million). "The [World] Bank's representative in Uganda, Mr. Randolph Harris, told the East African, that although a reduction in the defense budget would be welcome, the current security threat cannot be ignored" (East African, 7 September 1998). At the same time, the World Bank offered Uganda additional financial support from a special fund set up in 1997 to enable peace initiatives and facilitate transitions from protracted violence to peaceful conflict resolution. Only a few days earlier, the Ugandan government had officially declared the rebels as terrorist organizations.[114]

The ongoing mobilization against the LRA finally led also tensions within the group and among Ugandan dissidents in general. In September 1998 the Concerned Parents Association appealed to British Prime Minister to close the LRA's London office and expel all supporters from the country. In its response, the LRA representative in London asked the British government to refrain from closing down its offices and claimed that the group "is a liberation movement that is now observing the tenets of civilized conduct" (All Africa News Agency, 28 September 1998). In mid-October a section of the LRA declared it would no longer support its leadership's attacks on civilians and children and form its own break-away group. The International Committee of the Red Cross (ICRC) announced in late-October that more than 400,000 Ugandans had been displaced by the ongoing insurgencies in the North and West. The organization registered 1,800 Sudanese POWs which are held in 36 Ugandan prisons and detention centers. It helped 300 of those detainees to communicate with their families in Sudan. The ICRC also continued its practice of monitoring prisons and military barracks throughout the country (The Monitor, 27 October 1998).

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[114] In an earlier interview with the BBC at his Gulu headquarters, the reporter concluded that "after one hour of discussion (...) I am exhausted by the relentlessness of the president's argument" and quoted him saying: "Well, my daughter, (...) now do you agree with my attitude to the North?" (Borzello 1998).

The effects of regional insecurity on Uganda became even more prominent when Museveni ordered in early 1998 his troops to cross into Kabila's Congo. While the Ugandan government maintained that it was only pursuing ADF rebels, it soon became apparent that the Ugandan contingent also supported the rebellion against Kabila in the Eastern part of the country. Within only one year time, the former allies Museveni and Kabila were unofficially at war with each other. In mid-1998, Kabila accused Rwanda and Uganda of backing a rebellion against his government, while the two countries alleged that Kabila's troops were responsible for a genocide against the Banyamulenge, an ethnic group living in Northern Rwanda, Western Uganda and Eastern Congo. The Banyamulenge had been the main victims of the Rwandan genocide and had originally supported Kabila's rebellion. When Angola and Zimbabwe entered on the side of Kabila, the conflict was about to turn into a major regional war. From the beginning of the new rebellion sections of the Rwandan and Ugandan armies were deployed as far as 1000 kilometers into Congolese territory. High level Ugandan army officers were permanently stationed in the Eastern capital Kisangani.

The Movement System and the 2000 referendum

Despite the 1996 electoral victory and the formalization of the movement system by way of constitutional reform, 'the movement' leadership was faced with a serious crisis of legitimacy. The vacuum left by the conclusion of its reform agenda and the contradictions contained in the new constitution weakened the argumentative basis of the NRM leadership. To the rescue of the government came the international support from almost all quarters, the international financial institutions, Western governments, the general public, but also international human rights groups. For different motives, these actors lend support to Museveni, who consequently maintained his uncompromising position towards the rebels and showed also less tolerance for the civilian opposition.

The international reinforcement for Museveni's hardline stand did not solve his domestic problems. The 'movement' not only lacked a clear political agenda, it also faced a generational turn-over due to the 1996 elections. The successive enlargement of the parliament and elections had brought many new members to parliament and weakened the dominance of the 'movement historicals'. The Young Parliamentarian's Association (YPA), a new pressure group within the 'Movement', quickly developed a distinctive profile for its anti-corruption campaigns and challenged on several occasions in 1997 and 1998 the old NRM guard. In a

highly publicized case YPA was part of a motion to censure the former chief of the Internal Security Organization (ISO) and Minister of State, Brig. Jim Muhwezi, in February 1998 for alleged corruption. After heated debates, parliament voted overwhelmingly for the motion.

The YPA was also active with regard to the first Movement National Conference held in July 1998. During the five-day meeting of 1,600 delegates in Kampala, Museveni was elected unopposed as chairman and Hajji Moses Kigongo retained the vice chair of the National Executive Committee (NEC). Prominent multiparty representatives were also invited, but boycotted the conference. The Speaker of the former Constituent Assembly and the current parliament, James Wapakhabulo, was elected unopposed the Movement's National Political Commissar. Earlier the Northerner Betty Akech had withdrawn her candidacy in favor of Wapakhabulo. YPA's favorite candidate, Maj. John Kazoora, had not been nominated by Museveni. All other members of the new secretariat were also hand-picked by Museveni. He carefully balanced moderates and hardliners and included 'Movement' critics like Winnie Byanyima[115] (Director of Information) and Obiga Kania who had introduced a unsuccessful motion to remove restrictions on party activities during the CA deliberations in June 1995. However, the careful orchestration of the movement conference indicated almost complete control from above, rather than a democratization from within.

A few days after the conference, Museveni rejected allegations that the 'Movement' was slowly turning Uganda in a one-party state. "The Movement isn't a one-party system because the decision to allow parties to function fully or not is with the people, that's the big difference between the old one-party system and the movement system. (...) Some people are saying that the whole question of asking people whether or not they want parties is out of order. Their real argument is that parties are a human right, that whether the people want them or not. they should be here. (...) Why don't partyists go and convince the people to vote for parties and leave me alone" (cited in: The Monitor, 22 July 1998). On 19 August the same group of dissenters asked the recently appointed Movement directors to give up their parliamentary seats because of a possible conflict of interest. After a heated five-hour debate the group could only mobilize 39 MPs for its motion.

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[115] Museveni sacked Byanyima in February 1999 because she continued to speak up on corruption (see Charles Onyango-Obbo, "With Byanyima's Ouster, NRM Hardliners are in the rise", East African, 22-28 February 1999).

By mid-1998, the 'Movement' leadership had virtually all the international support a government could ask for, but had serious problems in translating this support into domestic legitimacy. Compared to the overall dominance of the 'Movement' this might have been negligible, but in combination with the serious rebel threats in the North and West as well as the beginning military engagement in the Democratic Republic of Congo, the pressure emanating from the approaching referendum was significant. On the one hand, Uganda displayed growing signs of a one-party state because 'inclusiveness' of the Movement was a matter of definition rather than policy and a single person on top dominated the 'Movement', the government, and the army.

On the other hand, the Movement had pushed through its constitutional reform as promised during the bush war in the early 1980s. In sharp contrast to other one-party regimes, this has led to a sustainable institutionalization of human rights safeguards, economic growth and a general improvement of living conditions in most parts of Uganda. The Uganda Human Rights Commission began its work in 1997 shortly after Margaret Sekaggya wa appointed chairperson of the UHRC in November 1996. It took another two years until it published a first human rights report. On 18 August 1998, UHRC published a 68-pages annual survey for 1997. During that year, UHRC officials visited prison and military facilities and received a total of 352 complaints mostly relating to unlawful arrests, detention and torture (The Monitor, 10 September 1998). The report detailed many cases of torture and some of the measures taken by UHRC. It criticized that the UPDF and the Internal Security Organ (ISO) still detained people, although only the police was allowed to do so. On several occasions during the year Sekaggya openly criticized the government on human rights issues (The Monitor, 25 August 1998, p. 1). However, compared to other domestic issues and the situation in the border regions, the domestic interest in the work of UHRC was relatively low.

In late 1998, Museveni and the 'Movement' system continued to dominate Ugandan politics, but its legitimacy had markedly decreased. The political reforms did not make political parties a negligible entity, as expected by many 'Movement' cadres. In contrast, the old political parties and new opposition forces gained some ground and began to remind the 'Movement' leadership of its human rights promises contained in the new constitution. Museveni himself realized that he had to tolerate some dissent because the would-be-multiparyists within the Movement represented an important asset in case the 2000 referendum decided against the

movement system. If too many defected the 'Movement' prior to the referendum. this would seriously threaten its position in the following nation-wide elections in 2001.

The rhetorically strengthened domestic opposition and increasing military threats from the outside shifted the balance towards a more hardline stand of the 'Movement' leadership. Senior government advisors and Museveni himself referred to their critics as "traitors" and accused them of conspiring with outside enemies (New Vision, 21 October 1998). Apart from the press, one of the main target of government attacks were the members of a new pressure group The Free Movement (TFM). When the former member of the Electoral Commission and Vice-Chairman of TFM, Charles Owor, declared at a seminar of his organization that the 1996 elections were rigged, Museveni called for his arrest (The Monitor, 28 October 1998). In the aftermath of the August bombings of the US embassies in Nairobi and Dar-es-Salaam Ugandan security forces arrested and mistreated dozens of suspects and charged several with treason (The Monitor, 27 October 1998). The Ugandan army maintained its presence in Eastern Congo, but failed to prevent repeated rebel attacks in Western and Northern Uganda. Considering those regional threats to Uganda's internal security, it is doubtful if the newly established human rights safeguards and the non-governmental sector are capable of checking a possible new spiral of violence.

6.2 Kenya 1992-1998: Crafting Electoral Democracy

The December 1991 decision for multipartyism relieved some of the pressure on the Kenyan government in exchange for an expansion of an increasingly autonomous media and civil society sector. The *Daily Nation* as dominant national newspaper was now less openly censored and used the new opportunities for more critical reporting. Other newspapers and weeklies followed suit. A whole set of new groups organized themselves and began to shift the domestic power balance. NGOs and action committees became the most preferred institutional form, which led to the rapid buildup of new groups and organizations working now alongside existing societal organizations such as women groups or unions. The latter were sidelined by those organizations because they were still largely under direct control of the state. A second reason for the mushrooming of NGOs and similar organizational forms was donor funding. NGOs were increasingly preferred by donor institutions which shifted their aid packages away from state agencies.

The more restraint attitude of the Kenyan government towards the civil society sector and the almost immediate usurpation of the societal space had its first major consequence when a coalition of domestic and international NGOs repulsed governmental attempts to increase executive control of the NGO sector and watered down a law regulating their registration and work (Ndegwa 1996: 31-54).

During this crucial period, NGOs did not only mushroom and network horizontally, they also increased and solidified institutionalized exchanges with the outside (Widner 1992b: 188). In June 1992 the government lifted the ban for representatives of Amnesty International to visit the country. In September, the Kenya Human Rights Commission (KHRC) emerged as the first domestic human rights watchdog essentially copying working methods of Amnesty International and other international human rights groups. It simultaneously opened offices in Nairobi and Boston/USA. Whereas KHRC was officially registered by the government, other groups such as 'Release Political Prisoners' (RPP) or the Center for Law and Research International (CLARION) were refused registration. While parts of the opposition were now busy establishing themselves in a strengthened civil society, KANU and Moi were able to recapture the control of the overall political process. Moi's decision not only meant greater freedom for many new societal forces, but also represented a move that unleashed the race for political power. As a result, the opposition coalition which had originally evolved around human rights and constitutional reform split even prior to the upcoming elections.

Parallel to the expansion of civil society, the government still used considerable force to repress dissent. Its methods were only slightly modified, most often in order to avoid immediate international condemnation. Considering the wide range of instruments originally introduced in the 1950s by the British colonial authorities (Kenya Human Rights Commission 1994: Appendix), the security organs had little difficulties to achieve the same goals with different means. These included limited freedom of assembly and speech and included the possibility for detention without trial (Preservation of Public Security Act), the requirement to obtain a license for any public meeting or fund-raising event (Public Order Act and Public Collections Act), sweeping and unchecked powers for the police as well as local representative of the provincial administration (Chief's Authority Act and Administration Police Act), and a requirement for all organizations to register with the government (Societies Act). Other means to repress opposition were laws against "seditious activities" in the Penal Code, the

requirement for governmental approval for any performance of a film or play in public (Film and Stage Plays Act), and provisions that were used to limit free movement in urban areas (Vagrancy Act). Those laws were not only extensively used by the executive during the 1992 election campaign, but continued to play an important role in repressing the opposition until mid-1997 (Ndegwa 1998: 197-201).

After 1991, court cases of prominent opposition figures were moved far away from Nairobi in order to avoid domestic and international media attention. Prominent critics such as Koigi wa Wamwere were no longer detained without trial or charged with political offences, but evidence for capital crimes was simply fabricated by the police. Opposition figures could now 'legally' be kept away from the public as long as the government deemed it necessary (African Rights 1996: 131; Amnesty International 1995a; Article 19 1995). While the political opposition was busy positioning itself for the upcoming elections, the government and KANU also continued its manipulation of the electoral playing field. Locally, the provincial administration regularly banned opposition meetings and harassed opposition politicians.

KANU representatives seconded these efforts and mobilized mainly unemployed youths under the banner of 'majimbo' to attack suspected opposition voters (Amisi 1997; Haugerud 1995: 38). An organization called 'Youth for KANU'92' was created by KANU leaders and became infamous for its attacks on opposition politicians and rallies (Lafargue 1996: 228-234). The 'ethnic violence' which had started after the first majimbo rallies organized by KANU politicians in September 1991 (see chapter 5), continued throughout 1992 (Throup 1993: 391). They spread from the Western part of Kenya (Nyanza and Western Province) to the Rift Valley and mainly affected districts were Kalenjin as well as Maasai lived close to Kikuyu and Luo (e.g. Nakuru, Kisumu, Trans-Nzoia, Kisii). For months, the government failed to take any decisive measures to end the violence, thus, reaffirming its indirect involvement in the clashes.

When hundreds of people had been killed and thousands displaced, parliament voted on 13 May to appoint a select committee charged with the investigation of the clashes. In September, the committee ended its work investigations and concluded "that the ethnic clashes invariably pitted the Kalenjin and Maasai in the Rift Valley Province against virtually all other ethnic groups residing in Western Kenya. (...) The evidence further received indicates that the target or victims at whom the clashes were directed were the ethnic groups of Kikuyu,

Luo, Abaluhyia, Abagusii, Teso, who were not *only suspected and presumed to be supporters of the multi-party crusade, but to whom also the main proponents of multi-partyism belong* (Republic of Kenya 1992: 68, emphasis HPS). The so-called Kiliku report also named high-level KANU representatives like Nicholas Biwott as responsible for the violence (Lafargue 1996: 248). In October, the KANU majority in parliament voted against an official recognition of the findings and the report was shelved. The government maintained that 'only' 365 people were killed and about 7,000 displaced during the violence. The Kiliku report put the numbers at 779 and 54,000 respectively. Church representatives and international human rights NGOs claimed that between one and 2,000 were killed and 100,000 to 150,000 displaced (Africa Watch/Human Rights Watch 1993).

The violent attacks on the opposition distracted attention away from other measures taken by the government to secure KANU's electoral victory. While the period for voter registration had been more than five months at the last elections in 1988, the government now shortened the period to one month. This measure was intended to give KANU an advantage early on in the campaign. After sharp opposition protests, the period was extended by ten days only. As a result of the restricted registration, areas controlled by KANU averaged higher levels of registration than opposition areas. Moreover, wherever KANU candidates were threatened by defeat, trucks brought in KANU supporters from other areas for registration (Throup 1993: 392). Constituencies in support of KANU were on average smaller than in the opposition areas (Fox 1996). Prior to the 1992 elections KANU further increased the number of constituencies in its stronghold areas, while others were left unchanged even when population increases would have required changes (Ndegwa 1998: 208). On election day, the opposition parties had to gain an average of three to four times more votes than KANU for each parliamentary seat (see below). The gerrymandering of constituencies reaffirmed that majimbo was hardly a new idea in Kenyan politics, but already guided official government policy.

Moi also appointed all members of the Electoral Commission and used these powers to keep the body under his control. The chairman and former judge Zacheaus Chesoni had been twice forced to declare bankruptcy and quit judicial positions before Moi appointed him to his new

position.[116] He was a typical representative of the neopatrimonial system who owed his political and economic survival solely to the president. In July 1992, KANU completed its efforts to secure its victory prior to election date. A majority in parliament voted for constitutional amendments which made it virtually impossible for the opposition to remove KANU or Moi from power. These amendments required the winner to attain a minimum of 25 per cent of the vote in five out of the eight Kenyan provinces. Furthermore, the elected President was only allowed to appoint ministers from his own party. Finally, the maximum tenure for a president was limited to two terms in office. The first measure emphasized the representative character of the presidency, but turned this important idea immediately into an advantage for Moi. Due to a lack of neopatrimonial resources, none of the other major candidates were likely to become 'truly' national leaders within the next few months. The second measure was even more openly directed against an opposition success, because it outlawed a coalition government. The third amendment was the only unambiguous democratizing measure in the package. However, it was of little relevance to Moi because he was already over 70 years old. Hence, the amendments reflected an exchange of short term gains for a potential long-term loss, which could always be taken back.[117]

Although the opposition continued to sharply protest 'ethnic violence' and the bundles of measures taken in favor of KANU, it failed to develop a united position to avert the electoral defeat. The donor community repeated its general calls for a level playing field and a peaceful campaign, but shied away from publicly commenting on any of those specific issues. Until mid-May 1992, the Luhya Martin Shikuku, the Kikuyu Kenneth Matiba, and the Luo Oginga Odinga, had officially declared their intention to run as FORD candidates for presidency. The former Vice-President and Kikuyu Mwai Kibaki had already announced in January the formation of the Democratic Party (DP). In the next few weeks, intense internal wrangles within FORD almost paralyzed its work, because none of the three was willing to step down. Eventually, FORD split into two factions, one led by Martin Shikuku and Kenneth Matiba, and the other by Oginga Odinga. Each side made several unsuccessful attempts to remove the leadership of the other group from their respective positions within FORD.

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[116] In 1997, Moi promoted Chesoni to the position of Chief Justice.

[117] In late 1998 and early 1999, Moi's die-hard supporters Sharrif Nassir, Nicolas Biwott and Henry Kosgey called for an extension of Moi's presidency "until God decides his destiny" (Daily Nation, 8 March 1999).

In October, the Attorney General threatened that FORD would not by allowed to run in the elections because of those internal divisions. Shortly thereafter, FORD broke apart and Oginga Odinga announced the formation of FORD-Kenya. Martin Shikuku and Kenneth Matiba formed FORD-Asili. The fragile coalition between Luhya, Luo and Kikuyu had disintegrated even before election date. While Matiba took parts of the Kikuyu community to FORD-Asili and faced Kibaki's DP as the main inter-ethnic competitor, the human rights activist Paul Muite and the publisher Gitobu Imanyara decided against their ethnic descent and joined FORD-Kenya. Secret attempts by Hempstone, Mützelburg and other donor representatives to unite the opposition behind one candidate ultimately failed (Hempstone 1997: 304). Within moths after the reintroduction of multipartyism, the spectrum of new parties developed along ethnic lines. In December eight parties and candidates contested the elections. Apart from KANU and Moi, they included Ford-Kenya (Odinga), Ford-Asili (Matiba), the Democratic Party (Kibaki), the Kenya National Congress (Chibule wa Tsuma), the Kenya Social Congress (George Anyona), the Kenyan National Democratic Alliance (Mukaru Ng'ang'a), and the Party of Independent Candidates for Kenya (John Harun).

Multi-Party-Elections in December 1992

Moi and KANU won the multi-party elections, even though opposition forces accounted for about two thirds of the votes both in the presidential and parliamentary race. Due to the gerrymandering of constituencies, KANU won a majority of 95 seats in the new parliament (53 per cent) with an average of 14,138 votes. FORD-Kenya ended up with only 31 seats, but averaged 32,152 votes, while FORD-Asili gained 29 seats with an average of 38,220 votes. DP was allotted 23 seats, but the average of 43,779 indicated that its total number of votes was almost as high as KANUs (Ndegwa 1998: 207).[118] A large contingent of foreign observers were present during election day and subsequent counting procedures. The authoritative Commonwealth Observer Group gave the exercise not an "unqualified rating as free and fair" but declared the elections as ultimately an "expression of the will of the people" (Commonwealth Observer Group 1993: 40).

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[118] In the Kisumu constituency (Nyanza Province) more than 140,000 voters decided on one seat, while only 8,000 were registered in Lamu East (Coast Province) or 10,000 in Ijara (North Eastern Province). While virtually all the larger constituencies were in the opposition area, KANU dominated smaller constituencies in the North East and the Coast Region.

The opposition's initial refusal to accept the election results lasted only for a couple of weeks. Western governments pressed the opposition to acknowledge their defeat (Mair 1994: 122), because they feared rising violence if the opposition would use the issue to mobilize to the streets. A full acknowledgment of the manipulations and a subsequent negative attitude towards the elections might have caused a serious domestic crisis. The financial sponsors of the election exercise had no interest in taking responsibility for such a scenario. Instead, the disintegration of the opposition continued and resulted in the creation of even more mono-ethnical parties and a strengthening of KANU. The Luhya-Kikuyu alliance of FORD-Asili broke apart shortly after the elections and seven FORD-Asili MPs defected to KANU. In 1993, a total of 14 opposition MPs (re)joined KANU and were materially rewarded for their decisions (Tostensen, Andreassen, and Tronvoll 1998: 19).

In early 1993 Oginga Odinga and the Luo establishment within FORD-Kenya made overtures towards KANU and began to explore a possible cooperation between both parties. The party's younger and more radical members were united against these efforts. This group of so-called "young turks" included the Luo James Orengo, Raila Odinga and the Kikuyu Paul Muite as well as Gitobu Imanyara. In September, Imanyara left the party and Muite resigned from his party offices. After the death of Oginga Odinga in early 1994, FORD-Kenya Vice-Chairman and Luhya Michael Kijana Wamalwa was elected as Odinga's successor. As a result, Muite and the remaining young turks left the party to lobby for constitutional reforms from an independent position. Raila Odinga also quit FORD-Kenya, revived the National Democratic Party (NDP) as an exclusively Luo-based affair and became presidential candidate for 1997. At the same time, KANU rejected any offers for cooperation and preferred to buy the support whenever necessary.

In 1993, an observer of Kenyan politics would have to conclude that the results of the mobilization against Moi's authoritarian regime were dismal. Even the suspension of financial aid to Kenya did not decisively change the domestic balance. To the contrary, Moi and KANU emerged strengthened from the multiparty elections which had been forced on them. The isolation and confrontation led to a 'rally around the flag' effect, rather than a disintegration of the ruling party in hard- and softliners. The KANU leadership rejected the demands for democratization with even greater confidence in 1993 than in 1989. At the same time, all hopes that the political opposition would unite its forces to remove Moi were in vain. Instead,

the new parties were in constant disarray and split along ethnic lines. Still, below the surface of electoral defeat and unchanged governmental rhetoric the process of strengthening civil society actors represented a crucial development with long-term effects on the Kenyan political system.

The Growth and Transformation of Kenyan Civil Society

Until 1995/1996, the sceptics' warnings of continued governmental repression and opposition failure were largely vindicated. However, the crucial difference to the pre-1992 period was represented by the rise of a strengthened civil society, which mobilized domestic and international resistance against the regime. The mushrooming of political NGOs during the 1991/92 period supplemented the activities of the churches and individual human rights activists in pressing for political reforms. While virtually all registered NGOs in the 1980s were active in traditional development sectors, this picture entirely changed in the early 1990s. Despite efforts by the government to control the sector by legislation the number of registered foreign and domestic NGOs sprung up from about 300 in the 1980s to more than 1,000 in the mid-1990s.

This increase was paralleled by a profound change of the internal composition of the NGO sector and the politicization of formerly rather apolitical organizations. "A majority tended not only to address community development and institution building, but also human rights issues with civic education constituting the core of their activities" (Tostensen, Andreassen, and Tronvoll 1998: 33). A wide range of new organizations emerged and joined existing and now politically more active organizations such as Kituo Cha Sheria.[119] The new groups carried such fancy names as Center for Governance and Development (CDG), the Institute for Education in Democracy (IED), the Civic Resource and Information Center (CRIC), the Research and Civic Awareness Program (RECAP), the Citizen's Coalition for Constitutional Change (4Cs), or the Center for Law and Research International (CLARION). This transformation and strengthening of a particular section within civil society was almost totally dependent on outside material support.

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[119] Kituo Cha Sheria (Swahili: Legal Advice Center) was formed by European and Asian lawyers in 1973. When African lawyers slowly took over the organization its character and activities became more political. In 1988 it began to receive financial support from foreign donors (Ford Foundation), in 1991/92, contributions came from the British High Commission, the Swedish NGO Fund, and the German church organization Misereor.

When the parliamentary opposition was paralyzed by internal wrangles and continued disintegration, the thriving NGO sector became in the mid-1990s the major source for a new challenge to KANU dominance. The newly formed action coalitions reunited the human rights activists which had been the main challengers of Moi's regime in the 1980s and still enjoyed a maximum of contacts with international human rights groups. The human rights lawyer Kivutha Kibwana was behind CLARION, Willy Mutunga, a founding member of KHRC formed the 4Cs. Other long time human rights activists such as Paul Muite who had joined party politics prior to the 1992 election, now returned to the NGO sector to lobby for constitutional reforms. Efforts by the government to contain the (re-)formation of the opposition had little success. While the executive picked CLARION to state an example and refused registration, others were registered or simply turned themselves into 'projects' of already registered NGOs. The Attorney General Amos Wako warned in a letter that Kituo Cha Sheria transgressed its mandate, but did not follow up on the issue. Following the strategic usurpation of a significant section of civil society in 1991/92, the leadership of those groups now moved (back) 'towards politics' and began to directly challenge Moi and KANU in the political arena.

The civil society challenge as well as the ongoing international mobilization paralleled continued governmental efforts to repress dissent and delay political reforms. In the inter-election period, Koigi wa Wamwere became again the symbol for continued mobilization (see chapter 5). He was not only still well connected in Norway, but also in the United States where he had studied in the early 1980s at Cornell University. Several NGOs, including the Kenya Human Rights Initiative (KHRI), based at Cornell University's Center for Religion, Ethics, and Social Policy, constantly lobbied the US administration, Congress, and the embassy in Nairobi.[120] The organization's home page "Free Koigi" was prominently featured in many US newspapers and magazines (Saulnier 1997: 30). For the first time, Kenya became now subject to a confidential 1503 investigation by the UN Human Rights Commission. Information by human rights NGOs and a defense by the government were presented at its 49th session in early 1993. After a brief discussion, the members of the commission were satisfied with the government's response and the investigation was discontinued without

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[120] At the height of its activities, KHRI had a mailing of about 1,000 names, including prominent figures such as Hillary Rodham Clinton (Saulnier 1997: 30).

further action. When Koigi wa Wamwere was finally released on 19 January 1993 this decision was aimed at alleviating the international pressure on the Kenyan government.

In contrast to domestic and international human rights groups, the donor community returned in late-1993 to business as usual. The World Bank and the IMF were the first to end the aid freeze, while other donor governments later followed. Only the US government continued its ban of aid to government agencies and supported civil society actors only. While the World Bank and the IMF, supported by Italy, France, Great Britain and Japan, stuck to a relatively narrow understanding of 'good governance', Scandinavian countries, Germany and the United States preferred stricter criteria (Prunier 1997). World Bank and IMF were satisfied with promised anti-corruption measures and the overall political stability in the country. Others remained more pessimistic and highlighted continued corruption, the manipulation of the election process and ongoing human rights abuses. In November 1993 the community pledged a total of $ 850 Million US-Dollar (Human Rights Watch 1995: 24).

The donor decision was sharply criticized by domestic human rights advocates, whose efforts now concentrated on building even closer ties with the transnational human rights community. Kenya Human Rights Commission (KHRC) began in early 1994 to publish *Quarterly Repression Reports* which monitored the human rights situation in Kenya four times a year. The whole setup of the reports had striking similarity to work done by Amnesty International or Human Rights Watch. They invariably invoked international human rights law at the beginning and close with recommendations to the Kenyan government and the international community. KHRC was funded by outside donors including the Ford Foundation,[121] the Swedish NGO Foundation for Human Rights, and the National Endowment for Democracy. The information gathered by KHRC were later reproduced in Amnesty reports and the annual US State Department report on the human rights situation in Kenya.

The Inter-Election Period

Despite the strengthening of civil society organizations in the human rights area, direct repression of dissent only slowly decreased. In early 1995 the offices of Kituo Cha Sheria were a six

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[121] From 1993 to 1997 financial support by the Ford Foundation for KHRC grew from $50,000 to $200,000 annually. The other major recipient in Kenya was the International Commission of Jurists (Kenya Section), which got a grant totaling $ 250,000 in 1997. An organization such as Human Rights Watch received between one and two Million US-Dollar from the Ford Foundation during that time period.

time target of fire-bombings. The organization had to find new offices to rent. Two members of human rights organizations, including a member of KHRC and the Secretary-General of RPP, were killed under mysterious circumstances in 1995 and 1996. In early 1995, the offices of opposition papers systematically raided by the police and unknown attackers. In late April, police officers broke into the offices of Colourprint, the printer of many opposition papers. The officers damaged the presses. The owner, Anil Vidyathi, was charged with sedition and appeared no less than 32 times in court in 1995. Similar attacks had occurred in the inter-electoral period on Fotoform, another printer of opposition papers.

The repression was accompanied by an unchanged human rights rhetoric of the president and continued refusal to accept substantive political reforms. On 24 April 1995, Daniel arap Moi addressed the issue of human rights in a statement disseminated by the state-run Kenya Broadcasting Corporation. "His Excellency President Daniel arap Moi today criticized human rights organizations for employing double standards when dealing with human rights issues in Kenya. President Moi observed that human rights organizations have made a habit of attacking the Kenyan government on human rights violations when the situation in a number of countries of the region was pathetic. The president wondered why Kenya should be criticized by such organizations when wanton killing of innocent people is taking place unabated in countries such as Rwanda and Liberia" (FBIS-AFR-95-080, 26 April 1995).

Returning from the 31st ordinary session of the Organization of African Unity Heads of State in June 1995, Moi defended Kenya's human rights record upon arrival at Jomo Kenyatta Airport. "His Excellency President Daniel arap Moi today defended the country's human rights record, saying that there was no Kenyan refugee who had fled the country to seek refuge elsewhere. President Moi noted that some powerful Western countries were accusing Kenya of flouting human rights, because the government had refused to dictated upon" (FBIS-AFR-95-126, 30 June 1995, p. 5). Moi was reacting to substantial diplomatic irritation which had emerged after the government-sponsored newspaper *Kenya Times* had accused opposition member and former Director of the Kenyan Wildlife Service Richard Leakey of coordinating efforts by British and American businessman as well as the Ku-Klux-Klan to "re-colonize" Kenya.

Only eight months after Koigi wa Wamwere had been released in early 1993, he and five of his friends were arrested on 22 September 1993 in Nakuru. After an alleged attack on a police

station, the Attorney General charged the group with murder. The trial against Koigi wa Wamwere and his friends commenced in early 1995 and became a major focus of international attention during that year. On 20 May 1995 two Norwegian journalists were detained and charged with going to police stations without authorization, photographing police stations, and resisting arrest. After 13 hours they were released on bail and left the country. In July, the Kenyan government censored a BBC report which reported a violent attack on Richard Leakey and a BBC reporter in front of the court house in Nakuru. In the aftermath, President Moi called the British Minister for Overseas Development Administration, Baroness Lynda Chalker, a "village headmistress" after she had declared that new aid commitments would depend on progress in the area of good governance. In an official statement, Moi called Chalker's behavior "impolite and contemptuous" because she made the statement before talking to Moi about future British aid. Kenya's Information Minister Johnstone Makau[122] declared that the government would not renew the contract with BBC unless the tone of BBC reports on Kenya changed.

The continued clashes with international media and donor governments threatened to put the Kenyan executive back into a precarious position prior to the annual Paris donor meeting on 24 July 1995. Although an aid freeze was highly unlikely, the Kenyan government resorted to another tactical concession. Two days ahead of the meeting Moi announced the creation of a domestic Human Rights Committee (FBIS-AFR-95-143, p. 4). The donor community raised the usual issues of good governance, but did not press the government further on these issues. A few days later, Moi appointed KANU MP Moses Wetangula as head of the newly created human rights body. However, in early August, Wetangula declared that there was no national human rights body, but only a committee within KANU which would focus henceforth on human rights issues. Wetangula said that no one had been appointed apart from him. The *Daily Nation* claimed that Moi's announcement was only meant to pacify the donor community and was later buried or shot down by KANU hardliners (Daily Nation, 10 August 1995).

Whereas the donors failed to follow up on the agenda they had been purportedly pushing in the early 1990s, transnational human rights groups increased their activities in order to solidify the growing domestic human rights network. Following a new report on widespread

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[122] Makau defected in early 1991 from KANU and formed the Social Democratic Party. Weeks before the 1992 elections he returned to KANU and was rewarded with a Cabinet post.

torture in Kenya (Amnesty International 1995b) published in December 1995, two Amnesty delegations visited the country in 1996. In March, the Kenyan government presented a detailed response to the allegations and repeated that the use of torture was illegal in Kenya. For the first time, the government admitted problems in this particular area. "These cases of torture are not unique to Kenya and should therefore be seen in proper context. (...) In Kenya such incidents are treated as criminal offences and (...) if established, the culprits, be they security officers or the ordinary public, are dealt with in accordance with the law" (cited in: Daily Nation, 10 January 1997). In his reaction to the report, the Attorney General Amos Wako, called the organization "unethical" and the report an "ambush" because Amnesty failed "to give a draft copy of the report to the government."

In April 1996, the Government responded for the first time to KHRC's *Quarterly Repression Reports* and a 210-page memorandum "Death Sentence: Prison Conditions in Kenya" also published by KHRC (Republic of Kenya 1996). In contrast to its prior responses to international human rights criticism, the unsigned copy was simply dropped off by a vehicle from the Office of the Vice-President at a hotel where members of the opposition held a meeting (Economic Review, 13 May 1996). The first sentence admitted that "Kenya, like all countries in the world, does not possess a perfect human rights record." The main defending line taking in the report indicated growing concern about the human rights image of the country abroad, but little appreciation for the emergence of domestic human rights monitors. The authors emphasized that Kenya's human rights record should be viewed as comparatively positive considering the economic constraints and the situation in neighboring countries. The authors also claimed that Kenya faced a number of more important problems including threats national unity by tribal clashes.

In their defense of the government's human rights record, the authors also questioned the motives of KHRC and attacked their working methods. "Unlike other human rights reports, which detail in what respect the State has failed to discharge its responsibilities under international human rights instruments, the KHRC Report does not approach the subject as a specialized legal subject requiring the creation of a nexus between the incidence and State culpability! It is embarrassing to the sponsors (Western donors, HPS) of the project and it is hoped that they will analyze the professionalism of the KHRC" (Republic of Kenya 1996: 2). KHRC's work was dismissed as an "unprofessional and mediocre propagandist catalogue of

criminal incidents" to "justify to sponsors that something has been done with the donor funds."

The same year, the UN Special Rapporteur on Torture, Nigel S. Rodley (E/CN.4/1996/35: 23)[123] cited the Government of Kenya as having categorically denied that torture was systematically used by police because this would be in contradiction to the constitution of the country. In two out of six individual cases transmitted to the Government of Kenya replies were received, whereas the rest and a number of cases which had been presented in 1994 remained without response. Communications from the Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions in 1995 have also not been answered by the Kenyan government (E/CN.4/1996/4: 69).

Whereas the government became more responsive to international human rights criticism, it showed still little tolerance for similar domestic activities. Rude attacks on members of Amnesty International, common during the 1980s, were now absent from the government's rhetorical repertoire. With the emergence of KHRC and other domestic NGOs in the 1990s, some of these attacks were now directed at these groups. However, the human rights criticism only partly explains the shift of target. Behind the principled human rights advocacy of KHRC and other NGOs, the Kenyan government always suspected a Kikuyu conspiracy. The 1996 response to KHRC's work also alleged that Maina Kiai, the Executive Director of the organization had turned KHRC into a "heckling family-incoming-generating venture" (Republic of Kenya 1996: 6)

In the midst of sharp domestic confrontations and unchanged rhetoric, the government continued its policy of combining concessions with continued refusal of substantive reforms. The political opposition remained divided throughout the whole inter-election period, so that the civil society sector represented the main domestic force for sustainable regime change. In mid-1996 Moi appointed ten individuals mainly from the private sector to form a *Standing Committee on Human Rights*, which reported directly to the President. To date, the commission's status is not entirely clear and none of their investigations were made public. However,

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[123] The Working Group on Enforced or Involuntary Disappearances was established in 1980 as the first of its kind. In 1982 and 1985 respectively, the post of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Special Rapporteur on Torture were established (Cook 1993; see also International Commission of Jurists 1991).

the Standing Committee began to copy the KHRC practice of compiling so-called quarterly reports on the domestic human rights situation.

On the occasion of the 48th anniversary of the Universal Declaration of Human Rights on 10 December 1996, Attorney General Amos Wako announced during a luncheon that the government would "implement all the recommendations you [the Standing Committee, HPS] made in your first quarterly report which you handed to the president." The invited Executive Director of KHRC, Maina Kiai, interrupted Wako and demanded open access to the Standing Committee's work. Wako responded with a promise that Kenya would soon begin submitting periodic reports on the human rights situation in the country to international organizations. The chairman of the committee, Prof. Onesmus Mutungi, replied to Kiai, that "one of the greatest democratic rights is the right to be wrong. Just go and lodge your complaints officially and we shall investigate" (Daily Nation, 11 December 1996).

The international and domestic non-governmental human rights community upheld its pressure on the Kenyan government. On 12 December, the Daily Nation carried a Special report on the release of "Kenya: Shadow Justice", a 300-page human rights report published by the London-based NGO African Rights (African Rights 1996).[124] The report detailed how the Kenyan executive continued to abuse the judiciary and human rights after the 1992 elections. On 16 December, the Kenyan chapter of the International Commission of Jurists followed suit and published its annual report titled "State of the Rule of Law". It accused the government of continued human rights violations and lack of respect for established human rights safeguards. According to the report, 69 torture victims were treated in a six-months period in 1995, while unreported cases are likely to be much higher (International Commission of Jurists (Kenya Chapter) 1996). The same accusations on continued torture were echoed by a 26-page Amnesty report published on 8 January 1997. This report followed up on a December 1995 report and the response by the Kenyan government in March 1996. The *Daily Nation* reprinted these reports in full length.

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[124] African Rights was formed by Rakiya Omaar and Alex de Waal, today two of the most outspoken critics of the transnational human rights movement. The report was written by Lucy Hannan. Omaar and Hannan had been previously working for Africa Watch/Human Rights Watch and were responsible for *Kenya: Taking Liberties* in 1991. Omaar had left Africa Watch following internal disagreements about the response of the established human rights NGOs to the genocide in Rwanda in 1994.

The failure of the opposition parties to decisively challenge the KANU government represented the background for a renewed domestic and international mobilization for political reforms in the mid-1990s. Initially, individual members of the opposition had taken advantage of a 'window of opportunity' in 1991/92 to set up a whole array of non-governmental organizations. When those groups had consolidated their domestic position mainly with the help of outside financial resources, they began to form new coalitions and action committees for constitutional reforms. International human rights groups supported these efforts by keeping up the pressure on the Kenyan government. The parliamentary opposition as main challenger of KANU was increasingly replaced by those newly established extra-parliamentary forces within civil society. In late-1996 and early 1997 the upcoming second multiparty elections became a catalyst for further mobilization and a more united position of the opposition.

The Mobilization for Constitutional Reforms

The first major success of the renewed international and domestic mobilization was the release of Koigi wạ Wamwere on bail and medical grounds on 13 December 1996. It followed on 20 December the sudden replacement of Shedrach Kiruki as Police Commissioner. He was dismissed by Moi because of persistent human rights violations by the police force. The newly appointed Duncan Wachira pledged to fight corruption and misuse of powers within the police force. In February 1997, the Kenyan government acceded to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It also made financial contributions to the UN Voluntary Fund for Victims of Torture. However, the government and KANU still rejected the idea of substantive political reforms prior to the elections. The domestic opposition now used its newly acquired organizational capacities to challenge this position.

In January 1997 the wave of mobilization gathered momentum when the government attempted to repeat some of the 1991/92 manipulations of the electoral process. The President's Office announced the issuance of new ID cards. The measure aimed at securing a KNAU victory based on the unfair distribution of ID cards in opposition and KANU areas. Immediately, the National Council of Churches of Kenya (NCCK) protested the decision with advertisements in the national press. The NCCK also demanded minimum constitutional reforms prior to the elections, including the reform of the Electoral Commission, equal access

to financial resources for all parties, and the protection of all candidates by state security forces. One day before the application deadline for new IDs was supposed to end, Moi extended the period for another month.

After the Nairobi Law Monthly had published proposals for a model constitution by KHRC, the International Commission of Jurists and the Law Society of Kenya (No. 51, p. 8-32) in early 1995, the opposition and international human rights groups now began to systematically mobilize for these reforms prior to election day. In the intensified struggle for political reforms the newly established non-governmental organizations and 'action coalitions' initially eclipsed the opposition parties and led the new challenge of KANU's dominant role in domestic politics. As the presentation of model constitutions indicated, the demands of these groups went well beyond the ideas of the parliamentary opposition. The later were mainly interested in an election environment which would secure a change of guards in their favor, preferably without even limiting the powers of the President and the opportunities entailed in a functioning neopatrimonial system. Only to the extent that constitutional reforms were perceived as increasing their chances to be part of the next government, these politicians were in favor of such a process.

A similar coincidence of principled and self-interested motives pervaded the activities of the civil society groups. This overlap expressed itself on both sides of the political divide during the public exchange of arguments for majoritarian multipartyism and majimbo. This debate did not merely pit an authoritarian regime against the "forces of democracy", but highlighted also exclusionary self-interests disguised as different visions of democracy. Majimbo would ensure that the minority groups remained in control of their home areas and retained at least a veto position in national politics. Not the individual but the ethnic group was claimed to be the basis of democracy. This position was defended by politicians within the ruling coalition.

In contrast, the civil society groups and churches referred to ethnic groups only in the context of violence and non-democratic conduct. Instead, the suggested reforms and the new constitution was expected to "facilitate the expression of the will of *All* by merely aiming at facilitating the exercise of sovereignty by all governed" (cited in Ndegwa 1998: 611). Consequently, the NCCK and others called for a referendum as main mechanism of constitutional reform and the application of majority rules to arrive at important national decisions. In this vision, protection against possible state intrusion was extended to individuals but not to ethnic

groups. While this does reflect liberal values and principled advocacy also promoted on the international level, the position was also likely to give an advantage to the larger ethnic groups which, incidentally, dominated the organizations lobbying for constitutional reforms.

The upcoming elections did not only mobilize the vibrant extra-parliamentary realm. Both, KANU and the opposition parties also continued to regroup. On 1 January 1997, the opposition split further when Raila Odinga and many of his followers left FORD-Kenya and revived the dormant National Democratic Party (NDP).[125] NDP was now a party representing the Luo community in Nyanza, while FORD-Kenya under the leadership of the Luhya Michael Wamalwa was reduced to a regional force in the Western Province. Moi's preparations for the General Elections included the return of the infamous Nicholas Biwott to the center of national politics. On 15 January, he was appointed Minister in the Office of the President (Daily Nation and Financial Times, 16 January 1997, p. 1 and p. 4; see also chapter 5). The Financial Times commented that "Kenya's chances of persuading donors it is tackling official corruption took a battering yesterday when a former minister associated with some of the country's worst scandals was re-appointed to Moi's cabinet" (Financial Times, 16 January 1997, p. 4).

The National Convention for Constitutional Reform

In spring 1997, efforts to unite the opposition on the issue of constitutional reforms prior to the elections finally bore fruit. From 3-6 April, a coalition of thirteen opposition parties, churches and NGOs held the first National Convention for Constitutional Reform in Limuru (Daily Nation, 7 April 1997). The organizations formed the National Convention Assembly (NCA) and the National Convention Executive Committee (NCEC), which was responsible for the daily operations (Ndegwa 1998: 196).[126] The meeting reiterated long-standing reform demands, but added now the threat of mass action if the government would not change its position on political reforms. (Tostensen, Andreassen, and Tronvoll 1998: 34). The date for the first street demonstration was set for the 31 May, the day before an Amnesty International

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[125] Oginga Odinga had created the National Democratic Party in October 1990, but later abandoned it again and joined other opposition members to form the umbrella organization FORD and later FORD-Kenya.
[126] NCA and NCEC originated in a loose cooperation among the opposition parties in late 1995. The Inter-Parties Group (IPG) invited in April 1996 the 4Cs to participate in their deliberations. In early 1997 more NGOs were asked to join the renamed National Convention Planning Committee (NCPC) and in Limuru the cooperation between parties and the civil society was finally institutionalized in the NCA.

delegation led by the organization's General Secretary Pierre Sane was expected to arrive in Nairobi. In the following months, the NCEC became an established domestic political actor and the main force behind the demands for constitutional reforms. In turn, the leaders of KHRC, the 4Cs and the other political NGOs were the main driving force behind the NCEC. These included activists like Gibson Kamau Kuria, Kivuta Kibwana, Paul Muite, and Willy Mutunga.

On 8-9 May twenty Kenyan and international human rights groups held a two day meeting in Nairobi. Participating organizations included KHRC, the 4Cs, the ICJ (Kenyan Chapter), the churches, and the British organization Article 19. The meeting resolved that existing Kenyan laws could not secure a level playing field for the elections. The demands echoed the NCEC agenda and included a more independent Electoral Commission, the abolition of licenses for public rallies, and the opening of the electronic media to the opposition. Amnesty International launched in early May a "Human Rights Manifesto for Kenya" which had been developed in cooperation with 17 domestic human rights NGOs. The manifesto reiterated the specific demands for constitutional reform and the strengthening of press and judiciary. The donor government also followed up on these issues and presented their expectations concerning the upcoming General Elections. The list included, *inter alia*, a fair resolution of the ID card-issue, registration of all eligible parties, equal access to print and electronic media, and transparent counting procedures on election day. Leaders of the Catholic and Protestant churches added on 22 May an ultimatum to their demands for minimal reforms.

Moi immediately rejected the attempts to press him into political change as "dictatorship" and warned the opposition of "causing chaos to attract coverage by the BBC and other international media as a way of winning sympathy" (Daily Nation, 24 May 1997). However, his attitude changed when the visit of the Amnesty International delegation approached and the NCEC's call for demonstrations brought thousands of protesters to the streets. On 1 June, Moi offered to replace the Public Order Act with a Peaceful Assembly Bill, but continued to dismiss all demands for minimal reforms prior to the elections. On the second day of its visit, Amnesty representatives welcomed Moi's willingness to repeal the Public Order Act, but pointed to the reality of human rights conditions and a whole range of repressive laws not mentioned by Moi. The same day, the International Bar Association published in London a critical report on the state of the Kenyan judiciary (International Bar Association 1997).

Within the next two weeks, Human Rights Watch released two additional human rights report on Kenya (Human Rights Watch/Africa 1997a; Human Rights Watch/Africa 1997b).

During its visit, the Amnesty delegation held extensive talks with high-level Kenyan government officials. A request to meet with President Moi was rejected. Instead, Vice-President Saitoti, the Attorney General Amos Wako, the Commissioners for Prisons and Police, and the Ministers for Health and Education attended the meetings. Saitoti clarified that his government was willing to openly discuss shortcomings, but would reject all recommendations "couched in peremptory and prescriptive terms which are usually employed in master-servant relationships. The government hopes that Amnesty International will in future be sensitive to our national sovereignty." Saitoti requested Amnesty to inform Kenyan government officials prior to the release of new reports. He also defended the government's refusal to go ahead with constitutional reforms. "It is a time constraint, rather than unwillingness to embark on the constitutional review." Saitoti pointed out that all laws criticized by Amnesty were already under review and promised that the Amnesty memorandum would be given to the Standing Committee for Human Rights for further consideration (Daily Nation, 6 June 1997).

On 19 June, opposition parliamentarians disrupted the annual budget speech of Finance Minister Musalia Mudavadi by chanting "Moi must go" and waving placards in favor of political reforms. Opposition and KANU MPs began to punch each other in front of a patiently watching Daniel arap Moi and many Western diplomats. The next day, Moi blamed "foreign-funded NGOs" for the chaos in parliament and threatened to de-register them. "There are some NGOs such as the ones that have been engaged in feeding famine victims, but there are others which have gone against their mandate and are seeking to influence political developments in this country. (...) They were not allowed here to play politics, because that is how Africa has become the experimental ground for everything" (Daily Nation, 21 June 1997). In another speech on the same day Moi suddenly indicated a change of mind on the political reform question and announced that he would meet the newly installed Catholic Archbishop Ndingi Mwana'a Nzeki to discuss the issue. "I hope that after the meeting he will be able to understand my position. (...) I am not an obstacle to peaceful discussions relating to the future of Kenya." However, Moi refused to talk to the NCEC, because it was not an elected body but just a "congregation of self-styled leaders".

The international and grassroots support for the opposition encouraged the NCEC to announce another street demonstration for 7 July, again a highly symbolic day in remembrance of the *Saba Saba* violence in 1991 (see chapter 5). Hardline government officials such as KANU Secretary General Joseph Kamotho declared that no such rallies would be tolerated. When the demonstrators began to chant "Moi must go" and "Moi-butu", the riot police used force to disperse the crowds and left twelve people dead (Daily Nation, 8 July 1997). Several dozen persons were injured when the police stormed Nairobi's All Saints Cathedral during a service, threw tear gas canisters, and beat up many parishioners. International and domestic outrage flared up again. Once again, the news made it to the headlines of international media and the Kenyan government had maneuvered itself into international isolation.

Western envoys in Nairobi requested a meeting with President Moi on the next day. During the 90-minute encounter at State House, Moi accused the group of eight envoys[127] of being "pro-opposition" and rejected all demands for reforms. In response to the documents by the Donor's Democracy and Development Group, the Kenyan government explicitly refused the registration of new parties. According to the East African, Moi repeated that he was only willing to talk to the Catholic Church about reforms (East African, 8 July 1997). The next day riot police stormed the dormitories of Nairobi and Kenyatta Universities after students had announced more street demonstrations. The universities were closed. Two executives of the formally independent TV station Kenya Television Network (KTN) were sacked, following a critical report and video coverage of police brutality against the students.

On 10 July, the opposition failed to agree on a proposed election boycott if the government would not give in to demands for minimal constitutional reforms. The parliamentary opposition rejected such a plan and seemed confident to remove Moi from power this time round. In contrast, the more principled extra-parliamentary groups were behind the boycott demands. Moi reaffirmed his rejection of reforms and used the example of Uganda to accuse Western governments of double standards. "Our friends who are telling us about democracy have no moral authority to tell us to do things which they do not do. A set of double-standards of democracy have been established for each country by the Western world." Moi reacted to a statement by US Secretary of State Madeleine Albright who blamed for the political violence

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[127] Canada, France, Germany, Italy, Japan, the Netherlands, the United Kingdom, and the United States.

in Kenya "not just the Government's unacceptable 'strong arm' tactics, but its failure to take the essential steps to create a free and fair electoral climate" (Daily Nation, 11 July 1997). At the request of the Kenyan government, a donor meeting scheduled for late-July in Paris was postponed. In two strongly worded editorials, The British *Times* accused Moi of being "adept at giving just enough ground to split the opposition and placate his international critics, only to reclaim it later. (...) The West used to champion Moi, but now it is horrified by the brutality meted out over the last weeks (cited in: Daily Nation, 22 July 1997).

Between early 1997 and the aftermath of *Saba Saba* the isolation of the Kenyan government resembled the situation in 1991/92, while the government continued to use violence against the opposition and refused to accept substantial political reforms. The NCEC had become the leading organization lobbying for reforms within the opposition and mobilizing the people to the streets. Not the party leaders, but the domestic allies of the transnational human rights network now led the combined opposition force. They were supported by international human rights groups which continued to publish human rights reports and, in the case of Amnesty International, sent a high-level delegation to the country at a time, when crucial confrontations between the government and the opposition occurred. After the *Saba Saba* violence, Moi finally agreed in principle to reform talks.

Pressure from Above and Below

In a first hint of the things to come, Moi declared on 11 July that he would soon convene the KANU National Delegates Conference and the Governing Council to deliberate on the issue of constitutional reforms. "I am not a dictator. (...) When they ask me to change the constitution who am I to change it? I was elected by Kenyans and it is them who must give me the mandate to change the constitution" (Daily Nation, 12 July 1997). The last time these two bodies met together in December 1991, Moi used the occasion to announce the repeal of section 2A of the constitution which declared Kenya a one-party state. On 14 July, the European Parliament called upon the Commission "to suspend financial co-operation for structural adjustment programs under the Lomé Convention with Kenya, in the event the Kenyan government persists in not respecting human rights." The same day, the Permanent Secretary in the Foreign Ministry, Sally Kosgei, flew to the United States to reassure the Clinton administration of the Kenyan government's democratic commitment. She held meetings with Undersecretary Secretary of State for Political Affairs Thomas Pickering, Assistant Secretary

of State for Human Rights John Shattuck, nominated Assistant Secretary of State for Africa Susan Rice, and various Members of Congress. Kosgei defended Kenya's human rights record and said it was portrayed unfairly in the Western press (East African, 23 July 1997). Important individual donor governments such as Germany and Great Britain officially declared that they had to review their aid commitments.

On 15 July Moi met 17 religious leaders on the question of political reforms. During the meeting Moi agreed that "a comprehensive review of the administrative and legislative framework" was needed, but left the time-table open. The following day, Moi made the first major concession and announced that licenses for public rallies would now be granted automatically. "KANU and opposition politicians are expected to apply and only under special circumstances will they be denied licenses. The reasons for denial will be explained to the applicant" (Daily Nation, 17 July 1997). This finally followed up on his promise to replace the Public Order Act. After a one-day meeting, the KANU National Executive Council announced on 17 July that it recommended the immediate establishment of a commission to review the constitution and certain other acts. It insisted that only representatives from the parties represented in parliament should be members of the commission. KANU Secretary General Kamotho refused talks with NCEC echoing Moi's arguments that it was not elected by the Kenyan people.

The conditional offer for talks split the opposition. The group dominating the NCEC (e.g. Kivutha Kibwana, Gibson Kamau Kuria etc.) demanded all-inclusive talks about constitutional reforms which would also recognize the contributions of the civil society sector. Subsequent efforts by extra-parliamentary groups and church representatives to unite the opposition against the KANU conditions failed. While the main leaders of the opposition parties (Mwai Kibaki/DP, Michael Wamalwa/FORD-Kenya, and Martin Shikuku/Ford-Asili) saw this as an opportunity to come back into the political game and agreed to the conditions set out by KANU, the leadership of the NCEC rejected the offer as "piecemeal negotiations". The NCEC called for a general strike on 8 August to press for the inclusion of the civil society groups. During the next week, the government acknowledged the reception of several reform proposals, including one written by opposition member James Orengo for the NCEC.

On 30 July, the Kenyan Ambassador to the United States Benjamin Edgar Kipkorir defended the Kenyan human rights record in front to the US Senate Sub-Committee on African Affairs

which held a hearing on "Kenya: Election Crisis". Kipkorir presented several documents purportedly proving the governments willingness to implement serious political reforms. However, one of the documents, which carried all the name of Amos Wako, was not from the government, but the NCEC proposal for constitutional reforms. The NCEC memorandum included the release of political prisoners, the resettlement of victims of ethnic violence, the registration of all parties, and equal access to the media for all parties.[121] One day later, Attorney General Amos Wako declared that Kipkorir had mixed up documents.

On 31 July, the IMF suspended a $220 Million low-interest loan saying that the Kenyan government had not taken the previously agreed steps to combat corruption and strengthen management in the energy sector. Kenya became the first victim of new IMF guidelines on corruption which were approved by the IMF board on 5 August. An IMF official declared that there was "absolutely no political motivation in consideration of the decision." A few days later, the *Daily Nation* reported that Finance Minister Mudavadi had originally agreed to the conditions of the IMF one day shy of the deadline, but that Moi himself withdrew this letter the next day. Moi claimed that the conditions were political rather than economic. The Ministry of Foreign Affairs was completely kept off the issue. Similar to the 1990 decision to break diplomatic relations with Norway, Moi and a small number of advisers around him were responsible for this decision (Daily Nation, 3 August 1997). A few days later the World Bank followed suit and cited corruption as a reason for withholding about $70 million in aid.

The general strike on 8 August brought more violence and led to the death of three Kenyans, although it was hardly followed by the population. Without the support from popular political leaders, the NCEC's strategy of mass mobilization failed, because its leaders were much better known in Western capitals than in Kenyan rural villages. However, the growing pressure on the government did finally mobilize the 'majimbo' faction within the ruling coalition. One week later after the general strike, unknown attackers raided a police station in Likoni close to Mombasa and killed six police officers. Within the next few days, leaflets appeared in the coastal region, which demanded that "non-coastal people" should leave the area. During the next months about 100 people were killed and thousands of Kenyans fled the region south of

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[121] On 4 August, Kipkorir was removed as ambassador. It turned out, that the NCEC document bore Attorney General Amos Wako's name, because the NCEC hoped Wako would approve and simply forward the document to parliament.

Mombasa (Kenya Human Rights Commission 1997).

By the end of August, the government and the NCEC exchanged increasingly hostile accusations. Moi and his ministers claimed that the NCEC was "backed by foreigners to start a revolution in Kenya" (Daily Nation, 31 August 1997). The president warned that the NCEC was about to stage a "civilian coup" and intended to subvert the elected government. This statement followed the Limuru II meeting held from 25 to 28 August where the NGO representatives decided to constitute the NCEC as a parallel government if KANU did not finally enter serious dialogue. The meeting also resolved to call for two other major rallies on 9 September (*Tisa Tisa*) and 10 October (*Kumi Kumi*). Moderate sections within the KANU government now became more active and tried to prevent further violent confrontations.

Negotiating Minimal Constitutional Reforms

Vice-President Saitoti led an effort to break the deadlock and called on the closing day of Limuru II for a meeting of KANU and opposition MPs. He invited the opposition MPs to form the Inter-Party Parliamentary Group (IPPG) which would be charged with kicking off the constitutional reform process. Within a few days, the group agreed on minimum legal reforms, including a reform of the Electoral Commission and the deletion of the ban on forming a coalition government. The IPPG created three committees on legal and administrative issues (1), the electoral reform (2), and problems of domestic security (3). KANU and the opposition parties would be represented on the committees with half of the seats each. The NCEC reacted to its exclusion from the reform talks by reaffirming its call for demonstration on 9 September. However, similar to the failed general strike in August, the demonstration failed again. At the same time, the moderate opposition accepted KANU's refusal to admit non-elected NCEC representatives at the negotiating table.

On the day of the first IPPG talks, Amnesty International launched its six month campaign "Kenya-The quest for Justice" which continued its cooperation with several domestic human rights groups. During the entire period, joined Amnesty-RPP groups visited all major European countries and briefed government representatives, parliamentarians, and the general public on the human rights situation in Kenya. However, domestic affairs were now completely dominated by the surprising pace of the reform process. Within only two months time, the committees completed their work and the reforms were tabled by Attorney General Amos Wako in parliament. After only three weeks the committees had reported their results

back to the IPPG and the offices of the Attorney General were charged with translating the agreements into bills. Amnesty International cautiously welcomed the progress made on constitutional reforms, but maintained that many issues were still unresolved.[129]

The IPPG talks came briefly under stress when police officers harassed and arrested prominent opposition MPs, including the leader of the Democratic Party, Mwai Kibaki and NDP chairman Raila Odinga. After the issue was raised in parliament, Vice-President Saitoti apologized for the attacks and reassured that opposition rallies will "never again be disrupted. (...) I am saying in no unmistakable terms that this will never happen again. I've never made this kind of statement of reassurance to fellow MPs and recanted the next day. Investigations will commence immediately and action will be taken against those who perpetrated it" (Daily Nation, 8 October 1997). In contrast to those well-intentioned statements, hardliners within the executive and KANU rejected political change and even the imminent minimal reforms. The Office of the President continued to refuse registration of Safina, a party created by members of the NCEC and led by Paul Muite and Richard Leakey. The responsible authorities stated that the name of the party was "undesirable" and suspected that its "purposes [were] prejudicial to or incompatible with peace, welfare or good order in Kenya."

On 30 October, parliament voted with more than the required two-thirds majority in favor of the IPPG package (156 in favor, 26 against, one abstention). On the same day, Moi appointed ten new members to the enlarged Electoral Commission. They were added to the eleven existing commissioners and were all proposed by the opposition in parliament. One week later, Moi signed the IPPG proposals into law (Daily Nation 8 November 1997). Apart from the strengthening and enlargement of the Electoral Commission, the constitutional reforms included:

1. Insertion of a new section 1A in the constitution, stating that "The Republic of Kenya shall be a multi-party democratic state."
2. Amending of the constitution to enable coalition governments.
3. Nomination of 12 MPs in proportion to the strength of parties.
4. Addition of "sex" to race, tribe, color, etc. in the provisions on anti-discrimination.

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[129] My more optimistic reading of the IPPG deal contrasts with Ndegwa's verdict that the reform pact "actually undermined the possibility for democratic consolidation" (Ndegwa 1998: 193). Similar pessimism is expressed by Rok Ajulu, who maintained that "Kenya demonstrates that it is possible to have multiparty elections every five years without changing anything" (Ajulu 1998: 283).

The statutory law reform included measures intended to create a more level playing field for the upcoming General Elections:

1. Abolition of licensing requirements for public rallies contained in the Public Order Act.

2. Abolition of 'detention without trial' in the Preservation of Public Security Act.

3. Deletion of all references to "sedition" in the Penal Code. Henceforth, bans on publications were only possible on grounds of morality and health.

4. Curbs on the powers of local administrators in the Chief's Authority Act.

5. Amendments to the Police Act which explicitly stated that the police force shall be impartial and neutral in all political matters.

6. Dissolution of the Administrative Police.

7. Amendments to the Kenya Broadcasting Corporation Act which required KBC to give equal coverage to all political standpoints. The Electoral Commission was given powers to monitor KBC.

The compromise also provided that all pending applications for broadcasting licenses should be processed within 30 days. The government was also called upon to register all political parties seeking to compete in the upcoming elections. Finally, the Constitution of Kenya Review Commission Bill set up a commission which would undertake a comprehensive review of the constitution immediately after the elections.[130]

The NCEC reacted to its exclusion from the whole process by rejecting the compromise as insufficient. On 11 September the NCEC stated that "the recommendations of the IPPG Sub-Committee change NOTHING whatsoever of real substance concerning reforms towards free and fair election in Kenya" (cited in Tostensen, Andreassen, and Tronvoll 1998: 37). Similar statements followed from critical church representatives. Later, the NCEC published a document which listed the democratic deficiencies of the IPPG package and compared it with their own proposals. However, an initial resolution by the NCEC to boycott and disrupt the elections was shelved on 11 November "pending public feedback".

The fast and successful completion of the IPPG talks would not have been possible without the presence of an opposition divided in a moderate and radical section. The latter presented a

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[130] For an overview see the special sections in the Daily Nation, 12 September 1997.

constant threat of mass action to the government, which strengthened the moderates at the negotiation table. As a result, hardliners on the side of the government decided for the time being to remain in the background. On the side of the opposition the NCEC was excluded as a result of the government's insistence on the participation of elected representatives only. Hence, the beginning of constitutional reforms in Kenya highlighted the almost classical emergence of hard- and softliners on both sides of the political divide.

The December 1997 elections

On 10 November, three days after the enactment of the IPPG reforms, Moi dissolved parliament and set the date for the general elections in late-December. KANU rejected a move by opposition MPs to have parliament discuss the exact implementation of the reforms prior to the elections. Immediately, suspicions arouse that the government would now renege on some of the promised reforms and simply not implement them. Indeed, the government still refused to register Safina and the mass media coverage of the already ongoing campaign remained biased (Tostensen, Andreassen, and Tronvoll 1998: 42). The executive also refused to look into the issue of licensing more private TV and radio stations. While opposition rallies were now largely tolerated by the provincial administration, there was still no level playing field. Nonetheless, the donor community was satisfied with the progress and agreed to finance large parts of the electoral exercise and the monitoring. Donors gave about $1.5 million to the National Council of Churches of Kenya (NCCK), the Catholic Justice and Peace Commission, and the Institute for Education in Democracy (IED) which deployed about 27,000 volunteers as poll watchers. Following the prior mixed experiences with charging foreign observers, the donors now concentrated their resources to enable indigenous monitoring effort.

A total 32 MPs defected from their parties prior to the 1997 elections. Most of these defections took place within the opposition parties (Tostensen, Andreassen, and Tronvoll 1998: 19-22). FORD-Asili split into three sections: the remaining FORD-Asili led by Martin Shikuku, the Asili-Saba Saba led by Kenneth Matiba (who eventually boycotted the elections) and FORD-People headed by Kimani wa Nyoike. FORD-Kenya had already lost Paul Muite and his comrades who now played a major role in the NCEC and had formed Safina. Raila Odinga also quit FORD-Kenya and took the Luo community into the National Development Party (NDP). Finally, a third group around Peter Anyang' Nyongo left FORD-Kenya for the Social Democratic Party (SDP). They were joined by the Kamba Charity Ngilu, who defected from

the Democratic Party and took the Kamba vote to become the presidential candidate for SDP. In the end, the vast majority of opposition parties represented one ethnic group only. 26 parties, fifteen presidential candidates (1992: eight each), and about 900 candidates for 210 parliamentary seats were eventually cleared by the Electoral Commission, including the long-time political prisoner Koigi wa Wamwere.[131] On 26 November, the government belatedly also registered Safina party. Wako declared that the allegations for the original decision to refuse registration might still be valid, but he was "giving the said individuals the benefit of doubt over the allegations" (Daily Nation, 27 November 1997).

On 29 December, the elections nearly flopped because of widespread mismanagement by the Electoral Commission. While the IPPG compromise gave the EC complete control of the electoral process, the state did not allocate sufficient funding to the EC to fulfil this task. "Ironically, the managerial problems might also be traced to the barring of the Provincial Administration, for obvious political reasons, from any involvement in the electoral process" (Tostensen, Andreassen, and Tronvoll 1998: 53). Many ballot boxes did not arrive on time or were misdirected. Voting papers and even election officials were often missing so that poll watchers at about half of the polling stations reported that the voting exercise could not start on time. The presidential candidate Charity Ngilu found heaps of voter cards in her Kitui district. In light of the general chaos, the Electoral Commission extended the elections for an additional day. Eight people were killed in election-related violence.

Despite those difficulties, voter participation was high. The final joined statement of the Kenyan non-governmental organizations observing the elections concluded that "the results do on the whole reflect the wishes of Kenyan voters." However, it also held in its conclusions that the "institutional bias in favor of KANU, such as domination of the state media and unfair delineation of electoral constituencies, needs to be seriously addressed" (cited in: Tostensen, Andreassen, and Tronvoll 1998: 75). The 1997 elections were not yet free and fair, but they showed clear improvements compared to the 1992 exercise. "In summary it may be said that neither the 1992 nor the 1997 elections were fair. (...) However, the belated IPPG reform package no doubt made the electoral environment measurably fairer than it had been five years ago" (Tostensen, Andreassen, and Tronvoll 1998: 53). Serious irregularities were identi-

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[131] On 19 November the state dropped all charges against wa Wamwere, which enabled him to run for the presidency. However, he attracted only 0.14 per cent of the vote and even failed to win a parliamentary seat.

fied in nine out of the 210 constituencies. Subsequently, a number of candidates contested the results in court, but none of those applications were successful.

While the opposition was able to blame KANU manipulations of the 1992 election process for its failure to remove Moi from power, these arguments were less convincing in 1997. There was still no level playing field, but the continued fragmentation of the opposition had made a defeat of KANU even more unlikely. In the presidential race, Moi was re-elected in the first round with 40,4 per cent of the total vote (1992: 37 per cent). He also gained more than the required 25 per cent in five out of the eight provinces (Coast, Eastern, North-Eastern, Rift Valley, and Western). Mwai Kibaki (DP) came in second with 31 per cent of the vote (1992: 19 per cent). The remarkable increase was mainly due to Matiba's boycott. The Kikuyu vote now went almost entirely to Kibaki who was also the only candidate, apart from Moi, attracting voters outside of his home province (Central: 89, Nairobi: 44, Eastern: 28, Rift Valley: 21, North-Eastern: 21). Three other candidates won their home provinces, but remained largely insignificant outside (except for the 'melting-pot' Nairobi). Raila Odinga (NDP) took the Luo vote in Nyanza (nationwide: 10,8 per cent), Michael Wamwala (FORD-Kenya) mobilized the Luhya in Western (8.1 per cent nationwide), and Charity Ngilu (SDP) the Kamba in Eastern (nationwide 7.9 per cent). All other candidates remained below one per cent.

In the parliamentary vote, the race between KANU and opposition was undecided until weeks after the elections. After both sides had added their nominated MPs, the ratio was 113 KANU to 109 opposition MPs. The Democratic Party now led the opposition with 41 seats, NDP followed with 22, FORD-Kenya with 18, and SDP with 16. Despite its late registration Safina was able to gain six seats, while FORD-People ended up with three MPs. FORD-Asili, the Kenya Social Congress (KSC) and Shirikisho (SPK) won one seat each. DP had been strengthened by uniting the Kikuyu vote, FORD-Kenya was reduced to a Luhya party and NDP emerged as the most successful newcomer based on the Luo vote in Nyanza Province. Only SDP and Safina could claim ethnic diversity within their ranks, although the former drew almost all its strength from the Kamba vote. From the larger ethnic groups, the Kamba, Kisii and Luhya were split and voted both for KANU and opposition candidates.

All opposition parties and the NCEC initially rejected the election results as seriously flawed. KHRC, other advocacy NGOs, and the Catholic Church called on 2 January for the immediate formation of a coalition government which would also include religious and civil society

organizations (Daily Nation, 3 January 1998). After the NGO observers had announced on 3 January that the elections reflected the will of the Kenyan people, Michael Wamwala and Raila Odinga declared their acceptance of Moi's victory. The president was sworn in for his fifth and final term on 5 January. Mwai Kibaki continued to reject the results but said his party would cooperate in parliament. On 8 January Moi announced his new cabinet, but left the crucial position of the Vice-President open. Its former occupant Saitoti was demoted to the Ministry of Planning and National Development.

Return to 1991/92?: Ethnic Violence, State Repression, and Reform Pressure

Two days after the major opposition parties had agreed to accept the election results, 'ethnic violence' returned to the Rift Valley. Until late-January more than one hundred people were killed in Laikipia and Njoro areas, most of them Kikuyu. In the elections the people in both areas overwhelmingly supported DP and Mwai Kibaki, and prior to the elections KANU leaders in the area promoted thinly veiled ideas of 'ethnic cleansing' under the majimbo label (see above). Similar to the outbreak of violence in the Coast region, existing animosities over land and other issues were exploited by interested politicians. The response by the government as well as the provincial administration and police force was extremely slow. The head of the Church of the Province of Kenya (Anglican Church) Archbishop David Gitari suspected that "the government does not seem to have the will to end these clashes at the earliest moment possible" and demanded an independent investigation by the UN Human Rights Commission (Daily Nation, 9 February 1998).

The NCEC claimed that its constant warnings about the real intentions of the government were proven right once more.[132] Six human rights NGOs, including KHRC, RPP, and Kituo Cha Sheria demanded the resignation of Police Commissioner Duncan Wachira. The parliamentary opposition threatened to boycott the opening session of the new parliament and the constitutional reform process. Western diplomats noted in a joint statement "with deep concern" the new clashes and the slow response of the law enforcement agencies. It also held that the clashes send "a very negative message to the rest of the world" which threatened to "undo the recent progress in democratization" (East African, 2 February 1998). NCEC repre-

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[132] NCEC spokesman Kivutha Kibwana had been abducted in front of his home on 19 January. He was released the same night, after the plan to hand him over to another group apparently failed. One of the unknown kidnappers told Kibwana that they came "to kill him" (Daily Nation, 15 February 1998).

sentatives (re-) joined with popular political leaders and repeated their demands for an all-inclusive Constitutional Conference.

After remaining silent for weeks, Moi declared on 29 January that law enforcement agencies had been instructed to "firmly" deal with the instigators of the violence. He blamed DP leaders for the new violence. The government imposed a curfew on the affected areas and dispatched additional security forces to calm down the situation. When the eighth parliament held its first session on 3 February, opposition MPs used the occasion to protest the violence, waved placards and chanted the usual "Moi must go", "No peace, no Bunge" (parliament), and "Hatutaki Majimbo" (We don't want federalism). After student riots on campus and sit-ins on Nairobi streets, Kenyatta University was closed down again. On 8 February, US special envoy Jesse Jackson, arrived in Kenya and immediately visited hospitalized victims of the clashes. He asked the government to use all its resources to end the violence. Moi declined an invitation to join Jackson and the US ambassador on a tour to the affected areas. However, when Jackson asked Moi directly to show "personal presence and touch" the latter agreed to visit the Rift Valley. On 10 February, the government announced that it was ready to form a commission of inquiry to probe the reasons for the recent violent clashes.

In response to queries in the House of Commons, British Minister of State for African Affairs, Tony Lloyd, said on 5 February that "concerns over police brutality in Kenya" had led to a "rejection of recent applications for various categories of riot-control equipment for the Kenyan police." He clarified that this was not "new policy" directed at Kenya only but in accordance with British Foreign Secretary's Robin Cook's statement on a new ethical foreign policy in late 1997. Lloyd defended his government against accusations from transnational human rights organizations that it had recently taken a softer line towards the Kenyan government. Lloyd said that his government was "particularly concerned about the persistent police brutality and the evidence of torture and extra-judicial killings. The Kenyan government is bound under international obligations to end such practices. We will play a full part in ensuring that pressure for such progress is maintained" (Daily Nation, 7 February 1998). After the 1997 *Saba Saba* violence, the British Section of Amnesty international had been lobbying its government, not to sell anti-riot equipment to Kenya.

Two weeks after the opening of the Kenyan parliament, KANU formed its first informal coalition with Raila Odinga's NDP. Odinga declared that the last five years showed a need for

change to break the gridlock in the political arena.[133] This move enlarged the KANU majority in parliament from only four to 26 seats. On 19 February, the Catholic and Protestant leadership held that the new government had "no moral legitimacy to lead." In a joint statement they supported the NCEC's rejection of the IPPG package and the demands for a Constitutional Conference. NCCK Secretary-General Mutuva Musyimi appealed to Western governments to support the idea of "all-party constitutional conference." Moi reacted immediately to the demands and said that "a Philippine-like revolution would not succeed in Kenya." He accused the church leaders of joining "the many shady and illegal groupings opposed to the formation of a Constitutional Review Commission" (Daily Nation, 21 February 1998). The Kenyan government took particular exception to the call for foreign pressure. However, NCCK and NCEC continued to reject the commission and demanded the formation of a more broad-based body, whose members would not be appointed by Moi and would enjoy full security of tenure. While Moi argued that parliament should be at the center of the constitutional review process, the NCEC demanded full participation of the extra-parliamentary forces.

On 25 February, the London-based NGO Article 19 repeated its accusations of "endemic torture" and other human rights abuses. The organization asked the Commonwealth Ministerial Action Group (CMAG) "to add Kenya to its list of serious and persistent human rights offenders" (currently Nigeria, Sierra Leone and the Gambia) at its 2-3 March meeting in London. CMAG did not follow the request. An IMF field mission assessing government spending since the suspension of the ESAF in late July 1997 concluded in late February that the measures taken by the government were insufficient. It decided that the aid program would not be resumed until the government has lived up to the original agreements. The IMF mission criticized budgetary indiscipline which led to a deficit of 3.9 per cent of GDP instead of the agreed 2.4 per cent. The group also mentioned 12 specific cases where the Kenyan Customs Authority should recover substantial amounts of duty from individuals closely linked to the government.

Domestic NGOs as well as the parliamentary opposition continued to clash verbally with the government. Moi repeated his accusations that DP politicians were responsible for the ethnic

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[133] Raila's father Oginga had already toyed in June 1993 with the idea of cooperating with the government. In September 1993 newspapers speculated on an imminent coalition between FORD-Kenya and KANU. After Odinga's death in February 1994, Moi distanced himself again from the idea.

violence in the Rift Valley. He also threatened NGOs supporting the "illegal" NCEC with de-registration and advised activists to "join the legally constituted parties if they wish to engage in politics". In its reaction, the NCEC called upon the population to strike on 3 April, 4 and 5 May, a full week in June, and indefinitely from 1 July. Government ministers accused the NCEC of preparing a coup "at the behest of foreign governments" (Daily Nation, 27 March 1998). Other KANU politicians repeated majimbo-inspired statements and warned NCEC activists that "they would regret it if they dared to set a foot in Nakuru, Kapsabet or Eldoret towns."

On 1 April, the Attorney General Amos Wako announced the creation of a 25-member Inter-Party Parliamentary Committee (IPPC) to supervise the constitutional reform process. Twelve of its members were opposition, thirteen KANU MPs. Two days later, the general strike called by the NCEC flopped. Only the international human rights groups remained firmly behind their domestic partners and the demands of the NCEC. On 8 April, Amnesty International, Human Rights Watch and Article 19 declared in a joint statement read to the press in Nairobi that "the government's divide-and-rule tactics" had turned the country into a "powder keg waiting to explode" (AI Index 32/10/98). During a tour of the country, the NGO representatives had interviewed more than 200 individuals on the current human rights situation. The group also met with Onesmus Mutungi, the chairman of the Standing Committee on Human Rights.

Splits within KANU?

The failure of the general strike convinced the NCEC to withdraw further plans for mass action. Nonetheless, the Kenyan government and its dominant KANU hardline faction was increasingly pressed to accept substantial refiorms. Moi suddenly found himself excluded when US government, World Bank, and the German Friedrich-Ebert-Foundation invited donors, government officials, and all MPs to a forum aimed at addressing Kenya's economic problems (Daily Nation, 24 April 1998). While Moi roundly rejected the meeting and its recommendations, 160 MPs (including 82 from KANU), many key cabinet ministers and ambassadors followed the invitation. In his key note address, Finance Minister Nyachae frankly admitted that "Kenya was broke and corruption was rampant." Nyachae echoed many

of the international demands for economic and administrative reforms in Kenya.[134]

In an official statement two days later, Moi declared that the meeting was "inconsequential" because it pretended that there was "no constitutionally elected government in Kenya." He alleged that "the donors are aligning themselves with the NCEC, an organization that is out to create chaos" (Daily Nation, 28 April 1998). The president also declared that he would intensify cooperation with Raila Odinga's NDP in parliament to combat "illegal" domestic groups and foreign intrusion. Subsequently, members of the Luo community were appointed to senior government positions. Moi still refused to name a Vice-President and call KANU party elections, because both issues would focus attention on the question of his successor and potentially threaten his current position. The KANU-NDP alliance served both sides well. In the following months, Raila's NDP became a more reliable partner for Moi than some MPs from his own party. While Moi became less dependent on his own party and prevented a rapprochement between Kikuyu and Luo elites, Odinga successfully bargained for economic benefits which were now channeled towards his home region.

When Moi convened a KANU meeting on the question of economic reforms, several MPs openly challenged Moi's position on the economic forum. In a parliamentary group meeting, a majority rejected a proposal in which KANU would have officially distanced itself from the recommendations of the seminar. An anonymous source attending the meeting told the Daily Nation that defiant KANU MPs declared towards Moi: "It was not lost to us that while the Mombasa seminar was on, you and Mr. Odinga were in Nyanza celebrating the marriage between their parties" (Daily Nation, 29 April 1998). Only a few days later, Moi gave in and agreed to economic reforms which were essentially in line with the donor expectations and the Mombasa recommendations. The continued refusal of the IMF to resume aid had certainly contributed to that development. The president also followed his Finance Minister's assertions and acknowledged a serious fiscal crisis. He announced austerity measures which would substantially cut public spending, in particular with respect to civil servants and teachers. However, in a closed meeting with over 20 envoys at State House Moi insisted that such steps must be taken under the leadership of KANU and no one else (East African, 7 May 1998).

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[134] In February 1999, Moi used the affair around the Kurdish leader Ocalan to remove Nyachae from his post. Nyachae declined to take over a lower-level ministry and quit the government (East African, 25 February 1999).

The second major defeat for Moi occurred a few days later in parliament, when the opposition prevailed over KANU in a motion to set up a commission investigating human rights abuses and the causes for the ethnic violence since 1991. Although KANU MPs outnumbered their opposition colleagues, the motion for the commission won a 54 to 49 majority. KANU MPs had deliberately abstained or voted in favor of the opposition proposal. On 1 July President Moi appointed Justice Akilano Molade Akiwumi as head of the Judicial Commission of Inquiry into tribal clashes between 1991 and 1998. Akiwumi had already participated in the 1990/91 investigation of the Ouko murder. The deadline set for reporting its results was the end of 1998. The terms of references included the investigation of the causes of the clashes (1), and the actions taken by the law enforcement agencies (2).

Moi's negative attitude towards the participation of civil society groups in the process of constitutional review was now also challenged from within KANU. The KANU members within the IPPC agreed to organize a day-long seminar of 400 political, religious and NGOs leaders on the constitutional reform process. This partially fulfilled the long-standing NCEC demands for an inclusion of extra-parliamentary groups. Attorney General Amos Wako chaired the meeting at 'Bomas of Kenya' on 11 May. During the seminar, NCEC and KANU representatives sharply disagreed on the role of the IPPC. While KANU defended the status quo, the NCEC demanded its replacement with a new, all-inclusive body. NCEC representatives Gibson Kamau Kuria and Kivutha Kibwana repeatedly walked in protest out of the meetings. In the end, the participants only agreed on the continuation of the dialogue.

Before the second round of the Bomas talks planned for 8-9 June, 36 participating groups led by the Catholic Church, the NCEC and the NGO Council threatened to boycott the meeting if their demands for greater inclusiveness were not met. They were supported by 42 MPs including five from the ruling party. Apart from civil society participation, the demands included the complete implementation of the IPPG package as well as security of tenure and financial independence of any body concerned with the issue of constitutional reform. Catholic Archbishop Ndingi Mwana'a Nzeki declared during a sermon in late-May that the government would "waste its time if it did not expand the committee on constitutional reform". The following day, Moi gave in to the continued pressure and announced an expansion of the review committee. During his annual Mandaraka Day speech he declared that "the stakeholders should make the appointments and my role should only be to formally

sign on" (Daily Nation, 2 June 1998). Moi also asked all dissidents within KANU to leave the party and repeated his rejection of any foreign intrusion. A few days later, Moi announced a cooperation with FORD-Kenya by telling KANU followers that the FORD-Kenya leader Wamalwa "is not your enemy. Your enemies are within the party" (Daily Nation, 5 June 1998). KANU now officially cooperated with FORD-Kenya and NDP.

Amnesty International released on 16 June a report on the joined mission by Amnesty, Human Rights Watch and Article 19 in March and April. Similar to earlier reports, the human rights watchdog remained highly critical of the Kenyan government and warned of "waning international attention to the continuing human rights abuses". On 22 June 33 civil organizations and all political parties met to decide on the future of the constitutional reform process. The NCEC was now officially included in the talks. During the meeting, KANU representatives suggested to enlarge the IPPC on the basis of district representation, a modus which would have secured continued KANU dominance. The NCEC rejected the plan as "tribalist" and demanded representation based on existing civil society organizations. After intensive debates, both sides agreed one week later to set up a three-tiered structure with the led by a Constitutional Review Commission. One of the two other bodies would consist of representatives from the 65 districts, while the other would bring in a broad range of politically active domestic organizations. Until the next meeting a twelve-member drafting committee was charged with working out the details of the compromise.

A week after the concessions by Moi had provided a window of opportunity for sustainable political reforms, domestic and international outrage engulfed again the Kenyan executive. On 10 July the government banned the newspaper *Star* and the magazines *Finance* and *Post on Sunday*. Editors and owner of the *Star* were arrested and charged in court for publishing articles which are likely to "cause fear". An editorial in the *Nation* called the measure a "heinous, intimidatory and retrogressive tactic used only by undemocratic regimes" (11 July 1998). KANU Secretary General defended the measure saying that "malicious and irresponsible journalism undermines press freedom." On 15 July, the *Nation* management complaint about increasing attempts to intimidate its reporters, in particular the journalists developing Internet services. The statement highlighted threats to journalists investigating corruption cases and a recent clash between the *Nation* and members of Raila Odinga's NDP. 17 MPs from the party had publicly threatened to stop the circulation of the newspaper in their

constituencies in Nyanza District. The management also demanded from the government to fulfil its promises contained in the IPPG package and process the Nation's Group application for a radio and TV license.[135] The same day, 25 envoys condemned the press ban in a joint statement.

The Akiwumi commission commenced on 20 July its hearings on the ethnic clashes. A police officer explained in the first hearing that the "Kalenjins, who mainly supported KANU, did not understand multi-party politics and did not want neighboring communities to vote for the opposition." The chairman of the Law Society of Kenya (LSK), Nzamba Kitonga, said that senior politicians were behind the Coastal violence. He alleged, that they misused the majimbo debate to recruit unemployed youths from the area for attacks on upcountry communities, which had come to the Coast because of employment opportunities in the tourism industry. A member of KHRC also presented evidence based on their own investigations to the commission. Finally, the chairman of the Standing Committee for Human Rights, Onesmus Mutungi, confirmed the political nature of the clashes. He said that in both cases unemployment and ethnic animosity prepared a fertile ground for political violence related to upcoming elections (Daily Nation, 21 July 1998). Mutungi argued that the responsible circles mobilized unemployed youths to attack upcountry people because they were likely supporters of the opposition. According to Mutungi, the plan for 'ethnic violence' in the pre-poll period was developed to secure a Moi and KANU victory in the area. During the following months, the Daily Nation regularly published summaries and full-length transcripts from the hearings in the Rift Valley and the Coast region.

The hardliners within KANU refused to accept the compromise on the three-tiered constitutional reform process and tried to revert the decision. On 21 July, Moi sought to reunite KANU MPs in defense of the territorial principle as the only basis for representation. Moi repeated his rejection of civil society participation holding on to his often-repeated line that "Kenyans are represented by their MPs". The president declared that he was only willing to accept the various church organizations as partners in the constitutional debates. This position was immediately rejected by the entire opposition movement in and outside of parliament. Consequently, 50 opposition MPs threatened to boycott the next round of talks. The imminent

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[135] More than seven years after the first application, the Nation group was finally awarded TV and radio frequencies in December 1998 (see also chapter 2).

stand-off between the opposition and the government was delayed after bomb explosions ripped through Nairobi and Dar-es-Salaam on 7 August, three days before the scheduled negotiations.

The bomb explosions targeted the US embassies in both east African capitals and killed an estimated 250 people, the vast majority in Nairobi. In the wake of the tragedy, the meeting on the constitutional reform issue was rescheduled for 24 August. In the course of the meeting, President Moi gave up his negative position towards NGO participation and his insistence on district representation. Moi also agreed that the new constitution should significantly limit the powers of the executive and that the executive played only a minor role in the review process. Thus, the prior agreements between KANU and the opposition were reinstated and could now serve as the basis for final agreement about the formal side of the constitutional review. The participants agreed on the proposed three-tiered structure, consisting of a 25-member Review Commission, a National Constitutional Consultative Forum (NCCF) and at the grassroots the District Consultative Forum (DCF). In contrast to Moi's original preferences, NGO represen-tatives and religious leaders would also be part of the NCF. The president will only endorse the commissioners suggested by the respective parties or organizations and receive the final Constitution of Kenya Bill.

The compromise highlighted the profound changes Kenyan domestic politics had undergone since the early 1990s. "The fact that 'radicals' such as Prof. (Kivutha, HPS) Kibwana were sitting on the same committee with Mr. Sunkuli, an ultra-right wing KANU politicians shows just how much transformation Kenyan Politics has undergone over the past few months" (Githongo 1998). However, most of the envisioned substantial steps towards democratization were still not yet agreed upon or implemented. The compromise was only about the formal conditions under which reforms would take place. While the DCF secured representation according to the majimbo ideas advanced by the incumbent minority groups supporting the government, the NCCF represented the liberal ideas of the civil society sector. The former preferred constitutional reform based on ethnic communities and their representation in parliament because the current status quo secured an overrepresentation not only of KANU, but also of the smaller ethnic groups. In contrast, the NCEC as a group representing principled liberal values but also more narrow personal or ethnic interests, advocated a process based on national citizenship (referendum) and majority rules or at least the participation of the civil

society sector in order to counter the KANU dominance.

The drafting committee was now charged with working out the details of this compromise and presented a draft bill to a final session on 5 October. One day before the meeting, the NCEC and the SDP withdrew their support and declared that the whole process was controlled by Moi and KANU. NCEC officials threatened again with mass action. The other participants went ahead and agreed on the composition of the Constitutional Review Commission. Of the 25 members, thirteen were supposed to be chosen from the parties in parliament and twelve from religious, women and other civil society organizations. Within the parties' contingent, KANU would receive five seats, DP three, NDP two, and SDP as well as FORD-Kenya one each. The smaller parties in parliament were asked to fill the last seat with one joint representative. The compromise also held that the main Muslim, Protestant, and Catholic organizations would nominate one member each. Women organizations were supposed to send five commissioners elected by the Kenya Women's Political Caucus, while the National Council of NGOs was asked to forward four names which would represent the 'civil society' at large (Daily Nation, 31 October 1998).

Last minute efforts by KANU hard-liners to remove government-critical organizations such as the protestant NCCK or the Women Political Caucus from the commission failed. The KANU Assistant Minister and hardliner Julius Sunkuli actually removed the NCCK and women organizations from the draft version of the compromise without informing the other participants. When he was challenged he argued that some of the organizations included were not representative. KANU moderates and the opposition participants rejected these claims. On 8 December, the Constitutional Review Bill was passed in parliament. Repeated efforts by KANU MPs to change the bill in their favor failed (Daily Nation, 9 December 1998). The parties and civil society organizations were now asked to nominate their representatives for the review commission.

On 9 October, Finance Minister Simon Nyachae returned from the annual IMF/World Bank meetings declaring that both organizations had agreed to re-open talks about the suspended aid. While the government had now broadly met the IMF conditions, domestic resistance against cuts in salaries of civil servants grew. On 5 October, the Kenya National Union of Teachers (KNUT) called a strike which was widely followed by members throughout the country. About 200,000 teachers demanded a 200 per cent pay increase instead of pay cuts.

This increase had been promised by the government prior to the 1997 elections. The police sealed off the union's offices and broke up peaceful street demonstrations. The opposition in parliament protested the violent response of the security organs to an essentially non-violent labor dispute. One day later, students of various universities joined the teachers to express their solidarity. A call by President Moi to end the strike was initially rejected by KNUT officials. Moi claimed that there was currently no money available to satisfy the teacher's demands. When church officials asked teachers to return to schools, KNUT called off the strike two weeks after it had commenced.

Following its rejection of the constitutional reform compromise, the NCEC reiterated its call for the formation of a coalition government (Daily Nation, 11 October 1998). President Moi immediately retorted "today they are clamoring again for a coalition government. In a democracy, it is the winning party that forms the government and when the time comes, others take over. (...) Our overseas friends have been giving us condition after condition and the gutter press has been telling lies about everything" (Daily Nation, 15 October 1998). Another KANU hardliner, Cabinet Minster Shariff Nassir, seconded two days later and declared that his party will no longer tolerate "insults from the press. (...) We shall set their printing presses on fire. We shall make sure that no vendor will touch their papers." On 21 October, the NGO Reporters Sans Frontiers sent an open letter to Moi (and copies to the UN, embassies, etc.) asking him to "ensure that journalists be allowed to do their job freely and without feat in your country." The same day, the owners of the *Nation* wrote to the famous columnist Wahome Mutahi that they would no longer print his articles if he would continue to satirize the Head of State.

On 12 October, the Akiwumi commission continued its hearings in Mombasa. A police officer claimed that the MP Emmanuel Maitha admitted in a written that he had organized the clashes in the Rift Valley in late 1997 while he was working for the president's personal assistant Joshua Kulei and nominated MP Rahid Sajjad. Allegedly, both senior politicians assured Maitha that Moi himself ordered attacks on opposition rallies. The following day, Maitha denied these accusations and claimed that he had never met the officer before. In his second testimony on 13 October, the chairman of the Human Rights Committee, Onesmus Mutungi, claimed that "the administrative authorities must have been aware or should have been aware of the impending clashes." His committee had found out that persistent denial of

prior knowledge by the security organs was not credible. "Given the security of the country, it is not possible for 10 people to meet for a period of time without the security personnel knowing." Mutungi stated that his commission was unable to get minutes from the pertinent security meetings on the provincial and district levels because "they did not exist" (Daily Nation, 14 October 1998). Mutungi explicitly rejected explanations advanced by the local administration which tried to downplay the political nature and blamed "dissatisfied youths". According to Mutungi, these explanations failed to account for the organized character of the violence.

The Akiwumi commission heard Rashid Sajjad on 22 October. He admitted that he spent about 17 Million Kenyan Shilling (about $300,000) prior to the 1997 elections to "buy votes, feast people, pay school fees for people and give some to the elders to take to their families." Sajjad defended the practice as "common" to secure a KANU victory. However, he denied that the money was handed out to start violent attacks on suspected opposition voters (Daily Nation, 23 October 1998). The same day, Binaifer Nowrojee from the Africa Watch/Human Rights Watch office in New York also testified in front of the commission. She reiterated the findings of her organization which identified government officials close to President Moi as ultimately responsible for the outbreaks of violence. On 30 October the commission ordered ten current Cabinet ministers and 15 former minister to testify on the series of pro-government rallies in September 1991 (see chapter 5) which had preceded the outbreak of violence in the Rift Valley. *Nation* journalists covering these rallies also testified on the content of the respective speeches (Daily Nation, 31 October 1998).

In late November 1998, the first authorized biography on Moi was published by Andrew Morton.[136] Predictably, an apologetic Morton rejected the dominantly negative reporting on Kenya and claimed that Moi had always been "more sinned against that sinning." Morton also asked the press to see the "real Kenya" outside of Nairobi and listen less often to "Kikuyu with an agenda" (Daily Nation, 29 November 1998). This public relations effort had much less domestic and international impact than the first-ever official admission that torture was widespread within the Kenyan security forces (Amnesty International, AFR 32/32/98). During a human rights workshop organized by KHRC and the Catholic Justice and Peace Commis-

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[136] Morton had previously written on Lady Di and published in March 1999 the 'real story' by Monica Lewinsky.

sion, Assistant Police Commissioner Stephen Kimenchu officially apologized to former victims of police brutality, including the alleged members of *Mwakenya*. He explained that this violence was not in the interest of the police force, but invariably followed orders from above (Daily Nation, 11 December 1998).

When the deadline for the nomination of representative for the constitutional review commission approached in mid-February 1999, KANU reneged on its original stand to take five out of the 13 seats allotted to parties and claimed seven instead. Consequently, negotiations between KANU and opposition parties failed. Similar problems during the selection process occurred within civil society groups, most prominently within the Women's Political Caucus. When no compromise was found and the stakeholders sent a total of 41 instead of 25 names to the office of the Attorney General, Amos Wako called for a consultative meeting with two representatives from each of the 19 nominating parties and organizations. On 18 February, this meeting failed because KANU sent 21 delegates including eleven ministers (Daily Nation, 19 February 1999). The opposition accused KANU of sabotaging the reform process over and over again. During the following weeks, the ten parties began to hold behind-the-door negotiations to break the deadlock.

More than ten years after the first major governmental concessions Kenya remains an attractive subject for international human rights mobilization. On 4 March 1999, Suba Churchill Meshack was chosen in the United States for the 'Reebok Human Rights Award'. His profile identified him as a member of RPP and the youth representative within the NCEC. In 1996, Amnesty International had started a campaign to bring charges against the security agents which tortured him following a total of eight arrests (East African, 8 March 1999).

6.3 Comparison

Transnational human rights mobilization remains an important factor for domestic political change, even after a change of government or a substantial change in policies. However, these changes in government and policies create lasting feed-backs on the international level, leading to changing levels of mobilization (Uganda) or strategies (Kenya). During the 1990s, the Western media hype in favor of Museveni contrasted sharply with the construction of Moi as a narrowly surviving authoritarian leader. This last chapter described some of the long-term effects of non-governmental human rights activism. While decreasing mobilization in Uganda between 1986 and 1995 caused a general slow-down of reforms, the Kenyan situation during

the same period was marked by continuously high levels of mobilization, at first, on the international level only and after 1991/92 spreading to the domestic level. Most recently, the internationally most well connected sections within civil society and organized within the NCEC became the main challengers of the government on the issue of constitutional reforms. However, their domestic legitimacy remains weak and their principled opposition was mixed with ethnic and personal power interests.

The counter-mobilization by KANU representatives based on a revived majimbo-agenda brought ethnicity back to the forefront. Despite the apparent abuse of federalist ideas, the calls can not be reduced to an authoritarian backlash intended to recapture control of the constitutional reform process. The majimbo debate raises valid questions about the future role of different ethnicities in Kenyan politics which were conveniently ignored by the moderate and radical opposition. Unfortunately, the principled international human rights movement has not yet adapted to the changing domestic circumstances which would require a more nuanced approach taking into account the role of human rights rhetoric in advancing certain narrow ethnic and personal interests.

A similar picture appears with respect to Uganda, although the human rights situation here is today much more dependent upon the developments in the Great Lakes region. Only Amnesty International followed up in earnest on the Ugandan human rights situation after 1986. In the early 1990s, even this organization ended its practice of publishing comprehensive human rights reports. In 1995/96, the international human rights movement focused again on the area and began to report on gross human rights violations committed by rebel groups active in Northern and Western Uganda. This new mobilization coincided with strategic interests of the United States in the region. While the issue of child abduction was a major public relations success for the international human rights community and organizations such as UNICEF, this mobilization has also solidified the government's preference for a military solution and allowed it to link the civilian opposition to so-called 'outside enemies.' Consequently, the domestic situation prior to the 2000 referendum remains precarious, because the political opposition is increasingly capable to challenge the Movement government on the basis of its reform agenda. If the leadership continues to resort to increasing domestic repression, this will bring it in open conflict with its own original reform agenda and the transnational human rights movement which legitimized its ascendancy to power in 1986.

Conclusions

In the concluding chapter I will return to the theoretical discussions of the first and second chapter. In two sections, I will discuss the implications of the case studies for the literature on democratization in Africa and theories of regime change in general.

The Contribution to the Analysis of Regime Transitions in Africa

To date, Michael Bratton and Nicolas van de Walle presented the most comprehensive analysis of recent "democratic experiments" in Africa (Bratton/van de Walle 1997). Based on 42 cases they bring the continent's recent experience with democratic procedures into the mainstream of the regime transition literature. Their main thesis held that "the institutional heritage of neopatrimonial rule has shaped regime transitions in much of Africa" (269). In my conclusions I will compare the results from the two case studies with the ideas advanced by Bratton/van de Walle. Considering that these results are based only on Kenya and Uganda the claims can only be modest. However, the effort to compare the results of a larger synthesizing study with more in-depth case study material can make an important contribution and offer suggestions for further research.

The two main disagreements with Bratton/van de Walle concern, on the dependent variable, their *electoral bias* and on the explanatory side their neglect of *international factors* and the role of *civil society*. These disagreements are embedded in a number of shared assumptions with respect to the definition of regime transitions and democracy as well as the recognition of domestic institutions as important factors shaping transition paths. First and foremost, Bratton/van de Walle give preference to a minimalist and procedural definition of democracy and reject more substantive claims about what a democracy should yield to citizens. Second, Bratton/van de Walle follow Rustow's claim that "the factors that keep a democracy stable may not be the ones that brought it into existence" (Rustow 1970: 346).

Like many other theorists, Bratton/van de Walle draw two conclusions from these insights. First, they introduce a distinction between the period of early transition and the subsequent phase of consolidation. Second, they champion elections as the most central feature both indicating and furthering democratization in an early stage. "We do not wish to commit the 'fallacy of electoralism' by ignoring that the consolidation of democracy in the long run involves the permanent establishment of many other valued institutions, such as civilian

control over the military, independent legislatures and courts, viable opposition parties and voluntary associations, plus a free press. But no other democratic institution precedes elections, either in timing or importance. In our view, elections are the principal and necessary condition of democracy, the first step without which democracy cannot be otherwise born" (13). The case studies presented here support the former, but not the latter claim. While I do not dispute the general importance of free and fair elections in regime transitions, I question here the special status given to elections as opposed to other features of democracy.

Based on the Ugandan case, I argue that significant and sustainable steps towards democratization can be accomplish even in the temporary absence of Western-style elections. Moreover, the 1980 elections have done little to end the spiral of violence which dominated the country between the mid 1970s and mid 1980s. Elections will also hardly solve the current problems of discredited opposition parties and weak civil society actors. The most recent problems in the Ugandan path were mainly caused by external factors rather than being an intrinsic feature of the choice to extend participation prior to electoral competition. The Kenyan case study shows the ambiguous effects of multipartyism on the overall process of regime transition. In the absence of an independent judiciary and domestic forces which could prevent widespread gerrymandering of constituencies, elections imposed from the outside had many adverse and only a few positive effects on the Kenyan transition process in the 1990s. Not the elections, but the emergence of the civil society sector with its transnational connections was the single most important factor keeping the Kenyan transition process alive. This development was in itself not unproblematic, because the transnational human rights mobilization was mainly used by members of a single ethnic group which pursued more narrow economic and political interests. Again, elections are unlikely to solve the underlying competing claims to national power in Kenya in a peaceful way.

With regard to the explanation of transition processes, Bratton/van de Walle proceed along three dichotomies which juxtapose structure and agency (1), international and domestic explanations (2) as well as political and socioeconomic factors (3). From these debates within the democratization literature they develop a *politico-institutional approach* which gives precedence to human agency (as opposed to impersonal structural forces), domestic institutions and political forces. In order to avoid the danger of excessive voluntarism in an agency-based approach they introduce the type of the outgoing authoritarian regime as a central

independent variable to explain transition results. Using Dahl's basic distinction of participation and contestation, Bratton/van de Walle develop five ideal types of modal regimes for the time between political independence and 1989 (78). In the following, they conclude that regimes with some prior experience of democratic rule make more modest, but also more sustainable advancements towards democracy, while countries with an highly authoritarian history tend to democratize more quickly, but are likely to fall behind again in the long run.

I argue here that institutions are indeed an important factor which contributes to a improved explanation of regime transitions in Africa and elsewhere. However, based on the two case studies I claim that institutions with relevant effects on processes of democratic change do not only exist on the domestic but also on the international level. International norms of democratic governance represent an increasingly coherent set of guidelines for the domestic conduct of governments. Norms make only a difference if concrete agents not only reproduce, but actively seek to promote them. In so far, Bratton/van de Walle are correct in claiming that "international (...) forces promote regime transition in Africa mainly when manifested through domestic politics" (273). Although the authors held that "international factors (...) should not be excluded from overall explanations" (271), they ultimately reject this proposition because "major explanatory variables intervene between the international context and the transition process" (30).

This study focused precisely on the interactions between the domestic and the international level and questions an exclusionary conceptualization of both realms. Although Bratton/van de Walle are correct in claiming that a mere "synchronicity of events" does not prove the case, their requirement that "political outcomes would also have to be consistent" (30) across cases insinuates a determining role of international factors. A similar dichotomizing position has been taken by Ruth Collier, who suggested three basic avenues for the inclusion of international factors (Collier 1993: 23). First, international factors can make a domestic analysis spurious (rival explanation). Second, both sets of explanations can push into the same direction. In such a case, international factors possibly affect the timing, intensity, or variation of internal changes. Third, if the two sets appear to push into different directions, the internal dynamics might deflect the international influence.

This study presented evidence for a theoretical position which includes international factors as significant, but not necessarily rivaling force in processes of democratic change. In disaggre-

gating the wide range of possible international influences, I have focused on international norms of democratic governance and their promotion by non-governmental actors. The aim of this study has been to highlight mainly long-term international influences on domestic change without "making local actors little more than the pawns of outside forces" (Smith 1986: 35-6).

To integrate such influences into an overall picture of regime change does not question the relative autonomy of domestic politics, simply because domestic and international influences produce a complex and for each country singular transition process. When both authors argue against a significant role of international factors by claiming that the "trajectory of political transitions is most directly affected by domestic factors such as the relative strength and cohesion of incumbent and opposition forces" (33), the two cases studies here suggest that precisely this relative strength and cohesion can be the result of domestic-international inter-actions of the kinds described in the empirical chapters. Domestic actors are not necessarily stuck with domestic institutions, but they can tap into international material and non-material sources to strengthen their voices and further their cause. As argued above, this position also questions the claim of Bratton/van de Walle that civil society actors matter most during the onset of transitions while in later stages political parties are likely to push civil society into the background. The long-term activities of transnational human rights groups represent more than a simple "occasion" (32) such as the end of the Cold War, but should be included into a causal argument on regime change.

Initiation of Regime Change

The Kenyan and Ugandan case studies confirms Bratton/van de Walle's observation that international pressure for reforms is likely to increase domestic resistance as the targeted government starts a 'rally around the flag' campaign (32). However, this should not be understood as an argument against the role of international influences. First, human rights norms are taken up by the domestic opposition to challenge the government from within. While governments try to disqualify those domestic critics by claiming that they had a foreign inspired agenda, this argument was ultimately unconvincing because those critics presented universal values. Whereas this rhetoric was itself deeply enmeshed with a self-interest in attaining political offices, the fact that universal human rights norms were introduced into the domestic political debate affected the formation of interests and subsequent behavior. In Uganda, the pressure delegitimized the human rights violating governments to the point of a

revolution from below, while in Kenya the Moi government survived reforms from above by skillfully exploiting the opportunities of neopatrimonial rule.

Second, the consistently negative reactions of authoritarian leaders such as Milton Obote or Daniel arap Moi to outside pressure shows that the government felt threatened. even if accusations are brought forward by materially weak non-governmental organizations. While Bratton/van de Walle rightly expose much of the political rhetoric of African leaders as mere window dressing to pacify an outside audience (32), they too easily dismiss those discourses as inconsequential for processes of domestic regime change. Political leaders are concerned about their international image, even in the absence of a Great Power, and activities of transnational human rights actors continuously remind those leaders of the gap between rhetoric and reality. In the long run, those politics of shaming raise the costs of sustaining such a gap and create incentives for elites (or parts of it) to narrow the gap. These continuous and principled interventions are precisely not the kinds of "shifting winds of change that blow in intermittently from abroad" (32), which Bratton/van de Walle reject as unreliable sources of regime change.

Kenya

In Kenya, those groups and individuals with significant international ties successfully resisted governmental intrusion between 1984 and 1989 and largely preserved their institutional independence. These were mainly the church organizations as well as the Law Society of Kenya or the International Commission of Jurists (Kenya Chapter) and other individual lawyers which became a target of repression when they defended alleged members of subversive groups in courts. The universities, their lecturers and various student bodies served during this period as major recruitment source for the opposition. Other societal groups such as women's or youth organizations and trade unions with little or no international contacts were invariably streamlined and ended up as instruments of executive control over the Kenyan society. In contrast to the lawyers church organizations such as the NCCK as the most ardent critic of the government relied also on a strong domestic base and had a history of close cooperation with the newly independent Kenyan state. The NCCK introduced in the 1950s a liberal theology and a distinct political agenda which brought it into frequent conflict with the state and even its member churches. Instead of reproducing the largely apolitical positions of the traditional Kenyan churches and without organic connections to the local environment, the

NCCK became a major transmission belt for the diffusion of universal liberal ideas into the Kenyan context. When members of the universities and the law profession became the first victims of growing government repression, the NCCK became the most significant societal institution to put up resistance.

This explanation of early domestic mobilization against authoritarian rule in Kenya includes references to Bratton/van de Walle's institutionalist argument as well as the modernization paradigm. The prominent role of university lecturers and students in the domestic confrontations of the mid-1980s confirms the role of economic modernization and subsequent societal differentiation. The ability of church organizations and the Law Society of Kenya to resist government control is partly explained by their institutional and economic independence. Prior to the 1980s the NCCK had developed a distinct political profile which now came increasingly into conflict with government policies. Bratton/van de Walle's institutionalist argument about the role of prior experiences with democratic governance can also partly account for the reluctance of the Kenyan government to root out all societal dissent. Moreover, the significant post-independence cooperation between the state and the NCCK also contributed to this reluctance on the side of the government. Total repression of the kind experienced by the Ugandan population for many years was simply not part of the political repertoire.

However, institutionalism and modernization theory can only be used to identify groups which are the most likely target of government repression and might, consequently, put up resistance against it. Hence, they account for the *existence* of those organizations and groups. Beyond these questions, both tend to neglect the question why certain groups and individuals become active in the struggle for human rights and regime change. I argue here that the international contacts of those individuals and organizations as well as internationally based universal norms of human rights and their non-governmental promoters are the key to understanding why the challenge to authoritarian rule came from these corners and at that particular point in time. By introducing international human rights institutions as a new reference point which transcends the domestic realm, it is possible to identify a source of change. While this remains generally within an institutionalist logic, it conceptualizes regime change not mainly as determined by pre-existing institutional arrangements, but highlights the *conflict* between those domestic institutions and international institutions representing universal values.

After 1989/90, the existence of those scattered voices domestic dissent and their strong international resonance, encouraged others to join the ranks of the opposition. The government critics became now more pro-active in their demands for political reforms and slowly gained not only transnational non-governmental but also donor support. Indeed, the donor reaction to freeze aid in November 1991 was heavily influenced by the constant transnational lobbying against the Kenyan government in the previous years. Although it is tempting to use the donor decision as the ultimate prove for the relevance of international factors, such an argument would ultimately carry not much weight. Instead, I propose here to initially analyze the donor decision as dependent variable and perceive of the transnational human rights mobilization as a major part for its explanation. The decision would hardly be possible without the changes in Eastern Europe, but this can hardly explain why it was Kenya which became an early target for the emerging global consensus labeled 'good governance'.

Uganda

Uganda is not simply another case with a similarly strong international and domestic mobilization for regime change during the last ten years. The rise of authoritarian rule in Uganda led to genocide and civil war. When the NRM took over power in 1986, the country's infrastructure was basically non-existent and the situation could almost be described as an institutional tabula rasa. Hence, it seems not surprising that both countries have taken very different paths of regime change. The comparison can take maximum advantage of these circumstances, because it prevents the observer from simply reproducing the results of the other case and, thus, merely increasing "overly anectodal evidence" (Bratton/van de Walle 1997: 269).

In Uganda, the international mobilization for human rights was an important factor in delegitimizing the Amin dictatorship and the second Obote regime. In the early 1980s, the NRM under the leadership of Yoweri Museveni sidelined all other rebel groups and finally took over national power in early 1986. The single most important feature of the Ugandan struggle for national power was the pervasive use of military violence by virtually all parties involved. However, the military victory of the NRM was not merely a result of its superior military capabilities. Between 1981 and 1985, the NRM became the dominant rebel force, because it could mobilize domestic and international support based on a political agenda which centered on issues of human rights. None of the vast array of other rebel groups which had been active throughout the post-independence history of Uganda were ever able to

mobilize significant domestic support beyond the ethnic group of the leadership. What distinguishes these groups from the NRM is precisely the issue of a coherent political agenda which had the potential to simultaneously transcend ethnic differences and muster international support. The NRM and Yoweri Museveni took full advantage of the growing institutionalization of human rights on the international level and strengthened their domestic base by a serious effort to enforce minimal human rights standards whenever NRM soldiers came in contact with the local population. In 'liberated' areas, the NRM replaced the traditional chief system with democratically elected resistance councils.

Transition Path

In chapter 5 I have argued that Kenya and Uganda have taken different paths of regime change. While the Kenyan government first agreed to multipartyism in 1991 and refused to negotiate constitutional reforms aimed at curtailing executive powers, Uganda embarked after 1986 on an ambitious process of grassroots mobilization and constitutional reform. At the same time, the movement government barred parties from operation and delayed presidential and parliamentary elections until after the end of these reforms in late 1995. When the first nation-wide elections on a national level were only held in 1994 and served to create a constituent assembly. In contrast, the multiparty elections in Kenya were from the beginning aimed at giving legitimacy to the elected political leadership. When the constitutional reform process came finally underway in 1997, a whole new set of non-elective institutions were formed and charged with the negotiations. Both transitions can be qualified as democratic, although they entail different sets of opportunities and hazards for further consolidation. How can we explain the difference in paths and what is the role of international factors?

Kenya

Once the donor decision was made, it had a profound but ambiguous impact on the Kenyan transition process. On the one hand, it was effective enough to consolidate the re-expansion of the civil society sector, although this was not the main intention of the measure. After 1992, a whole plethora of independent (and mainly foreign funded) non-governmental organizations in the areas of human rights and democratization emerged and considerably increased the pressure for reforms from within. In the long term perspective, this unintended consequence had the most positive effect on the transition process, because it forced the government in 1997/98 into negotiations and compromise about political reforms. On the other hand, the

decision failed to achieve its major short-term objectives. Without openly acknowledging it, many donor governments hoped that the measure would lead to the downfall of Daniel arap Moi and KANU. Nothing like that happened. Instead, the logic of attaining political power by all imaginable means remained dominant and was now merely channeled through the institution of multiparty elections. This logic also pervaded the opposition ranks and led to the creation of a multitude of political parties and a shift away from the focus on universal values and constitutional reforms.

In 1992, the government had little difficulties to manipulate the electoral process. In 1997, the menu for election fraud was considerably smaller. However, in light of a further divided opposition it provided still sufficient tools for Moi and KANU to secure the desired outcome. At the same time, hardline supporters of the ruling coalition felt sufficiently threatened by the rising opposition movement and revived not only the majimbo debate but also instigated ethnic violence in various parts of the country. If it had not been for the principled opposition which reanimated the campaign for constitutional reforms in 1995/96, the 1997 elections would have been hardly different from the first multiparty elections five years earlier. I argue here that it is not so much a dormant institutional legacy of scattered democratic experience in Kenya which accounts for slow but significant regime change in Kenya since 1991 until today, but the conflict between a coalition of domestic and international actors mobilizing for universal principles and the supporters of the ruling authoritarian regime and their neopatrimonial system increasingly loosing the benefits of Jackson's 'negative sovereignty regime'. The same lawyers and church representatives who had put up the initial resistance against the Moi regime in the mid-1980s reappeared after 1995 on the political scene and were now responsible for the formation of the NCEC and its successful challenge of the government on political reforms prior to the December 1997 elections. International contacts and the continued mobilization of universal values against the Moi regime were a necessary albeit not sufficient condition for the success. I will now move to the question of how these transnational forces materialized in the domestic realm.

A full explanation of the current state of regime change in Kenya requires an understanding of the interaction between domestic and international forces. Kenyan lawyers and church representatives and the transnational actors they regularly mobilized for support played a crucial role in changing the rules of the political game in the country. However, institutional legacy

and existing distributions of domestic power resources played not only an important role in deciding the multiparty elections, but also shaped the confrontation between the authoritarian regime.and its more principled challengers. While the resistance of the opposition in the mid- and late 1980s was mainly a question of protecting oneself against an increasingly repressive regime, the formation of the NCEC and the call for constitutional reforms in the mid-1990s was a very different ball game. As the domestic position of those groups was now consolidated, their international contacts served no longer as a protective shield for individual activists but had a more ambiguous and long-term effect on the position of the intellectual avantgarde as a whole in the domestic political struggle. In a certain sense, the international contacts which were necessary to push for regime change in the first place became increasingly a liability for parts of the opposition movement. Moreover, the fact that many of the newly created domestic NGOs and pressure groups in the area of political reforms were dominated by Kikuyu became now more significant than during the late 1980s when protest against torture and unlawful arrests was sufficient to qualify as a principled supporter of universal values.

The radical part of the opposition movement succeeded in creating the NCEC as an umbrella movement for constitutional reforms, but its internationally well connected intellectual leadership had little local connections. Whenever it was necessary to mobilize people to the streets in order to push the government into sitting at one table with the opposition, the international contacts were of no help. Instead, the success was mainly predicated upon the ability of the NCEC leadership to mobilize opposition politicians with a large ethnic following, preferably in the slums of Nairobi and other larger towns. In the protracted negotiation process about the question of constitutional reforms, KANU and the opposition parties dominated simply because NCEC leaders had no domestic constituency. An appeal to the international public can possibly protect from arrest and torture, but it can not automatically secure prominent participation in national reform talks.

Still, the fast and successful completion of the IPPG talks would not have been possible without the presence of an opposition divided in a moderate and radical section. The latter presented a constant threat of mass action to the government, which strengthened the moderates at the negotiation table. As a result, hardliners on the side of the government decided for the time being to remain in the background. On the side of the opposition the

NCEC was excluded as a result of the government's insistence on the participation of elected representatives only. Hence, the beginning of constitutional reforms in Kenya highlighted the almost classical emergence of hard- and softliners on both sides of the political divide. With regard to their respective relations to the outside world, governmental softliners and opposition hardliners share relatively high levels of international exchanges in contrast to their respective counterparts. The agreement about the formalities of the reform talks reached in late 1998 is an important step towards further democratization.

While it is true that in most African countries, including Kenya and Uganda, the state is still the main avenue for material wealth accumulation, this does not necessarily make compromises and pacts impossible. Bratton/van de Walle claim that "because the stakes of political struggle are the state and its enormous resources, transition struggles are hard and bitterly fought, leading to zero-sum outcomes rather than compromises and pacts" (269). I argue here that African transitions are not exceptional with regard to the 'bitterness' of the political struggle. No matter in what context, the stakes for the parties involved are always high and a usually well-entrenched elite is threatened with a loss of material resources and power. Hence, compromises and pacts are not so much impeded by pre-existing institutional conditions, but by the respective threat perceptions of the concerned elites.

Uganda

When Museveni became president in January 1986 he transferred this curious mix of a top-down and grassroots approach to the national level. Until the early 1990s, the movement system was genuinely broad-based and offered to many Ugandans previously unknown opportunities to participate in local affairs. Despite the ban on party activities, the top-down transition of the NRM genuinely democratized the country on all levels of society. After 1992 the political system became less open and the NRM's concern for the mobilization of genuine grassroots input virtually ended. With the advent of national level elections, moderate opposition members gave up their positions in the government while tolerance for political dissent generally decreased. Despite very different circumstances compared to Kenya, I come here to a similar conclusion: the introduction of more Western-style elections in the mid-1990s had a rather ambiguous effect on the transition process in Uganda. While it certainly strengthened democratic institutions such as the parliament, those elections decreased incentives for the ruling government to pursue more inclusive and grass-roots oriented policies. In contrast to

Bratton/van de Walle's claims, elections were not the first step toward democracy in Uganda and the reform steps taken between 1986 and 1992 can not be dismissed as insignificant for the overall transition process.

During the thirteen years of NRM government transnational human rights groups and their domestic counterparts played a different and much less significant role than in Kenya. This is not surprising, because Uganda witnessed in 1986 a fundamental change of guards while no such change has occurred so far in Kenya. Nonetheless, Amnesty International as the main international human rights watchdog continued its observation of the Ugandan situation and published regular and highly critical reports until about 1992. In contrast to Kenya, these reports had more direct effects on the further institutionalization of domestic human rights safeguards as the government had already committed itself to the cause of human rights. The formation of ministerial human rights desks or the Uganda Human Rights Commission were not a tactical concession to appease the international public, but part and parcel of the long-term reform program of the NRM government. While the main international-domestic interaction involved in Kenya at that time transnational human rights groups and their domestic counterparts, it centered in Uganda on more direct communication between the former and the government. In the short term this was more effective, but in the long run such a top-down approach prevented the development of strong independent watchdogs to control the government.

The main problem of the transition process in Uganda are three mutually reinforcing trends. First, thirteen years of Movement rule indicate a growing entrenchment of the ruling elite. Second, societal mobilization for universal values such as human rights remains weak. To be effective, international pressure for such values needs domestic counterparts, preferably outside of the government quarters. Third, the domestic political situation is generally threatened by uncontrolled violent conflicts in the Great Lakes region. Despite the problematic entrenchment of the movement system (but because of the regional situation), international support for Museveni has always increased. Moreover, recently transnational human rights groups have returned target now rebel groups in the North for their practice of child abductions and senseless killings of the civilian population. The unintended consequence of this activism is an alliance with the US government's objectives in the region and additional support for the hard-line standpoint of the Museveni regime towards the rebel problem.

Continued insurgencies supported by the Sudanese government and Ugandan revenge operations prevents a peaceful solution of the conflict in the North. This inhibits not only the badly needed extension of the transition process throughout the Northern part of Uganda, but represents a constant threat to all the political reforms since 1986.

A similar threat emerged since 1997 with regard to the former Zaire. When the relations to the new Kabila government turned sour and Kabila's rebel coalition broke apart, Ugandan troops remained in Eastern Congo and supported the new enemies and former allies of the Kabila. Apart from the huge costs of this military adventure, the existence of a second front in the West represents another potential threat to the reform process in Uganda. Hence, Uganda's current involvement in regional conflicts and their domestic repercussions indicate one of the main differences between the two case studies.

The Contribution to the General Literature on Regime Transitions

The results of the two case studies can also be used to evaluate other general hypotheses developed within the existing regime transition literature. I have argued in chapter 1 that the agency-based turn within this sub discipline of comparative politics represents the current state of the art. The case studies confirm this result. There is no correlation between regime changes and economic development which would strengthen the arguments of the modernization paradigm. Both countries are well below any of the thresholds one can find in this literature and can not be expected to enter a sustainable process of democratization any time soon. In order to confirm the modernization argument, one would have to reject the regime changes in both countries as insignificant.

Within the agency-based tradition I have identified the work of Adam Przeworski and his application of rational choice models to regime transitions as the most coherent and consistent research program. The explanation for regime change derived from such a perspective is extremely attractive because it claims that political *uncertainty* - one of the main features of electoral democracy - leads elites to adopt democratic rules in a process of rational choice. Only democracy features regular as well as free and fair elections which guarantee all groups (organized in political parties) to return one day to power. Democracy is "permitted by accidents of history that leave a balance of power or stalemate - a dispersion of force and resources that makes it impossible for any one leader or group to overpower all of the others" (Olson 1993: 573). It is the only institutional setting which, at the same time, is a constant

source of hope for everyone's strife for power and guarantees limits to the exercise of power after a possible change in national leadership. The introduction of democracy is initially possible without democrats.

I concluded in chapter 1 that an institutionalist perspective offers the most promising supplement to an agency-based analysis (and vice versa), because institutions are generally 'closer' to agents than impersonal structural features of societies. This avenue has also been taken by Bratton/van de Walle and let them to develop their *politico-institutional approach* to democratization. In a perspective of *structured contingency* (Bratton/van de Walle 1997: 276-8; see also Karl/Schmitter 1991: 270/1), the authors argued that "inherited rules and institutions impose limits on the range of alternatives available to political actors" (276), while, at the same time, "existing organizations may suffer from such weak performance capacities or internal contradictions that they cannot propagate, instead spawning demands for the introduction of new sets of rules and institutions" (277). While this study confirms the general validity of agency-centered institutionalism in explaining democratic transitions, it claims that both, a rational choice perspective and Bratton/van de Walle's institutionalist supplement, ignore crucial variables which cause and influence processes of regime change.

A rational choice explanation assumes that domestic elites suddenly find themselves in a situation were domestic power resources are dispersed thus causing overall uncertainty about the future for all political actors. In such a situation, the introduction of democratic institutions is a rational choice. This is indeed a highly elegant argument because an intrinsic feature of democracy itself - namely uncertainty - serves as cause for its emergence. Nothing but rational interest calculation has to be added and democracy emerges almost like a self-enforcing mechanism. I argue here that changes in the domestic distribution of power resources is a non-trivial assumption whose explanation is crucial for an understanding of processes of regime change. Only once we know why a given ruling elite feels threatened to the point that it makes substantive concessions, we will be able to understand the subsequent process of regime change. Bratton/van de Walle offered an institutionalist answer to the puzzle and argued that internal contradictions cause disillusionment with existing domestic institutions. However, their simultaneous use of domestic institutions to account for continuity and change (277) is problematic, simply because it remains ultimately unclear why actors and actor groups suddenly perceive of one institutional ensemble as inefficient and seek to remove it, while

another remains untouched and subsequently shapes itself a transition process.

I argue here that a rational choice explanation leaves no and Bratton/van de Walle's institutional argument little theoretical space for the question of how alternatives become organized (Przeworski 1986: 53) and where actors could possibly be infused with a positive inspiration for action. Based on the two case studies, I propose an agency-centered institutionalist answer ⟵ to the puzzles which explicitly integrates the international realm into the analysis. The basic conflict causing regime change emerges between domestic institutions of authoritarian rule and international institutions representing universal values of human rights and democracy. Transnational human rights actors play a crucial role in transporting those values and norms into a domestic context.

In this process, strategies such as the 'shaming' of a human rights violating government account for shifts in the domestic power distribution. Opposition groups openly supporting a human rights agenda will emerge and/or grow in strength. Even if actors in control of major power resources or veto positions misuse universal language for purely instrumental purposes this leads to greater recognition of those norms. In the empirical part of this study I showed that both, the process of international institutionalization and the transfer of norms in a domestic context, exhibit such developments. Instrumental reference to norms opens a ⟵ window of opportunity for norms-driven entrepreneurs to engage state actors in a discourse that exposes gaps between rhetorical claim and action as well as the instrumental character of their arguments. Under the condition that such an entrepreneur can appeal to a sufficiently interested audience, material power asymmetries become less relevant and even powerful state actors are forced to either change their arguments or the behavior. Once a purely instrumental self-obligation is embedded in universal norms, it is hard for actors to reverse to a non-universal language.

In contrast to Bratton/van de Walle, such a perspective identifies two clearly separate sets of institutions and analyzes the conflict between actors which identify with either of these. It adds international human rights institutions as a distinct power resource in domestic struggles for political change. The efforts of transnational human rights groups to transport this basic conflict into the domestic realm interact with the historically grown institutional arrangements and actor relationships. While domestic considerations become more prevalent after the onset of a transition process, international factors remain relevant in its later stages. The contingen-

cies of a transition process are indeed structured, as argued by Bratton/van de Walle and others, but they are not only structured by domestic but also by international factors.

Are the Reforms significant and sustainable?

The general wisdom on the prospects for the consolidation of democracy in Africa is highly skeptical. Indicative new labels for the state of affairs in Africa, but also other regions in the world include "delegative democracy" (O'Donnell 1994), "informal polyarchy" (O'Donnell 1996), "transitions without consolidation" (Sandbrook 1996), or "virtual democracy" (Joseph 1997; Joseph 1998). What is usually meant by these labels is that many countries "are deliberately contrived to satisfy prevailing international norms of 'presentability'" (Joseph 1998: 4), but fail to make substantial progress in terms of overall democratization. More precisely, authors increasingly argue that the third wave produces a new form of "illiberal democracy" (Zakaria 1997) where constitutionalism is deliberately divorced from the concept of democracy.[137] As early as 1986, Terry Lynn Karl had identified the "fallacy of electoralism" (Karl 1986: 34). In her and many other affirming accounts, authors argued that elections were simply integrated in the system of authoritarian rule.

In the African context, authors have taken this position even from a descriptive to a proscriptive stage. Donors recent preferences for *good governance* are justified as a consequentialist replacement of democracy which can not be fully developed anyway because of cultural or economic restrictions. Bratton/van de Walle remain also pessimistic about African transition processes, mainly because the underlying "institutional logic of patronage and clientelism" (278) has hardly changed during recent years. Hence, the authors follow the general trend in the literature and claim that "democracy can be installed without democrats, but it cannot consolidated without them" (279). Here, modernization theory and cultural pessimism creep back in through the backdoor when the consolidation of democracy is predicated upon the existence of a "literate middle class" and "favorable underlying economic and social structures" (274). Is the third wave for the majority of cases best described as an instance of *plus ça change, plus c'est la même chose*?

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[137] Ottemoeller recently used survey data to argue that the current Ugandan political system corresponded with a prevalent "illiberal definition of democracy" within the population (Ottemoeller 1998: 123).

Considering the state of economic development in Kenya and Uganda, both represent 'easy' cases for a negative outlook on the prospects of further democratization. In contrast, the case studies presented here reveal substantive changes with respect to institutional traditions of competition and participation. This perspective does not ignore the very real hazards of these processes of transition, but as extremely unlikely cases for significant change the results pose a serious challenge for conventional wisdom. The general argument does neither ignore the problems of the transition processes in Kenya and Uganda nor claim that the activities of international human rights groups are the only solution to these problems. Instead, it is argued that the inclusion of international factors such as human rights norms embedded in international institutions and advanced by non-governmental actors further advances our understanding of transition processes in the selected countries and beyond.

The argument that democratic procedures can emerge based only on rational interest calculation, but is unlikely to lead to successful consolidation forces its proponents either into a pessimistic position or an argumentative predicament concerning the later stages of the transition process. If the transition process remains incomplete, the pessimistic position seems vindicated. However, such a retreat to *plus ça change, plus c'est la même chose* is intellectually dissatisfying and puts the own effort to introduce new theoretical concepts into a defensive position. The overall predicament can be further exemplified with reference to the assumed role of the so-called middle class. On the one hand, Bratton/van de Walle and others base their pessimism about the future of democracy in Africa on the assumption that a literate middle class and industrialization are prerequisites for the consolidation of democracy. On the other hand, they are aware of the ambiguous role such middle classes have historically played in many struggles for democracy. Hence, in the case of fundamental regime change these arguments have to assume some external source of change which actually 'makes' a middle class (or other societal actors) prefer democratic institutions over authoritarian ones. Hence, generally pessimistic and/or rational choice perspective prevent the explicit recognition of root causes for change. Ultimately, Bratton/van de Walle are at the end still left with the question why democracy became an issue all over Africa in the first place.

This contradiction can only be solved if we acknowledge norms and ideas as possible sources influencing the formation of preferences and interests of individuals and groups. Instead of Bratton/van de Walle's vague suggestions to "solidify, revive, or create institutional traditions

of political participation and competition" (278), this study presented international norms of human rights and democracy as a point of reference for social movements. I argue here that prior to and during all stages of a transition process, at least some actors value democracy and human rights for its own sake. Only if we take serious the strategies of those actors to influence others we will have identified an important root cause of regime change. These norms are certainly not self-enforcing and their effects vary according to pre-existing domestic filters. They depend on entrepreneurs which can device more or less successful strategies for their promotion. Here, and not in social and economic prerequisites one will find an explanation for the successes and failures of democratic transitions.

As one of result of this, domestic and international observers as well as transnational human rights groups themselves will have to take a much closer look at the effects of their interventions in a given domestic context. While principles may suffice to seek protection for individuals from immediate repression, a long-term engagement requires a much more elaborate analysis of domestic politics. In Kenya, the current struggle for human rights and constitutional reform is intertwined with an ethnically framed conflict originating in the period right before and after the attainment of political independence. In Uganda, the conflict in the North is not only a matter of shaming and fighting particularly vicious rebel groups, but an issue of reuniting the country after almost twenty years of civil war as well as deciding the fate of the notoriously famine-stricken Southern region of neighboring Sudan.

The results of this study reaffirm both main claims contained in Ndegwa's "Two Faces of Civil Society" (Ndegwa 1996: 3). First, civil society is not an unambiguously positive stakeholder in advancing democratization, because outside support tends to distract activists from actively seeking a broad domestic legitimacy. Second, activities outsiders associate with civil society do not necessarily empower citizens on the grassroots level. In both cases, outside material support went largely to organizations in the capitals representing more narrow interests of educated elites. While this has led in Kenya to significant changes in state-society relations during the 1990s, the sustainability of the improvements is doubtful.

Transition paths and sustainability: Pacts or mass mobilization - competition or participation?

I have argued that the reform steps taken in Kenya and Uganda since the early 1990s and 1986 respectively are significant. Moreover, I have shown that both countries have taken very

different paths of regime change. While Kenya took the more 'classical' road of extending competition first, Uganda put clear emphasis on the issue of participation. Based on these assumptions I can now raise the question about the comparative sustainability of the reforms in both countries. Again, the literature is fairly united in following Robert Dahl's argument, that a historical sequence where competition precedes inclusiveness is more likely to lead to polyarchy than the other way around (Dahl 1971: 203). Bratton/van de Walle echo this position and hold that elections must come first before participation can be extended. Moreover, they use the basic distinction of competition and participation to describe different types of authoritarian rule, whose differing institutional legacy is used as a crucial explanatory variable for regime change. Based on their main institutionalist argument, they claim that valid predictions about the path and result of regime change can best be derived from the prior mode of neo-patrimonial rule.

In this logic, Kenya represented from the mid-1960s to the mid-1980s a competitive one-party system, while competition and participation sharply decreased between 1986 and 1990/91. The one-party system became now more plebiscitary. After 1992, Kenya joined formally the ranks of multiparty democracies, but only in 1997/98 a reform process was started which aims at leveling the playing field for all political actors. Uganda went from a plebiscitary one party system in the late 1960s to a military oligarchy and became a competitive one-party system in the early 1990s. Therefore, one can predict that the Kenyan transition process is more likely to be sustainable than in neighboring Uganda, because of the much higher level of political competition in earlier periods.

Based on cases in Latin America, Southern and Eastern Europe, Karl/Schmitter developed a related argument with greater emphasis on the transition process itself (Karl/Schmitter 1991 and Figure 4). Instead of modal regimes, Karl/Schmitter link the dependent variable 'consolidation/transition path' to so-called modes of transition. While Bratton/van de Walle used Dahl's basic distinction of 'competition' and 'participation' to identify regime types, Karl/Schmitter distinguished modes of transition with reference to 'actors' (masses or elites) and 'strategies' (compromise or force). Karl/Schmitter concluded, that transitions from below are less likely to be successfully especially under a reform mode with "long-term peaceful pressure from below." Transitions by pact or imposition are the most likely modes which will eventually yield democracy, albeit usually in a restricted form. Whereas the Kenyan process

displayed mass mobilization and later elite compromise with plenty of pressure from below. the Ugandan case went from revolution to imposition from above. Hence, Karl/Schmitter would be more optimistic about the Ugandan process than Bratton/van de Walle, while they would discount the role of pressure from below in Kenya and focus on the most recent negotiations between various elite factions.

The results of the case studies confirm the important role of institutional legacy, but support Karl/Schmitter's argument for greater attention towards the modes of transition. While Bratton/van de Walle and Karl/Schmitter both use "structured contingency" as a central descriptor for regime changes, the former tend to emphasis historically grown institutions as determinants of human action. The latter lean more towards the contingencies of a transition process. Both agree that mass-driven action might be good for getting transitions started, but subsequently inhibits further progress towards democracy. This is in line with the general academic wisdom on the 'third wave', which tends to emphasis elite pacts and the 'crafting' of democracy. The Ugandan path of extending participation prior to political competition as well as the Kenyan experience with elections during the 1990s represents food for thought for the conventional wisdom that regime change towards democracy should be kicked off (or even is completed) with the installation of multipartyism.

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Abstract

This thesis brings together recent research on the role of international institutions in domestic politics and the current literature on regime change in Africa. Empirically, it presents a comparative evaluation of regime changes in Kenya and Uganda from the mid-1980s until today. The thesis follows the recent emphasis within the democratization literature on the role of political actors and institutions in bringing about and shaping regime change. It adds to this literature a specific concern for international human rights institutions and actors as potential sources of change. I argue that the international institutionalization of human rights norms represents an opportunity structure for international and domestic human rights actors. They use those norms and institutions to challenge the prevalent norm of state sovereignty and succeed in delegitimizing human rights violating regimes.

The thesis evaluates the role of those international factors, first, in *causing* regime change and, second, in *shaping* the subsequent transition path. Variation in the results expressed by the mode of initial transition is explained for the onset of regime change by the dominant form of *neopatrimonial rule*. Whereas cohesive clientelist networks solidified in Kenya over almost 20 years, the bases for such a system in Uganda were destroyed by the Amin dictatorship and subsequent civil war. The dominance of positive integration by resource allocation in Kenya contrasted with a prevalent logic of violence and indiscriminate mass killings in Uganda. When transnational human rights mobilization affected both countries, the international-domestic interaction produced in Uganda a revolution from below (1986) and in Kenya limited reforms from above (1990/1991).

Variation in subsequent transition paths is mainly accounted for by the named *initial mode of transition* which affects the international and domestic mobilization. When the Kenyan government chose an *electoralist* transition path international human rights pressure remained strong and slowly eroded the governmental efforts to limit the effects of the reform process. By contrast, the new Ugandan government initially emphasized a different transition path and engaged in elaborate *constitutionalist* reforms. A decline in human rights activism explains why this reform process was delayed. Rather than limiting institutions to the role of constraints upon actor's choices, this argument highlights the enabling role of institutions and identifies the potential conflict between norms embedded in different institutional settings as a source of social and political change.