

Paper prepared for the conference „Democratization in Africa: Retrospective and Future Prospects“ at the University of Leeds, 4-5 December 2009

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Ethnic party bans in East Africa in comparative perspective

Abstract

Since 1990 the banning of ethnic and other identity-based parties has become the norm in sub-Saharan Africa. This article focuses on Kenya, Tanzania and Uganda as three East-African countries which opted for different ways of dealing with these parties. Case studies trace back the origins of the party bans in Tanzania and Uganda as well as reasons for the absence of a ban in Kenya. The analysis shows that the laws have actually been implemented by the responsible institutions. However, a comparison of regional voting patterns suggests that this did not ensure the emergence of aggregative parties with a national following while Kenyan parties proved not to be more regional.

Keywords: sub-Saharan Africa; party ban; ethnic parties; Kenya; Tanzania; Uganda; party regulation; party nationalization

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1. Introduction

When reintroducing multiparty politics in the 1990s, most African countries felt the need for a legal regulation of political parties.¹ Forty out of 46 countries adopted specific party laws or regulated parties in their electoral law and/or the constitution.² A specific feature of this regulation in Africa is the widespread distrust of particularistic parties: in order to avert the emergence of ethnic, religious or other identity-based parties which are feared to foster violent conflict, most countries simply banned them. While such a ban is very common and rarely questioned, little is known about its implementation and its effectiveness in preventing particularistic parties and violent conflict.³ We also do not know much about why some countries defied the general trend and did not introduce a ban on particularistic parties.

Ethnic heterogeneity is commonly considered as a major obstacle to peace and democratic stability.⁴ While ethnic conflict can have various causes, it is generally assumed that in heterogeneous countries multiparty politics leads to the emergence of particularistic parties which will foster conflict via ethnic outbidding and census-like elections.⁵ A broad literature on how to prevent such a development has emerged over the years, focusing on various tools of institutional engineering.⁶ Only more recently has this literature taken a closer look at regulations that target political parties directly (Basedau and Becher 2007; Basedau, Bogaards, Hartmann and Niesen 2007). It has been argued that regulations that foster the aggregative character of parties and their national outlook or even outlaw particularistic parties might help in stabilizing a peaceful democracy (Bogaards 2007, Reilly 2006). However, such a stabilising effect can only occur if regulations do indeed influence the character and behaviour of political parties.

In order to answer the questions why regulations on particularistic parties have been introduced (and why not), to what extent they are implemented and which impact they

¹ The paper draws on case studies conducted within the project: 'Managing Ethnic Conflict through Institutional Engineering. Ethnic Party Bans in Africa' which was funded by the Fritz Thyssen Foundation and was being conducted in close cooperation with the Jacobs University Bremen and the Universities of Darmstadt and Duisburg-Essen.

² No multiparty system in Swaziland and Eritrea.

³ For a collection on party regulation and its impact in different regions, see Reilly and Nordlund 2008. For research on the impact of party regulation in Latin America, see Birnir 2004

⁴ Gurr and Harff 1994, Lake and Rothchild 1998.

⁵ Horowitz 2000, Rabushka and Shepsle 1972. For a contrasting view see Chandra 2004.

⁶ See for example Sisk 1996.

have had on political parties, this article adopts an area approach and takes a closer look at three East African countries, namely Kenya, Tanzania and Uganda. While geographically close and sharing a number of historical and structural similarities (such as ethnic heterogeneity, low income, partly free political regime, British colonial background), these countries opted for very different strategies in dealing with particularistic parties in the 1990s.⁷ The article first examines the historical background for the introduction of party bans. In a second step the implementation of the party bans as well as their impact on specific party features are compared.

2. The origins of party regulation in East Africa

When most African countries introduced party regulation in the 1990s, Kenya, Tanzania and Uganda opted for three different approaches. Kenya had no party law at all; parties were regulated under the Societies Act. Only in 2008, a political party law was enacted. Tanzania in contrast introduced a party law immediately in 1992. The law banned particularistic parties and included spatial distribution requirements for the registration of parties. Finally, Uganda outlawed party activities under the ‘movement system’ as a form of ‘no-party-democracy’ until 2005. The movement system was introduced in 1986 by Museveni and the *National Resistance Movement* (NRM) and initially thought to represent a transitional form of government. However, it was then integrated in the 1995 Constitution, which prohibited party activities as long as the movement system would be in place but also included regulations on particularistic parties. In 2002 a party law was introduced but soon superseded by a new law in 2005. Table 1 gives a short overview about previous and current regulations on particularistic parties in the three countries.

Table 1: Party regulation in Kenya, Tanzania and Uganda since 1990

	Legal Source	Outlawed identity	Representation requirement	Responsible institution: registration	Responsible institution: dissolution
Kenya 1992	Societies Act	-	-	Registrar of Societies	Registrar of Societies
Kenya 2008	Political Parties Act	colour, ethnicity, faith,	200 members from each Province, one member from each	Registrar of Political Parties	Registrar of Political Parties

⁷ Today, however, this difference has greatly decreased.

		language, race, region, tribe	Province in the governing body, one founding member from each district		
Tanzania	Political Parties Act	religion, place of origin, race, tribe	200 members each from 10 regions, including Pemba and Zanzibar; leadership from mainland and Zanzibar	Registrar of Political Parties	Registrar of Political Parties (agreed to by the responsible minister)
Uganda 1995	Constitution	ethnicity, faith or other sectarian division	'national character'		
Uganda 2002	The Political Parties and Organisations Act	colour, ethnicity, faith, race, region, tribe	50 members from each of at least half of all the districts*	Registrar General	Registrar General may apply to High Court
Uganda 2005	The Political Parties and Organisations Act	colour, ethnicity, faith, race, region, tribe	50 members from each of at least 2/3 of all the districts in each region	Electoral Commission	Electoral Commission may apply to High Court

Notes: * In order to get registered, parties had to bring a list with names and addresses of at least 50 members from only 1/3 of the districts.

Source: Own compilation.

How can we explain these developments? While a full explanation is beyond the scope of this paper, a closer look at the combination of structural historical factors and the interaction of relevant actors in the three cases still reveals interesting insights. In order to explain the introduction of party bans, Hartmann and Kemmerzell (2009) analyze the colonial background of the country, previous experience with party competition, the mode of transition towards a multi-party regime and previous experience with (ethnic) violence. The British colonial background – shared by the three countries – is supposed to lead to more liberal party regulations. This however does not allow us to explain why both Uganda and Tanzania opted for a restrictive party regulation. Highly constrained political competition (including former attempts of restricting particularistic parties), a top-down transition, as well as previous ethnic violence are assumed to make the introduction of a party ban more likely.

A short overview of these factors does not point to a clear-cut pattern explaining the introduction or the absence of a ban: while all three countries experienced a managed transition (with the particularity of the movement system in Uganda), previous levels of party competition and ethnic violence vary considerably. Kenya and Tanzania both

experienced only short periods of multiparty competition and can be classified for most of the post-independence period as competitive one-party systems. The ruling party was well entrenched but some degree of competition within the system was allowed (Bratton and Van de Walle 1997). Uganda in contrast experienced several periods of multiparty politics which were however interrupted by periods of military regime (Hartmann 1999: 221f.). Uganda also went through periods of very bloody interethnic strife which did not occur in its neighbouring countries. Ethnicity played a significant role in Kenyan politics, while in Tanzania ethnicity never gained the importance it had in Kenya (Erdmann 2002: 11, Glickmann 1995). It seems that neither the transition, nor the former regime type or previous levels of violence are sufficient to explain the diverging party regulations in the three countries. They do however influence the choices of relevant actors as will be shown in the following sections (starting with Tanzania as the ‘typical’ party ban model).

Tanzania

Tanzania introduced multiparty politics in July 1992 with the 8th Amendment of the Constitution. The decision followed a recommendation of the ‘Nyalali-Commission’ under the chairmanship of the Chief Justice of Tanzania, Justice Nyalali, which was appointed in February 1991 by then-President Mwinyi. The Bill on Political Parties was presented to parliament by First Vice-President Edward Lowassa on 7 May 1992 and received assent by the president on 29 May 1992 (Peter 1996). Article 20 of the constitution as well as the Political Parties Act prohibit the registration of a party

which according to its constitution or policy (a) aims at promoting or furthering the interest of: (i) any religious faith or group; (ii) any tribal group, place of origin, race or gender, (iii) only a particular area within any part of the United Republic; (b) advocates for the break-up of the Republic; ... (d) advocates or intends to carry on its political activities in only one part of the United Republic (The United Republic of Tanzania 1977: Article 20).

The Political Parties Act provides further that membership shall be ‘voluntary and open to all citizens of the United Republic without discrimination on account of gender, religious belief, race, tribe, ethnic origin, profession or occupation’ (The United Republic of Tanzania 1992a: Article 8 (1) (c)). Groups that want to register as a political party have to apply for provisional registration first, and within 180 days for full registration. In order to be fully registered, the party needs not less than two

hundred members who are qualified to be registered as voters for the purpose of parliamentary elections from each of at least ten Regions of the United Republic out of which at least two Regions are in Tanzania Zanzibar being one Region each from Zanzibar and Pemba. Additionally, the party leadership must include members from both Tanzania Zanzibar and Mainland Tanzania (The United Republic of Tanzania 1992a: Article 10 (1) (b) (c)).⁸ The registrar of political parties who is appointed by the president registers parties and can – with the consent of the responsible minister – cancel the registration of a party which has violated any provision of the Act or which otherwise ceases to qualify for registration under the Act.

Mainland Tanzania did not suffer from large-scale ethnic violence before or after independence (Blum 2006, Young 1976). Nevertheless, since the 1960s the *Tanganyika African National Union* (TANU) and then-President Julius Nyerere followed an intense nation-building policy, including the promotion of Swahili as a national language and using TANU and its successor organisation *Chama cha Mapinduzi* (CCM) as an instrument of integration and assimilation (Glickmann 1995). In its 1991 report, the Nyalali-Commission recommends the re-introduction of multiparty politics but picks up the ideas of Nyerere concerning the dangers of tribalism. While discussing the advantages and possible pitfalls of multiparty politics, it refers explicitly to the threat to peace, national unity and the Union of Tanzania mainland and Zanzibar and identifies the emergence of tribal or religious parties as one possible problem. The commission therefore recommends various safeguards which include major restrictions on particularistic parties (The United Republic of Tanzania 1992b).⁹

These recommendations were implemented in the Political Parties Act of 1992. The regulations were justified by central actors like the speaker of the national assembly and the registrar of political parties as aiming at the preservation of achieved unity and avoiding violent experiences of other countries (Liundi 1998: 203, Msekwa 1995). However, much indicates that the law also fitted well the wish of the Tanzanian government to keep a tight grip on the liberalization process in allowing them to regulate the registration and activities of the new political parties (Mmuya 2008).

⁸ There are currently 26 regions in Tanzania, with three in Unguja, the main island, and two in Pemba.

⁹ The Commission recommended that parties should not be based on religion, tribe or race, have a national character and 200 signatories in 10 regions, two of them in Zanzibar.

Rather specific to Tanzania is the broad range of regulations that aim at preserving the Union between Tanzania mainland and Zanzibar. The Union had been created in 1964 under Julius Nyerere and Abeid Karume, Zanzibar's President. At the beginning of the 1990s, voices favouring a split of the Union had become louder. The restrictions designed to preserve the Union's integrity immediately encountered disapproval from Zanzibari opposition groups (Economist Intelligence Unit 1992: 11). More generally, while the Act has received criticism from various actors, the regulations against particularistic parties have apparently not been an object of dissent.

Kenya

While Tanzania followed a common pattern on the continent, Kenya belonged to the exceptions and did not introduce any specific party legislation. Instead, parties were regulated under the Societies Act of 1968. The Societies Act prohibited associations of which the registrar of societies had 'reasonable cause to believe that the society has among its objectives, or is likely to pursue or to be used for, any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Kenya' (Republic of Kenya 1968: Article 11). For the same reasons the registrar could cancel a party's registration.

Since 1993 the Kenyan parliament as well as – in 1997 – the *Inter-Party Parliamentary Group* discussed the issue of party regulation with particular regard to party funding (Center for Governance and Development 2005b). A first attempt to create a party law was made in June 1995 by attorney-general (AG) Amos Wako. His bill included a ban on ethnic or religious party names and proposed a registration process of at least seven months. It was argued that the bill was directed primarily against *Safina*, an explicitly non-ethnic party founded by reformist opposition politicians around Paul Muite, which had applied for registration three days earlier (*Safina* means 'the arc' in Swahili). Wako finally renounced on bringing the bill into parliament due to a wave of national and international criticism (Peters 1996).

In 2002 MP Musikari Kombo sponsored a motion for a Political Parties Funding Bill which was passed with an amendment that the bill should include regulation on the registration of political parties. While the bill was not implemented because President Moi dissolved the parliament, various organisations continued to follow up on the

issue. In 2004, the *Kenya Law Reform Commission* working closely with the *Electoral Commission of Kenya* and several other stakeholders drafted a bill on political parties which included a ban on parties based on ethnicity, tribe, race, language, region or religion and required a party to have 100 members in each province and at least one person from each province in its governing body (Center for Governance and Development 2005a). While the bill was backed by the minister of justice and constitutional affairs it was not brought before parliament until December 2006. It was speculated that the two main reasons for this delay were lack of funds in the budget to pay for the included public funding of parties and reluctance to change the rules before the elections (The World Bank 2006, *The East African Standard*, 14 August 2006).

Finally, the Political Parties Bill was brought again before parliament in March 2007 by the minister of justice and constitutional affairs. After a first rejection the law received assent by the president in October and entered into force in July 2008. The final bill creates a registrar of political parties which is located within the electoral commission and rules that no party shall be registered which

(a) is founded on an ethnic, age, tribal, racial, gender, regional, linguistic, corporatistic, professional or religious basis or which seeks to engage in propaganda based on any of these matters; (b) uses words, slogans, emblems or symbols which could arouse ethnic, age, tribal, racial, gender, regional, linguistic, corporatist, professional or religious divisions; ... (e) advocates or aims to carry on its political activities exclusively in one part of Kenya (Republic of Kenya 2007).

Like in Tanzania, the registration process occurs in two steps. In order to get fully registered, the party must have no less than 200 members who are registered voters from each province, on its governing body a member from each province who is ordinarily resident or registered to vote and at least one founding member from each district. If a party breaches these regulations or has obtained its regulations in a fraudulent manner, the register of political parties shall warn the party and – if the party does not comply – de-register it within 90 days.

However, the issue of a ban on particularistic parties was not only discussed with regard to the party law but also within the context of the constitutional reform process. While the constitutional draft of the civil society of November 1994 did not include a ban on ethnic parties (Mutunga 1999), such a regulation could be found in

the more recent drafts of the *Constitution of Kenya Review Commission* under Chairman Yash Ghai in 2002, the ‘Bomas-Draft’ of 2004 by the *National Constitutional Conference* as well as in the government draft by AG Wakos of 2005.

Considering the difficult process of introducing a party regulation in Kenya it seems that different factors explain the previous absence of a party ban. First, it seems clear that the reason was not a deliberate decision against a ban like for example in South Africa. Rather, in 1991 and 1992 none of the actors had a strong interest in a party law.¹⁰ The final decision to introduce multiparty politics was apparently taken rather rapidly at the end of 1992 and elections were held only one year later. The opposition had reached its aim and was occupied in preparing the elections. The incumbent government had a powerful tool to influence the registration of parties via the rather vague regulations in the Societies Act which were used excessively, as shown below. Finally, it might be assumed that President Moi had no interest in outlawing ethnic parties – the alleged dangers of tribalism and ethnic conflict represented a strong tool in his political rhetoric. Later, the introduction of party regulation was made difficult by dissent over party funding and the authoritarian proposal of AG Wakos in 1995. When the issue was tackled anew since 2002 parties raised concerns about the necessary members but other issues such as party funding or the issue of party mergers led to much more discussion (Programmes Officer of CMD Kenya 2008). The Act of 2008 now follows closely provisions included in other countries.

Uganda

Uganda has been an exception on the African continent in trying what has been called a ‘no-party democracy’. When the NRM came to power in 1986 after a five-year civil war, they abolished parts of the 1967 Constitution in their Legal Notice 1 of 1986, thereby banning political party activities (see Museveni 2000: 257-261).¹¹ According to the NRM, former regimes and political parties had played an important divisive role in the country’s history, causing sectarian politics and ethnic violence (Mukholi 1995: 25f, Museveni 2000: 111f). While the movement system was accepted as a transition period of four years, the question of the political system proved

¹⁰ A similar opinion was advanced in interviews by Jane Amiri 2008, and Programmes Officer of KAS Office Nairobi 2008.

¹¹ Article 3 of the Ten-Point Program speaks about the consolidation of national unity and the necessary elimination of all forms of sectarianism.

controversial in the constitutional debate that was started in 1990 (Hartmann 1999: 237f).¹² The *Uganda Constitutional Commission* (UCC), which collected views all across the country, found the issue to be the most controversial of all and finally proposed in his draft of 1992 that the movement system should be kept for five more years after the elections. However, they also decided that the question was too important to be permanently decided by the constitution and therefore included the option of a referendum on the multiparty system (Odoki 2005). In the *Constitutional Assembly* the question of the political system led to new confrontations but the proposition of the commission was kept (The Republic of Uganda 1995: Art. 69, 70, 269-271).¹³

The debate on both occasions seems to have focused strongly on the general question of the political system. Article 71 of the Constitution, which regulates parties under a multiparty system, was apparently not object of a major debate.¹⁴ It requires parties to ‘have a national character’ and rules that ‘membership of a political party shall not be based on sex, ethnicity, religion or other sectarian division’. In its final report the UCC states that they aimed at reconciling the diverging views on multiparty politics by allowing parties to operate freely ‘with the exception of endorsing, sponsoring, offering a platform or campaigning for or against a candidate for any elections’ under the movement system while at the same time recommending ‘that the formation and operation of political parties be regulated by law so ensure their full democratisation and peaceful coexistence and their conformity to the national objectives and principles as identified by the people’ (Waliggo 1995: 35). This attitude led to Article 71, which expresses the prevailing strong suspicions against political parties, but could also be interpreted as a safeguard and a compromise between movement supporters and opponents.

Article 71 suggests that the parliament shall introduce legislation on the financing and functioning of political parties. This proved to be difficult however.¹⁵ The bill on political parties was expected to be brought before parliament in 1998 but received its

¹² The members of the Constitutional Commission were nominated in 1989 and started to work in 1990.

¹³ For the negotiations, see (Mukholi 1995: 52f, Wapakhapulo 2001)

¹⁴ No discussion of this issue is mentioned in Mukholi (1995). Odoki (2005) elaborates in depth the debate about the system types and describes how a compromise was found but mentions no discussion of the ban of ethnic parties.

¹⁵ If not mentioned otherwise, the following part draws mainly on EIU Country Reports.

first reading only in 1999. Political parties expected that the bill would be passed in time before the 2000 referendum on the nature of the political system in order to allow them to campaign for their views. The government however argued that a situation in which parties would be permitted to campaign openly would confuse the voters about the aim of the referendum. Only in 2001 the disputed bill was tabled again and passed by parliament. However, as the text allowed parties to operate on the district level, Museveni refused to sign it. Only almost one year later, in 2002, a very restrictive bill was finally passed into law by parliament amid storms of protest by opposition MPs. The Political Parties and Organisation Act (PPOA) of 2002 was immediately challenged before the courts by two opposition parties and in 2003, the constitutional court declared large sections of the Act unconstitutional and annulled them, declaring that they would make Uganda a de facto one-party-state (Paul Kawanga Ssemogerere and others vs. the Attorney General of Uganda). A new and widely changed bill was then passed in 2005 within the preparation for a new referendum leading to the re-introduction of multiparty politics in Uganda. Both laws ruled that

(1) no person shall form a political party or organization a) the membership of which is based on sex, race, colour or ethnic origin, tribe, birth, creed or religion or other similar division; b) which uses words, slogans or symbols which could arouse divisions on any basis specified in paragraph (a); or the objects and membership are not of a national character. (2) For the purposes of subsection (1), a political party or organisation is formed on any of the basis specified in subsection (1) if membership or leadership is restricted to members of any particular category specified in that subsection or if its structure and mode of operation are not national in character (The Republic of Uganda 2002: Article 5 (1) (2)).

In order to specify how to determine the national character of a political party, the Act of 2002 ruled that a political party or organisation shall not be of a national character unless it has in its membership at least fifty representatives from each of at least half of all the districts (The Republic of Uganda 2002: Article 5 (4)). In the following Act of 2005, this requirement was made even more demanding, in that it requires at least 50 members from each of at least two thirds of all the districts of Uganda and from each region of Uganda (The Republic of Uganda 2005).¹⁶ When the responsible institution – since 2005 the electoral commission – finds that a party does not comply

¹⁶ In Article 7 (1) (b) the Act specifies that 'region' here refers to Uganda's of 'traditional geographical regions', namely Buganda, East, North and West. Uganda currently has 77 districts.

with the Act, it may require the party to change this and, in case of persistent non-compliance, apply to the high court for an order winding up the party.

In the public discussion it seems that the question of the political system was again more important than the party ban. While one of the petitions against the Act did not include a complaint against the above article, the other questioned the requirement of having representatives from a large number of districts among its members arguing that this might prevent individuals who are unable to travel the whole country from forming political parties. The constitutional court referred to the constitution and argued that ‘an organisation which hopes to take political power under this Constitution should be representative of the people of Uganda’ and ‘be reasonably a reflection of Uganda’. It concluded that the requirement was within the spirit of the constitution and answered the issue in the negative.

The preceding comparison showed that there is not one single path leading to a particularistic party ban. The example of Tanzania suggests that previous ethnic violence and negative experience with particularistic parties is not a necessary condition for the introduction of a ban. It seems rather that the ban expresses a certain path-dependency in the regulation of ethnicity in a preventive way and additionally allowed the government to exert some control over the new parties. In Uganda the party ban is closely linked to the movement system and its anti-particularistic ideas but diverges from pre-1986 party strategies. The Ugandan regulation would therefore fit the argument that bans might represent an attempt to not repeat former evils. Kenya finally did not opt for the absence of a ban in a deliberate way. Rather, the quick transition process and a lack of interest for a new comprehensive regulation on political parties on both sides (incumbent and opposition parties) led to the non-introduction of a party law. This is also reflected by a legally questionable denial of the registration of a religious party in 1992 (see next section). Later attempts to regulate parties included a ban but failed due to other reasons, particularly the issue of party funding. All in all, the analysis shows the very broad consensus on the continent about the necessity of a particularistic party ban. This tendency is boosted by diffusion and copying; for example, the Kenyan drafters of the law studied other African and non-African party laws and their paragraphs on particularistic parties closely resemble this of other African countries like Tanzania.

3. The implementation of party regulation in East Africa

While particularistic party bans are common, their implementation cannot be taken for granted. The relevance of formal institutions in sub-Saharan Africa has often been questioned and therefore party laws might have more symbolic value than represent strict guidelines for the responsible institutions (Chabal and Daloz 1999). Additionally, African institutions often lack resources which could also prevent an effective implementation of the law. Therefore, the question emerges of how the party bans are actually implemented in the three countries. Are the laws enforced at all and which problems did emerge?

Tanzania

In Tanzania, the registrar of political parties is responsible for the registration and the banning of political parties. His office is located within a ministry and he is, like the deputy registrar, nominated directly by the president, while ‘the responsible minister’ nominates several assistant registrars (The United Republic of Tanzania 1992a). The registration process started in 1992 under the first registrar of political parties, George Liundi. Thirty-one political parties got provisional registration in the first year, but only 12 finally got registered. According to official information all the others were not able to get the necessary member signatures. No party was registered between March 1994 and November 2001. Only when Liundi retired and John Tendwa was named registrar of political parties, new registrations took place. Between 1992 and 2005, 71 parties got provisional registration and 20 were finally registered.¹⁷ Despite various threats by both registrars, however, only three parties were de-registered because they did not have internal elections (*Daily News*, 13 September 1999; *The Guardian*, 8 March 2000; *The Guardian*, 2 June 2001; *The Guardian*, 11 February 2004.).

While parties regularly took the registrar to court only one party complained against a denied registration. Reverend George Mtikila had tried to register the *Democratic Party* (DP) in 1992. He openly questioned the Union of Tanzania mainland and Zanzibar, and considered the latter not part of Tanzania. Additionally, he used a xenophobic rhetoric against the Asian business community which led to clashes against the Asian minority in January 1992. It seems that some Muslim groups

¹⁷ List obtained at the office of the Registrar. Fourteen parties tried to register several times.

additionally argued that if his party would be registered they would attempt to register a Muslim party in return (Economist Intelligence Unit 1993a). Finally, the registrar denied registration to the DP because Mtikila did not get the necessary signatures in Zanzibar. Mtikila brought the case to court which decided that the party should be registered. However, when Mtikila applied anew, he again did not get signatures in Zanzibar and his application was rejected. Mtikila tried to force the registrar to register the DP without success and finally in 2002 he got the necessary members and the DP was registered (*The Guardian*, 5 August 2000). When asked why he did not justify the ban of the DP in terms of its religious or discriminating policy, Liundi argued that this would have fuelled conflicts additionally. He apparently decided in a similar way on a later occasion when he denied registration to a Muslim party because of lacking members (Liundi 2008).

The Act and its implementation led to various critiques over the years. When the law was introduced, politicians from both sides of the Union questioned the necessity for parties to have a union character and get the minimum membership (*Business Times*, 1st January 1993, Economist Intelligence Unit 1992). Indeed, when the registration process began opposition parties encountered troubles and found it difficult to comply with the requirement. They mainly complained about harassment by the governing parties and civil service agents as well as lacking resources which made it difficult to travel the country and to mobilise potential members (*Business Times* 30 October 1992).¹⁸ Even the registrar of political parties considered the registration requirements as harsh and several times proposed amendments to the government to renounce on the representation requirements which were not adopted however. (Liundi 2006: 523, *The Express*, 17 February 1994; *The East African* 9 April 2001).¹⁹

The office of the registrar seems to have encountered difficulties to enforce the regulations: during the first years of its existence, it lacked staff and resources to travel to ten regions for all parties that applied for full registration (Liundi 2008). It therefore only controlled some regions and only in 2002, Tendwa announced that his office would control all 10 regions from now on (*The Guardian*, 18 February 2002). The somewhat sporadic control of the first years was justified as support for the

¹⁸ Interviewees from different parties described the registration process as very difficult and very expensive (Chairman of the National League for Democracy 2008, Chairman of the Tanzania Democratic Alliance Party 2008, Secretary General of the United Democratic Party 2008).

¹⁹ For a recent discussion of the Act see Fimbo, et al. 2008)

young parties (Assistent Registrar 2008).²⁰ However, the strategy was also criticized as partial and discriminatory as the registrar controlled some parties more than others (Peter 1996). It has sometimes been argued that the requirements were ineffective as many of the signatures were ‘bought’ by food and tea or small gifts.²¹ While it is difficult to test this claim it is clear that not all parties were able to get the necessary signatures this way: fifty-one parties failed to meet the requirements. Additionally, in at least one case two groups merged in 1992 to form a party – the *Civic United Front* (CUF) – in order to be present in Zanzibar and Tanzania mainland.²²

Kenya

In Kenya before 2008, the regulation of political parties followed the Societies Act. This Act left considerable discretionary power to the registrar of societies who is nominated by the president. The registrar denied registration to various parties and functioned as a political instrument in favour of the regime by registering government-friendly parties and splinter-groups of opposition parties with similar names and symbols while delaying or even denying the registration of opposition parties considered as dangerous (Amiri 2007: 64, Registrar of Societies 2008). Between 1992 and 1996 alone the registrar denied registration to 23 parties. One of them, the *Islamic Party of Kenya* (IPK), was denied registration due to its religious character in June 1992. The decision revealed the unclear legal situation, however: when the party complained about the refusal to the attorney-general, he justified the decision and referred to the constitution which allegedly outlaws religious parties. However, there is no such article and the decision was harshly criticized by many opposition parties (*Daily Nation*, 20 June 1992; *Daily Nation*, 22 June 1992).

Despite the restrictive registration practice of the registrar the number of parties augmented from 12 to 26 in 1997 and to 51 in 2002. Since 2007 the number of parties exploded from 85 in February, to 134 in November and apparently up to 300 in 2008. Most of these parties existed only virtually, however. In 2008 the responsibility for

²⁰ According to Liundi, his office accepted applications with 1600 signatures to ease the procedure.

²¹ One interviewee affirmed that he had ‘bought’ a large number of members and that other parties were doing the same. Another party leader claimed that he had not had the resources to do so but that it was known that other parties had followed this strategy.

²² In June 1992 the leading Zanzibari opposition group Kamau ya Mageuz Huru (Kamahuru) merged with Chama cha Wananchi of opposition leader James Mapalala in order to avoid its disqualification as a party because of lacking national followship and form the CUF (Economist Intelligence Unit 1992).

political parties was transferred to the registrar of political parties and all parties had to apply for full registration until the end of the year. Only 47 parties managed to fulfil all the criteria, including getting the necessary members and paying a registration fee of KSh 600,000 (*The Standard*, 31 October 2009).

Uganda

In Uganda, no new political party could register while a political party law was not yet passed. Political parties were regulated by the general ban on party activities of 1986 and since 1995 by Article 270 of the constitution. The registration process only started after the passing of the Political Parties and Organisations Act in 2002. Nevertheless, in April 1993 a Muslim group around Idris Muwonge and the *Tabliq Youth Movement* announced the foundation of the *Uganda Islamic Revolutionary Party* (UIRP). The attempt was immediately condemned by Museveni who argued that the NRM ‘shall not allow religion to be brought into politics’ (Economist Intelligence Unit 1993b: 12). Muwonge declared that the UIRP would operate clandestinely but the group did not enjoy a strong support in the Muslim population and seems to have dissolved (Tibendera 2006: 104f).

The first group seeking to register as a political party in June 2003 was the NRM. After a first rejection by the registrar general (RG) because of the constitutional role of the army members in the Movement, the *National Resistance Movement-Organisation* was registered in October 2003 (Steiner 2004: 322f). No other party registered in 2003 as parties questioned the legitimacy of the Act. Until the elections in 2006, 33 parties registered while the number increased to 36 today.²³ However, a number of opposition parties encountered difficulties to register. Some of the problems resulted from internal leadership wrangles, as in the case of the *Democratic Party* (DP), others apparently from delaying strategies of the RG such as in the case of the *Forum for Democratic Change* (FDC) (Makara, et al. 2009).

The RG’s office argued that registration delays were due to a lack of funds: it complained about insufficient resources to control the extensive membership requirements (Kiiza, et al. 2008: 207f). While it is unclear if this was actually the case, the RG certainly was not in the best position to control the enforcement of the

²³ List obtained with the Electoral Commission of Uganda.

law. The office which at the time was located within the ministry of justice and constitutional affairs is based solely in Kampala. In order to ensure a more efficient enforcement, the PPOA 2005 transferred the responsibility for political parties to the electoral commission (EC). In order to verify if a party complies with the law, the EC first checks the party constitution and in a second step samples several districts per region as well several villages per district where member signatures are controlled (Head of Legal and Public Relations Department of the Electoral Commission of Uganda 2008). Until 2008 the EC discovered fake names on the membership lists of three parties.²⁴ However, an infringement does not automatically lead to a denial of registration: when the EC discovers non-compliance they will indicate it to the party which may rectify the situation. However, apparently none of the three parties is registered up to now.

Since the beginning of the registration process in 2003 only one party was effectively denied registration, namely a group called *Kabaka Yekka* (KY; meaning ‘King only’ in Luganda). The original KY was founded in 1961 as the party of the Buganda and governed the country in a coalition with Obote’s *Uganda Peoples Congress* (UPC) from 1962 to 1966. The new KY tried to register in 2004 and was advised by the RG to change its name. The case was transferred later to the EC which repeated this advice and when the party refused, denied registration arguing that the party’s name was connected to the Buganda Kingdom and likely to confuse the public. In July 2006 KY brought the issue before the constitutional court which decided in favour of the EC. The court argued that the name ‘Kabaka Yekka’ would be ‘likely to rekindle the old emotions of the 1960s stirring up public unrest, commotion and confusion’. While the party had proven that its membership was open to the public and had managed to get the necessary members all over the country, its name was still likely to arouse divisions:

It is a well known fact which this Constitutional Court has to take judicial notice of that the traditional/cultural leader of Buganda Kingdom is called the Kabaka. Section 5(1) (b) of the PPOA prohibits the use of “words” which could arouse divisions on any basis specified in para (a). Paragraph 1(a) prohibits membership based on, inter alia, ethnic origin, tribe. Since the Kabaka of Buganda is a cultural /traditional leader of the Baganda the use of the name “Kabaka” which is a word was likely to cause divisions. I appreciate the submission by the respondents’ counsel that the right thinking people were likely to assume that the Kabaka of

²⁴ List obtained with the Electoral Commission of Uganda.

Buganda was indulging into partisan political activities, contrary to article 246(3)(e) of the Constitution. This would cause unwarranted divisions and would be contrary to the Constitutional Principle of Unity (Paul Kafeero and Herman Kazibe vs. The Electoral Commission and the Attorney General 2008).

In sum, we see that all enforcement institutions took their task rather serious and tried to implement the existing regulations. While concerns about their impartiality were raised from time to time, only the registrar of societies in Kenya seems to have followed a strongly 'political' registration tactic. All institutions routinely checked party constitutions for conformity with the law and also verified – within the limits of available resources – registration requirements in terms of national membership. This requirement seems to represent a non-negligible obstacle for political parties as shown by numerous denials of registration in Tanzania, evidences of fake names in Uganda and the non-registration of more than 100 parties in Kenya in 2008.

4. The effects of party regulation in East Africa

While the previous analysis has shed some light on the introduction and the implementation of particularistic party bans, the question remains if these regulations do indeed influence political parties. If we assume party bans to have an impact on issues such as democratization and violent conflict, most of this impact would have to pass via the political parties. As explained more in detail by Becher and Basedau (2008), particularistic party bans target different aspects of political parties, such as their membership structure, campaign practices or party symbols. Many countries explicitly aim at creating parties with a national outlook and some introduce distribution requirements that try to promote a national, aggregative character. As explained above, Tanzania and Uganda belong to this category while Kenya did not until 2008. If distribution requirements are successful in fostering more national parties and prevent regional parties we would therefore expect a difference between parties in the three countries.²⁵

²⁵ I decided to focus on the national vs. regional character of parties instead of other particularistic aspects such as their ethnic or religious character because comparative data is more easily available. Additionally, different degrees of political saliency of ethnicity and religion would have made it even harder to isolate the impact of a party law. For a general discussion of the difference between regional and ethnic party character, see Basedau and Stroh 2009, Erdmann 2007, Stroh 2009.

Party nationalisation might however also be influenced by other factors, such as a presidential or parliamentary system, the electoral system, party funding, cleavage lines, and the degree of authoritarianism (Croissant and Schächter 2008). While the countries share a presidential system, a first-past-the-post electoral system and a high ethnic fractionalisation, the resources available to political parties varied between and within countries over time. Additionally, some elections were more marred by authoritarian excesses than others (for example Kenya in 1992).

In order to get a first impression on how the regulation influences political parties the regional distribution of party support as indicator for party nationalisation will be compared. The analysis uses two indicators: the Party Nationalisation Score which measures how equally party support is distributed over the country as well as the regional spread of vote shares.²⁶ These results tell us more whether the laws in Tanzania and Uganda are able to prevent regionally based parties and whether parties in Kenya have a different character. The discussion focuses on governing parties and the main opposition and relies on legislative election results where parties can be assumed to play a more important role than in presidential elections.²⁷

4.1. Party nationalisation scores compared

The Party Nationalisation Score (PNS) indicates how unequal a party's vote shares are spread over the country: a highly nationalised party has "a relatively even share of the vote across different geographic units" (Jones and Mainwaring 2003: 140).²⁸ In order to calculate the PNS the Gini-Index which represents a measure of inequalities across units is subtracted from 1. This inverted Gini coefficient reaches from 0 to 1; the higher it is, the more equal the distribution of the vote share is. The PNS has the advantage of a clear interpretation and is comparable across cases but is slightly sensitive to the number of units included (Jones and Mainwaring 2003). In order to

²⁶ I will not discuss here how much regional strongholds represent ethnic strongholds. See for example Elischer 2008, Erdmann 2002.

²⁷ Election results have to be treated with some precaution as indicator of a party's support base as electoral malpractice cannot be excluded. Nevertheless, as other potential indicators like membership data is very unreliable and hard to get, the election results remain an important source and will therefore be used here.

²⁸ For the calculation see Jones and Mainwaring 2003. Jones and Mainwaring calculate the PNS for 17 American countries and find that the 11 lowest scores are at .7 and below. Croissant and Schächter show that nine out of 55 parties in seven Asian countries display scores below .5 for at least one election; most of the scores vary between .65 and .9.

keep the number of units as similar as possible, the analysis relies on the eight Provinces for Kenya and four regions for Uganda. Tanzania's 27 regions are grouped into seven zones following a classification of the electoral commission. A first comparison of the governing parties shows that CCM not only has the highest vote share generally (and the largest dominance in parliament) but is also the most nationalised. Its PNS lies at .91 in the first multiparty election in 1995 and it managed to mobilise even more widespread support in the following elections with a PNS of .94 (see Table 2). The NRM also has a rather high score of .86. Both governing parties manage to gain support fairly equally over the country.

In contrast, the Kenya African National Union's (KANU) vote share was not only significantly lower (at around one-third in 1992 and at 39% in 1997) but its support base is also stronger regionalised as shown by the PNS of .69 at the first election and .76 five years later. This score remains widely unchanged in 2002 when NARC won the election and ousted KANU from power. The National Alliance Rainbow Coalition (NARC) equals the NRM with a score of .83. While in 2002 Kenya had two broad coalitions with a fairly national outreach, the two main contenders in the 2007 elections, the Orange Democratic Movement (ODM) and the Party of National Unity (PNU), had a comparatively more regionalised support base: PNU got only 21% of the national vote with a PNS of .65, while ODM received more votes (31%) and had a slightly higher PNS of .69.

Table 2: Political parties in Tanzania, Uganda and Kenya

Tanzania		CCM	CHADEMA	CUF	NCCR	UDP	TLP
1995	No of seats	186	3	24	16	3	0
	% of votes	59%	6%	5%	22%	3%	0.4%
	PNS	0.91	0.69	0.37	0.69	0.39	n.c.
2000	No of seats	202	4	17	1	3	4
	% of votes	65%	4%	13%	4%	5%	9%
	PNS	0.94	0.48	0.61	0.66	0.30	0.59
2005	No of seats	206	5	19	0	1	1
	% of votes	70%	8%	14%	2%	1%	3%
	PNS	0.94	0.66	0.66	0.61	0.17	0.59
Uganda		NRM	FDC	DP	UPC		
2006	No of seats	191	37	8	9		
	% of votes	51%	16%	7%	5%		
	PNS	0.86	0.80	0.36	0.42		

Kenya		KANU	Ford-A	Ford-K	DP	NDP	SDP
1992	No of seats	100	31	31	23	-	-
	% of votes	30%	25%	20%	22%		
	PNS	0.69	0.6	0.53	0.61		
1997	No of seats	107	1	17	39	21	15
	% of votes	39%	1%	10%	22%	11%	8%
	PNS	0.76	0.44	0.45	0.56	0.37	0.49
		KANU	NARC				
2002	No of seats	64	125				
	% of votes	28%	51%				
	PNS	0.75	0.83				
		PNU	ODM				
2007	No of seats	43	99				
	% of votes	21%	31%				
	PNS	0.65	0.69				

Note: PNS for TLP not calculated. The NDP and the SDP were only founded in 1996 and 1997 respectively.

Source: Own calculations based on official election results; African Election Database.

As shown in Table 2, the support of the opposition parties in the three countries is more unequally spread than the support for the governing parties. The PNS of Tanzania's opposition parties is still comparatively high with values ranging from .48 to .69 for the *Chama cha Demokrasia na Maendeleo* (CHADEMA), from .37 and .66 for CUF and at .59 for the *Tanzania Labour Party* (TLP). While the *National Convention for Construction and Reform* (NCCR-Mageuzi), one of the strongest opposition parties in 1995, lost almost all its voters in the following elections, its support (only 2% of the votes) was still relatively equally spread with a PNS of .61 in 2005. The *United Democratic Party* (UDP) whose support fell at 1% nationwide had a much stronger concentration of its voters which proved to be an advantage under the first-past-the-post system, securing the party at least one seat in the 2005 parliament. A similar effect can be observed in 1995: the NCCR gained more votes but had a more national appeal to voters and (therefore) gained fewer seats than the CUF which received considerably fewer votes but more seats. Uganda's traditional opposition parties, the DP and the UPC, received only little support and this support seems to be stronger regionally concentrated as in Tanzania. The FDC however proves to be an exception: it managed to secure 16% of the votes and these voters were almost as equally spread as the voters of the NRM.

Finally, the Kenyan opposition parties under KANU have PNS that were roughly comparable to the Tanzanian level in 1992 and somewhat lower in 1997. They fell from around .6 to .44 for the *Forum for the Restoration of Democracy-Asili* (Ford-A), which however lost almost all of its voters, and from .53 to .45 for the *Forum for the Restoration of Democracy-Kenya* (Ford-K). Only the *Democratic Party* (DP) had a lesser concentration in the votes with a PNS of .56. Finally, while the *National Development Party* (NDP) has a PNS comparable to the other opposition parties, the *Social Democratic Party* (SDP) only scores .37.

In sum, the PNS scores do not point to a clear effect of the party laws in favour of parties with a more national support base. Requiring parties to have members all over the country in order to get registered clearly does not translate into a nationwide following. Meanwhile, Kenya's parties did not have a significantly lower PNS than political parties in Tanzania and Uganda. In Uganda, the long ban on all party activities seems to have weakened the traditional opposition parties significantly and thereby furthered what it wanted to prevent, namely parties without a national character.

4.2.Regional election results compared

While the Party Nationalisation Score is helpful to compare concentration of support over time and between cases, it is interesting to have a look at the results by region to get a clearer picture of party support. Looking at Tanzania's governing party CCM, the results from the previous analysis are confirmed. CCM enjoys a high level of support in all zones of the country as shown by Table 3.²⁹ While CCM gained only around 50% of the votes in three of the seven zones (Lake, North and Zanzibar) in 1995, its vote share increased in the following elections.

In contrast to CCM, most of the opposition parties have significant regional strongholds: the CUF for example gains most of its support in Zanzibar but managed to broaden its support base over the years, gaining significant support in all zones except the North and the South in 2005. In all three elections, the CUF was the only opposition party to win seats in Zanzibar. CHADEMA's main support comes from the

²⁹ In order to make comparison easier we decided to group Tanzania's 26 regions in seven zones followings the classification of the National Electoral Commission of Tanzania. This also makes the PNS results more comparable as the Gini index reacts slightly to the number of units.

Northern zone; the party is rather weak in the Southern Highlands and – like all parties except CCM and CUF – in Zanzibar. In 1995 and 2000 CHADEMA had a clear regional stronghold in Kigora, Kilimanjaro and to a lesser extent Arusha where it received around 20% (10% in Arusha in 1995) while it got less than 10% of the vote in all other regions.

Table 3: Regional vote shares of parties in Tanzania

Zone	CCM			CUF			Chadema			NCCR			UDP			TLP	
	1995	2000	2005	1995	2000	2005	1995	2000	2005	1995	2000	2005	1995	2000	2005	2000	2005
Central	59	68	75	2	12	11	9	7	7	17	7	5	2	2	0	2	1
Coast	61	60	67	3	27	21	6	1	7	21	2	1	2	1	0	9	2
Lake	53	59	64	5	7	16	6	3	9	23	4	1	10	15	6	12	3
North	51	62	71	2	8	6	10	14	15	33	2	2	1	0	0	13	4
S. Highl.	65	74	74	2	2	20	4	1	3	24	5	2	2	0	0	17	1
South	82	82	78	5	8	6	4	3	7	7	3	3	0	3	0	1	4
Zanzibar	50	67	55	48	30	43	1	0	1	0	1	0	0	0	0	0	0
Total	59	64	70	5	13	14	6	4	8	22	4	2	3	5	1	9	3

Note: All vote shares in percent.

Source: Own compilation based on election results by Electoral Commission of Tanzania.

The TLP under Augustine Mrema gained most of its votes in the Southern Highlands, the Lake Zone and the North in 2000 but this pattern was not repeated in the 2005 elections regions. The NCCR managed to get a large support in the Northern zone in 1995 (54 % in Kilimanjaro and 45% in Arusha region, while it received less than one-third of the votes in all other regions) but its vote share decreased strongly in later elections and shows no marked stronghold since 2000. The UDP finally has clearly a marked regional stronghold in the Northern Zone, particularly in the Shinyanga region (the home region of party founder and leader John Cheyo).

To sum up, we see that parties with regional strongholds (CHADEMA, CUF, UDP) all kept this support and two of them managed to gain votes in other regions as well. In contrast, both the NCCR and the TLP lost support over time.³⁰ The party law clearly was not able to ensure aggregative parties with a national outlook. It was also not able to give parties a union character: except CCM and the CUF no party is able

³⁰ The NCCR, the first broad opposition movement, gained support when Augustine Mrema, former minister of interior, left CCM and became its presidential candidate. Intense internal fights later paralyzed the party completely and added much to its demise, which was further aggravated by the departure of Mrema to the TLP shortly before the 2000 elections. See (Chaligha 2005: 125, 133, Mmuya 1998: 83f).

to mobilise support in Zanzibar and the CUF only slowly gets more support on the mainland.

In Uganda, political parties' support in the 2006 election was comparatively more regionally concentrated (see Table 4). NRM has a clear stronghold in the Western region and gains less support in the North. The DP receives almost all its votes in the Central region while the UPC is by far strongest in the North, its traditional stronghold and also gained some votes in the East (Hartmann 1999: 224). Both received only marginal or no support in the other areas and were not able to mobilise an at least partly national following. Finally, the FDC's support is more equally distributed with slightly fewer votes in Central Region. These results are supported if we take a look at the results at district level. Nine out of 10 districts with the highest vote share for NRM are in Western region (with 90% in Kiruhura and around 86% in Kamwenge and Isingiro). Among the 10 lowest results four are located in the North and six in the Eastern region (15% of the votes in each Gulu and Soroti). The DP receives six out of the ten highest results in Central region while the UNC and the FDC have the best results in the East. All opposition parties have the lowest results in the Central region. Their bad performance might however be due to the transition from the movement system to multiparty politics. It remains to be seen how they perform in the next elections.

Table 4: Regional vote shares of parties in Uganda's 2006 election

Region	NRM	DP	UPC	FDC
Central	47	22	1	7
Eastern	48	1	5	22
Northern	33	2	17	22
Western	69	0	0	15

Note: All vote shares in percent.

Source: Own compilation based on official election results.

In Kenya political parties equally show regional strongholds. However, as indicated by Table 5, support bases and weak regions are less persistent. For example, KANU performed rather badly in Central Province as well as in Nairobi and Nyanza in 1992. In the 1997 elections, it increased its vote share in all three provinces but slightly lost support in North Eastern Province. The DP had its largest stronghold in Eastern Province, five years later its vote share fell from 43% to 24%. In contrast, it gained

support in Central Province, Nairobi and Rift Valley. A similar change can be observed for Ford-K, which did not keep its stronghold in Nyanza, but gained some support in Western Province. The remaining three parties, Ford-A in 1992, NDP and SDP in 1997 also show broad variances with regard to vote shares in provinces.

Table 5: Regional vote shares of parties in Kenya's 1992 and 1997 elections

Province	KANU		DP		Ford-K		Ford-A	NDP	SDP
	1992	1997	1992	1997	1992	1997	1992	1997	1997
Central	4	11	37	48	5	0	50	3	11
Coast	53	53	17	16	19	4	9	12	7
Eastern	41	40	43	24	4	4	10	2	23
Nairobi	16	22	19	32	23	6	37	20	12
North Eastern	64	60	4	5	11	4	12	0	1
Nyanza	17	30	7	4	71	10	1	48	4
Rift Valley	49	59	16	23	9	9	25	3	1
Western	43	47	5	1	17	44	33	3	1
Total	30	39	22	22	20	10	25	11	8

Note: All vote shares in percent.

Source: Own compilation based on official election results.

Table 6: Regional vote shares of parties in Kenya's 2002 and 2007 elections

Province	2002		2007	
	NARC	KANU 2002	PNU	ODM
Central	54	23	43	1
Coast	43	31	14	35
Eastern	50	25	21	4
Nairobi	70	18	29	42
North Eastern	14	51	6	36
Nyanza	52	10	1	61
Rift Valley	42	47	19	44
Western	65	24	18	43
	51	28		

Note: All vote shares in percent.

Source: Own calculations based on official election results.

In the 2002 elections the competition pattern looked different with two broad party coalitions facing each other: NARC managed to get a strong support in all provinces

except Eastern Province where KANU was significantly stronger. KANU still had a rather equal support over the regions with relatively less support in Nairobi and Nyanza. In the last election in contrast, the support of PNU and ODM is less equally distributed over the provinces. Table 6 shows clear strongholds for both parties as well as provinces with minimal levels of support.

In sum, these results tend in the same direction as the Party Nationalisation Scores. Obviously, high registration requirements do not assure aggregative parties.³¹ The ability of parties to reach out nationwide varies considerably across as well as within countries. Regulations did not prevent the emergence or persistence of parties with clear regional strongholds like the UDP in Tanzania or the DP and the UPC in Uganda. On the other hand, a lack of regulation did not lead to a clearly less national outlook or significantly higher degrees of strongholds in Kenya. Kenyan parties were also the only to form a strong coalition to oust the governing party – even if this coalition fell apart soon afterwards. Other dynamics seem to be more important therefore to assure the emergence of aggregative parties than the party regulation.³²

5. Conclusion

This article aimed at taking a closer look at the regulation of particularistic parties in East Africa. While party bans have been the norm elsewhere in Africa, Kenya, Tanzania and Uganda represent three different ways of dealing with particularistic parties. An analysis of the decision-making processes has found that the absence of a party ban in Kenya was not due to a deliberate decision but rather to specific circumstances linked to the rush of the transition, which prevented the introduction of a party law. All later attempts to regulate parties in Kenya included a ban on particularistic parties but failed due to the issue of party funding. Indeed, this reflects the general tendency on the African continent: except for South Africa, all countries that introduced legislation on political parties since 1990 included a particularistic party ban. In the three case studies, we found no evidence that either a presumably more liberal British colonial background prevents the introduction of a ban or that the ban solely is a reaction to past experience with ethnic violence. Rather, the prevailing

³¹ For similar results in various case studies, see (Reilly and Nordlund 2008).

³² On opposition party weaknesses more in general, see (Rakner and Van de Walle 2009).

assumption of how dangerous particularistic parties are seems to be more important, as shown by Tanzania. Party regulation also represents a tool of control for the government. In the case of Kenya, the existing regulation by the Societies Act proved a flexible and highly manipulable instrument which suited the incumbent government well. Furthermore, it was shown that – contrary to common assumptions – party regulations are implemented. However, the implementation is mainly restricted to the formal control of the party constitution as well as registration requirements in terms of national membership. As shown in the final section, this does not necessarily guarantee that parties actually are more national in character. While registration requirements can help to prevent an excessive fragmentation of the party system and the mushrooming of brief-case parties, they are less suited to ensure the emergence of aggregative parties with a national following.

Several questions still remain open: First, only membership requirements were included in the analysis. Other countries, such as Ghana, require parties to have offices and party branches all over the country. This might prove more effective than a regulation which does not affect the party organisation. Second, we only focused on the regional distribution of voter support. It would be worthwhile to test if party bans are effective in reducing the political saliency of ethnicity or preventing radical particularistic parties which might represent a greater danger for peaceful and stable democracy than parties with regional strongholds. Finally, the analysis only briefly took into account other factors that influence political parties, such as other institutional arrangements or social cleavages. In future analyses, the interaction of party regulations with these factors should be explored in greater depth.

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