1. Introductory Remarks

The doctrine of separation of powers is taken for granted as part of the constitutionalism and constitutional law and largely oblivion of its historical development. The doctrine was begotten of struggles and did not develop spontaneously. It is a result of protracted and in some cases of tortuous struggles by the then emerging bourgeoisie and their allies against absolute monarchs who were taken to be *legibus absolutus* (absolved by the law). That means they were above the law with all state power concentrated in their personal realm.

The doctrine is dynamic and has been given differing emphasis or direction reflecting the compromises that were made between the absolute monarchs on one hand and emerging bourgeoisie on the other hand. Consequently time as factor of space in struggles and reforms has shaped and refined this and other constitutional principles to reflect the political and socio-economic imperative of the time. Just as much as they are retrospective drawing on the past they are also prospective reflecting on the future.¹ That is what has given the doctrine tenacity that has made it to survive the classical writes of the era of Enlightenment

In Tanzania, like in all other former colonial powers, the doctrine is an importation and initially an imposition of a declining colonialism. Being an importation it borrowed all the precepts and principles as developed in Great Britain without addressing the local

situation. As an imposition it had no strong roots and it had not formed part of political culture and governance practice. It was easily and quickly criticized and abrogated as alien. The reigning clamour of the time by national constitutionalists at the eve and morrow of independence was for an autochthonous constitution. This explains partly the fast adoption of monopartism and its attendant constitutions by most of the African countries immediately after independence and in some countries *coup d’etats* and military rule became the norm of governance. Despite the turbulent post-independence constitutional experience of Africa the doctrine of separation of powers ingrained in all independence constitutions has survived in the present day constitutions.

In contemporary Africa the discussion is no longer of autochthonous constitutions but on incorporation of accepted universal standards and norms in national constitutions. The paradigms of constitutional debates are no longer dictated by nation building and development but by globalisation and regionalism. This is evidenced by the fact that all regional cooperation instruments issues of democracy, human rights and good governance for part of the principles that must be adhered to members states. The National Assembly in its January 2001 session passed a bill incorporating the Treaty for the Establishment of the East African Community into municipal law of Tanzania. The fundamental principles of the Community include, inter alia, good governance including adherence to the principles of democracy, the rule of law, social justice and the protection of human rights.\footnote{Article 5 of the EAC Treaty.}

\section*{2. The Basic Concept of Constitutionalism}

The doctrine of separation of powers being basically a constitutional category necessitates a brief discussion on the basic concepts of constitutionalism. The doctrine of separation of powers is not an isolated part of the constitution. It is incorporated in the constitution and hence it is dependent to a certain extent on the perception of other general principles. There is a difference between constitutionalism and a constitution. The former deals with the process and the principles while the later deals with the end
product, a constitution. In modern times a constitution basically refers basically to a document, a written constitution. De Smith discusses constitutionalism as follows:

“A contemporary liberal democrat, if asked to lay down s set of minimum standards, may be very willing to concede that constitutionalism is practiced in a country where the government is accountable to an entity or organ distinct from itself, where elections are held on a wide franchise at frequent intervals, where political groups are free to organise in opposition to the government in office and where there are effective legal guarantees of fundamental civil liberties enforced by an independent judiciary”.

Definitely government accountability to another entity, here it implies the Parliament implied it is based on the doctrine of separation of powers. The same position is advocated by a Nigerian constitutional lawyer, Nwabueze, who emphasizes that:

“There can be no doubt that the core and the substantive element of constitutionalism is the limitation of government by a constitutional guarantee of individual civil liberties enforceable by an independent tribunal.”

Nwabueze submits emphatically that indeed constitutionalism implies limited government. Accordingly a government is postulated to be not only a creature of the constitution but also to be ipso facto subordinate to it.

There are those who define constitutionalism to mean a form of government, which not only conforms to the constitution and laws derived from it, but which also guarantees individual liberty and the inviolable rights of the individual and upholds the principles of representative democracy and separation of powers.

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5 Ibid.
Another African scholar, Mahmoud Ben Romdhane from Morocco points out that liberal constitutionalism or liberal democracy rests on four pillars. These are:

1. individual freedoms;
2. public freedoms (among which are the right to organise, associate and demonstrate as fundamental rights);
3. people’s sovereignty through direct universal vote; and
4. separation of powers (hence limitation of the executive). A limited government is one which is based on principles of democracy.

The classification of the constitution in contemporary discourse has also moved from that of written and unwritten constitution or flexible and inflexible constitution to the nature of the political, social, economic and cultural values the constitution embodies. That method results in two classifications of constitutions, those that are prescriptive and others that are programmatic. A prescriptive constitution concentrates on the structure of government and legal rules while a programmatic constitution also lays down social, political or economic programmes as well as principles or goals for government.

Most of the constitutions based on the classical Anglo-American tradition are of prescriptive nature where it is argued that real constitutional law should not be laden with statements of programmatic nature and in most case, which are also not justitiable. Constitutions of a programmatic nature are those which also have a chapter or part on national goals or directive principles of state policy. Both the Constitution of the United Republic of Tanzania, 1977 and the Constitution of Zanzibar have elaborate chapters on directive principles of state policy.

Basically a constitution is a political document and to a large extent its substance and form is also a result of political considerations and compromises. It is a political

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manifesto showing the political direction or orientation and the type of government that a people want. Therefore are constitution is the embodiment of both rules by which the society has given itself for its regulation and the government on one hand.

The solidity of a constitution and respect of its principles relies much more on legitimacy rather than legality. That is why classical era constitutional theorists and writers explained a constitution to be a social contract and that the government is derived from volento populaire based on assumption that there is a covenant between the Sovereign and the Subjects.

3. Doctrine of Separation of Powers

The doctrine of separation of powers is based on the acceptance that there are three main categories of government function, that is: Legislative, Executive, and Judicial. Corresponding to that there are also three main organs of organs of the government in a state – the Legislature, the Executive and the Judiciary. The doctrine insists that these three powers and functions of government in a free democracy must be kept separate and exercised by separate organs of the state.

Its justification was based on natural law philosophy traceable back to Plato and Aristotle and later articulated by the 16th and 17th centuries, French Philosopher Jean Bodin and British politician John Locke.\(^9\) However it is the French Montesquieu who formulated the doctrine systematically and scientifically in his book Esprit des Lois (The Spirit of the Laws) published in 1748. He was not the pioneer as Aristotle in his treatise known as Politics had made the same distinctions but Montesquieu gave it clarity and developed a model which has with variations influenced the format of modern constitutions.\(^10\) More to it Montesquieu was impressed by the liberal thoughts of John Locke and based his analysis of the British constitution in the 18th century, as he understood it concluding that the secret behind the liberty enjoyed by the English society was based on the separation and

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9 Nwabueze, B.O., op. cit., p. 23
functional independence of the three arms of government. Indeed he had somewhat misread the English constitution as it is not the best model of separation of powers. According to Montesquie the consequences of lack of separation of powers are grave. He argued that:

“When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty, because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner. Again, there is no liberty if the judicial power be not separated from the legislative and executive. Where it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control: for the judge would then be the legislator. Where it joined with the executive power, the judge might behave with violence and oppression.

Miserable indeed would be the case, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions and that of judging the crimes or differences of individuals.”

Essentially what Montesquie abhorred was absolutism and concentration of powers in one authority or organ of state. It is the same principle that this realisation came at a great cost to democracy and human rights in Europe. As was correctly pointed out by Lord Atkin: “Every power tends to corrupt and absolute power tends to corrupt absolutely.”

The influence of the doctrine of separation of powers to the Tanzanian constitution is to a large extent based on the British understanding of it. This is clearly discernible in the Independence Constitution of 1961 and the Republican Constitution of 1962. According to two British constitutional lawyers, Wade and Phillips, separation of powers may mean three different things:

(i) that the same persons should not form part of more than one of the three organs of Government, e.g. that Ministers should not sit in the Parliament;

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(ii) that one organ of the Government should not control or interfere with the exercise of its function by another organ, e.g. the Judiciary should be independent of the Executive or that the Ministers should not be responsible to Parliament: and

(iii) that one organ of the Government should not excise the functions of another, e.g., Ministers should not have legislative powers.

4. Checks and Balances:

It is indisputable among constitutional lawyers that the Montesquie model of separation of powers is theoretically plausible but difficult to effect it in practice without modifications or adaptations. The basis of the model itself that is England is not the classic example of the doctrine. It is common knowledge that in Great Britain, for example the Lord Chancellor is the Head of the Judiciary, the Speaker of the House of Lords and a Cabinet minister.\(^{13}\)

Another criticism that has been levelled against the Montesquie presentation of the doctrine of separation of powers is that his model was based on a faulty premise. It assumed that the three functions of Government are distinguishable from another which is not the case in practice. Examples that are cited are the enactment of subsidiary legislation by the executive or other organs other than the Parliament. Also there are currently there are bodies performing judicature functions. There is a proliferation of tribunals that have been established by Acts of Parliament to cater for specific areas of dispute settlement such as housing, tax etc.\(^{14}\)

It is in addressing the defects of some of the precepts of Montesquie model that some constitutional lawyers argue that there are two dimensions of the doctrine one being institutional and the other one functional. The whole discussion on separation of powers

\(^{13}\) De Smith, S.A., op. cit., ad passim

is essentially on the independence of the judiciary and on the supremacy or sovereignty of the Parliament.

It is in relation to the functional aspects that the doctrine should be taken to mean checks and balances based on a constitutional scheme. What is important today is not separation of powers *strictu sensu* but checks and balances. It is one of the functions of the Parliament to check the executive. This is done through various means including authorisation of budget, scrutiny of Government expenditure and questioning the Government in Parliament to account for its actions. It is the duty of the Judiciary to protect the constitution and the laws of the country which are not contrary to the constitution.  

The Judiciary stands between the citizens and the state as a balance against executive excesses or abuse of power, transgression of constitutional or legal limitations by the Executive as well as the Legislature.

This is why the Judiciary as the custodian of the constitution is empowered to declare an Act of Parliament as unconstitutional and therefore null and void. It has the powers of also finding Government action to be infringing the constitution. This has been brought by the incorporation of fundamental freedoms and rights of the individual popularly known as bill of rights in the constitution. This has resulted in the constitution being supreme to the extent that as it was pointed out in the Indian case of *Kesavananda Bharati v. State of Kerala* that powers of the judiciary extends to examining the validity of even an amendment to the constitution as it has been repeatedly held that no constitutional amendment can be sustained which violates the basic structure of the Constitution. The structure of the constitution includes separation of powers.

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17 (1973) 4 SCC 225; AIR 1973 SC 1461
5. Independence of the Judiciary

It is this basic function of the Judiciary that led to development of the principle of the independence of the judiciary as part of the constitutionalism. Today independence of the judiciary is taken as one of the indicators that a country is democratic. It is held that the existence of courts of law commanding the confidence of the people by their expeditious, efficient, firm and impartial dispensation of just is desirable, if the laws passed by the legislature are to be applied and upheld. Independence of the judiciary mainly consists of the following important elements:

(1) Security of judges tenure;
(2) Security of their emoluments
(3) None interference by the executive in the affairs of the court; and
(4) Immunity of judges and magistrates from prosecution and litigation.

This is the reason why judges hold office *quamdiu se bene gesserint* (during good behaviour) and not at the pleasure of the executive. They also hold office *ad vitam aut culpam* (they cannot be removed except on grounds of misconduct). Even in that case there is a special procedure laid down by the constitution for removal of judges from office.

6. Parliamentary Supremacy or sovereignty

The question on whether the parliament is supposed to be supreme of sovereign is controversial and sometimes leads to emotive defence of the former especially in Great Britain and not in Continental Europe. This is based on the historical fact that Great Britain has no written constitution to which all other laws can be subjected. The British constitutional experience has been to accord even the many Acts of Parliament on human

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rights status of ordinary pieces of legislation. Even in Great Britain itself the talk today is not on supremacy but sovereignty of the Parliament to the extent that it is explained to be a peculiar feature of the British Constitution.\textsuperscript{20} It traces its origin back to Austin who declared that law is the command of the sovereign.

The notion supremacy envisages that there will be no legal restraint on the part of the legislature. That means that a law that had been enacted by the Parliament cannot be questioned. This is not possible in countries with written constitutions incorporating a bill of rights. In such constitutions a law passed by Parliament is subject to the constitution. The courts are empowered to declare laws unconstitutional where they infringe the Bill of Rights. Therefore in that context what is supreme in the Constitution and the talk is on the supremacy of the Constitution and not the Parliament.

The principle of sovereignty of Parliament which is what actually predominant now means that:

(1) The Parliament can legislate on anything and its powers are unlimited except by the Constitution; and

(2) Once the Parliament has legislated nobody can question that law unless it is against the Constitution.

7. Separation of Powers and Public Service and Administration

The doctrine of separation of powers also other kinds of separation of powers. The objective of the other kinds of separation of powers is intended to serve the same functions of preventing the concentration of powers in one organ of state.\textsuperscript{21} One of the examples of other separation of powers is that between elected politicians and appointed civil servants providing expert advice.\textsuperscript{22} As much as public servants form part of the executive arm of government there distinct identity, autonomy and independence from elected members of the executive (Cabinet Ministers) is accepted. It is now accepted in modern representative democracies that most governmental functions should be entrusted

\textsuperscript{22} Ibid.
to experts while elected representative continue to provide elements of consent and control.  

That means the public service is accorded autonomy and independence of acting impartially, professionally and ethically and is protected from political pressures from the Executive and the Legislature. In order to secure that independence and autonomy the appointment, promotion and discipline of public servants is normally vested in an independent commission dealing with public service and public servants. That ensures merit and competence in the hiring of public servants and guarantees fairness and justice in disciplining of public servants.

Therefore increasingly issue of relationship between ministers, public servants and Parliament is governed by the Constitution, statutes and conventions and internal understandings. Recent constitutions of some countries have provisions on public service and public servants. For example the Constitution of Ghana and the Constitution of Kenya they contain chapters on the public service. The Constitution of Kenya includes values and principles of public service. Article 231 (1) of the Constitution of Kenya states that the values and principles of public service include the following:

(a) high standards of professional ethics;
(b) efficient, effective and economic use of resources;
(c) responsive, prompt, effective, impartial and equitable provision of services;
(d) involvement of the people in the process of policy making;
(e) accountability for administrative acts;
(f) transparency and provision to the public of timely, accurate information;
(g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
(h) representation of Kenya’s diverse communities; and
(i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
   (i) men and women;
   (ii) the members of all ethnic groups; and
   (iii) persons with disabilities.

However the autonomy and independence of the public service and public servants is fraught tendencies and dangers of politicization resulting in victimisation and interference especially in young democracies.

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23 Ibid
24 Chapter 14 of the Constitution of Ghana and Chapter 13 of the Constitution of Kenya
8. The Doctrine of Separation of Powers in Tanzanian Constitution

The doctrine of separation of powers is one of the constitutional concepts that were introduced in Tanzania at the eve of independence. The colonial state was authoritarian and in no way did it practice the doctrine. The colonial legislative council was mainly composed of executives. The executive arm of government was also judicial organ as far as the dispensation of law for the native was concerned. This part will examine albeit briefly on how the various constitutions of Tanzania had embodied the doctrine of separation of powers.

8.1 Independence Constitution, 1961

The Independence Constitution of Tanganyika, 1961 was based on the Westminster Model inspired by the British constitutional scheme.\textsuperscript{25} The structure of that Constitution provided for existence of three organs of Government, that is the Executive, Legislature and the Judiciary. The Governor-General was the representative of the Queen in Tanganyika as the Head of State. The Governor-General was under article 36 (1) part of Parliament with powers to assent or to refuse to assent to a Bill passed by the National Assembly. On the part of the Prime Minister who was the head of Government was also a Member of Parliament and therefore participating in passing law. More to it the Cabinet was drawn from Members of Parliament.

In the Independence Constitution the Parliament and not the Governor-General which was mandated by the Constitution to determine the number of ministries.\textsuperscript{26} It was the Parliament which had power to establish and disestablish a ministry which is essentially a prerogative of the executive in many countries.\textsuperscript{27} On the other hand the Parliament was

\textsuperscript{26} Cole, J., and Dennison, W., Tanganyika: The Development of Its Laws, London, Stevens, 1964, p. 15
\textsuperscript{27} Ibid.
also barred from deliberating on finance bills without the permission of the Governor-General.  

The Parliament still had powers to control the Executive. For example, under article 46 each ministry individually and collectively was accountable to the Parliament. The parliament had powers to pass a motion of no confidence on the Government. If that occurred the Prime Minister was required to resign in three days. Failure of that the Governor-General was empowered to dissolve the Parliament. Equally the Governor-General was required by the constitution to heed and follow advice given to him by the Cabinet.

8.2 The Republican Constitution, 1962

The Independence Constitution survived only one year and it was replaced by the Republican Constitution. This constitution basing its legitimacy on the need of having an autochthonous constitution diluted some aspects in relation to separation of powers. It is through this Constitution the concentrations of powers in the hands of the executive were initiated. The notable changes introduced by the Republican Constitution included the abolition of the post of Governor-General as Head of State. Instead the office of the President was introduced. The President combined both functions of the Head of State as well as Head of Government and Commander in Chief of the armed forces. Other changes were as follows:

(i) All executive powers were concentrated on the President and the Prime Minister. The post of the Prime Minister was actually abolished.
(ii) The President was compelled by the Constitution to follow any advice from anybody including the cabinet in the execution of his duties
(iii) The President was given powers to dissolve the Parliament on any ground and at any time.

28 Ibid.
(iv) Powers of Parliament to pass a vote of no confidence on the Government was abolished.

(v) Ministerial accountability to the Parliament was abolished. Instead Ministers were directly accountable to the President. That meant that the Parliament had no power to take to task Ministers.

(vi) The Vice-President and the whole cabinet were required to perform their duties in accordance with the directives of the President and not the Parliament.

The tendency during that time was to concentrate powers in the executive and specifically the President. A number of laws were either enacted or amended in order to give the President the enormous powers that were hitherto enjoyed by the Governor.

8.3 Interim Constitution, 1965

The Interim Constitution of 1965 prompted by the union between Tanganyika and Zanzibar ushered in the One-Party System in Tanzania. The changes that were introduced had a major impact in the constitutional development and culture in Tanzania. The legacy of about 30 years of one-party rule have been embedded in the constitutional culture of Tanzania that it will take time before the new multi-party democratic culture takes root again.

The following changes to a great extent affected the nature of the scheme of division of power as a new powerful political entity was introduced in the Constitution that is the political party. The salient changes were:

(i) One party system was established and all other political parties were abolished except TANU and ASP;
(ii) Monopoly of political activities and civil organisation were compelled to operate only under the Party aegis;
(iii) National Party leaders were also national government leaders;
(iv) Procedure of nomination of Members of Parliament was constitutionally given to the political party and one had to be a royal member of TANU to be nominated;
(v) Members of the National Executive Committee of TANU were by law given same powers and status like Members of Parliament. In practice the NEC was more powerful than the Parliament and that is where all important decisions were made and later submitted to Parliament for formal adoption into law.

The cumulative effect of the introduction of the Party as the repository of political powers was the introduction of the concept of Party Supremacy in 1975. This was effected by the Interim Constitution of Tanzania (Amendment) Act, 1975. That relegated all other organs of government to a subordinate status to the party which was now at the helm and had political monopoly over all affairs in Government. The Parliament suffered most as it was transformed into a rubber-stamping institution. In actual fact the Parliament became a special committee of the Party National Congress. This went hand in hand with the change of the composition of membership in the Parliament. In 1970 there were more nominated members than members elected from the constituencies.

### 8.4 The Constitution of United Republic of Tanzania, 1977

The Constitution of Tanzania 1977 which is still in force today despite numerous amendments was the epitome of the institutionalisation of the one-party system in Tanzania. The Constitution further entrenched the concept of Party Supremacy. Articles 3 and 10 stipulated that CCM was the sole political party in Tanzania and that all activities of the Government were to be conducted following party policy and directives. This meant that the Parliament and the Judiciary had to follow party directives in discharging their duties. Furthermore, like in the Interim Constitution, article 63 (4) of the Constitution made the Parliament to be a special committee of the National Party Congress. It was a common practice that when a ministry budget was blocked Members of Parliament adjourned the session and the Parliament sat a party committee to deliberate on the matter. Once the decision had been made the parliament session was reconvened and the budget sailed through without much ado.

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30 Act No. 6 of 1965  
31 Act No. 8 of 1975
The 1977 Constitution has been amended several times. The most significant one are the Fifth Amendment, which incorporated the Bill of Rights in the constitution, and the Eight Amendment in 1992 which re-introduced multi-party system in Tanzania.

The incorporation of the Bill of Rights removed the concept of parliamentary supremacy as the courts were now enjoined and empowered to declare an Act of Parliament or part of it as unconstitutional and therefore null and void. There is a string of judgments both by the High Court and the Court of Appeal of Tanzania which have declared pieces of legislation or parts of them as null and void. One notable such law is the Regulation of Tenure (Established Villages) Act, 1992. The courts have gone to the extent of reading in Acts of Parliament words and phrases that the Parliament was supposed to have included in such laws. Examples here are section 114 of the Elections Act, 1985 and the Political Parties Act, 1992.


The doctrine of separation of powers is differently as prior discussed is not static in its application. Its implementation faces different challenges depending on the political and administrative system of a country. Mainland Tanzania since its independence in 1961 as Tanganyika and later after its union with Zanzibar to form the United Republic of Tanzania has adapted the doctrine of separation of powers to the changing political and governance system. The adoption of the Presidential System in 1961 instead of the Parliamentary System brought its challenges as explained in the preceding parts. The introduction of a one party state and supremacy of the Party changed the application of the doctrine of separation of powers to more of separation of functions due to the fact that power resided in the Party and its organs.

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32 Act No. 22 of 1992 as deliberated in the Akoonay decisions both at the High Court and the Court of Appeal – see Attorney General v. Lohay Akonaay & Joseph Lohay [1995] TLR 80
34 Act No. 5 of 1992 and the constitutional cases filed by Rev. Christopher Mtikila.
The re-introduction of the multi-party system in 1992 has also changed the composition of the Parliament and its operations. The oversight of the Parliament over the Executive and therefore the Public Service is real and efficacious. However it has resulted in tendencies of instances of the Legislature encroaching on matters which are better left to the Executive and more preferably to the experts in the public service. One of the current challenges is the tendency of the Legislature assuming and giving directives to public servants of an executive and administrative nature. Definitely the Parliament is not precluded from giving directives of a political nature to Ministers and demand reports of their implementation. Another challenge is the seemingly lack of understanding and appreciation by some individuals that a Minister is not an individual but an office which is serviced and facilitated by an impartial, professional, competent and ethical public service.

Despite some of the above mentioned challenges some measures and interventions have been taken in the application of the doctrine of separation of powers in Tanzania. During the constitutional review process that was undertaken between 2012 and 2014 in Tanzania issues were raised in order to strengthen the application of separation of powers. Proposals to institute a complete Presidential system of making Cabinet Ministers not to be members of Parliament as it is the case in Mozambique, Rwanda and Kenya did not carry the day for different reasons that were given and deliberated in the Constituent Assembly. However the proposals to include a chapter in the Constitution on public service in the new Constitution were accepted.\(^{35}\) Both the Draft Constitution prepared by the Constitutional Review Commission and the Proposed Constitution by the Constituent Assembly include a provision on principles and values of public service. That included a provision on recruitment and appointment of public servants. Other proposals that were proposed during the constitutional review process that were aimed at securing and insulating public service and public servants from interference and encroachment by politicians and political leadership in the Executive and the Legislature which did not prevail.

11. Concluding Remarks

This presentation has reviewed the development of the doctrine of separation of powers as part of the struggles for democracy and good governance which can only be achieved where there is a limited government. Furthermore it has shown how the doctrine in practice has been developed to actually mean checks and balances. It has also deliberated on the principle of supremacy and sovereignty of the Parliament concluding that it is the later that is being practised in many countries.

The Tanzanian constitutional history and her practice in effecting the doctrine of separation of powers has been a chequered one. Tanzania has witnessed the introduction of a one-party system coupled with enshrining a concept of party supremacy in the constitutional scheme. The situation has changed by the re-introduction of the multi-party system in Tanzania.

However, a lot needs to be done both at the constitutional level and in the constitutional and political culture of Tanzania so as to make the doctrine real efficacious by ensuring that the each branch of Government respects the principal functions of another branch and desists in encroaching on powers of another arm of Government without compromising the principle of checks and balances that is required in a democratic country that respects rule of law and exercises good governance.