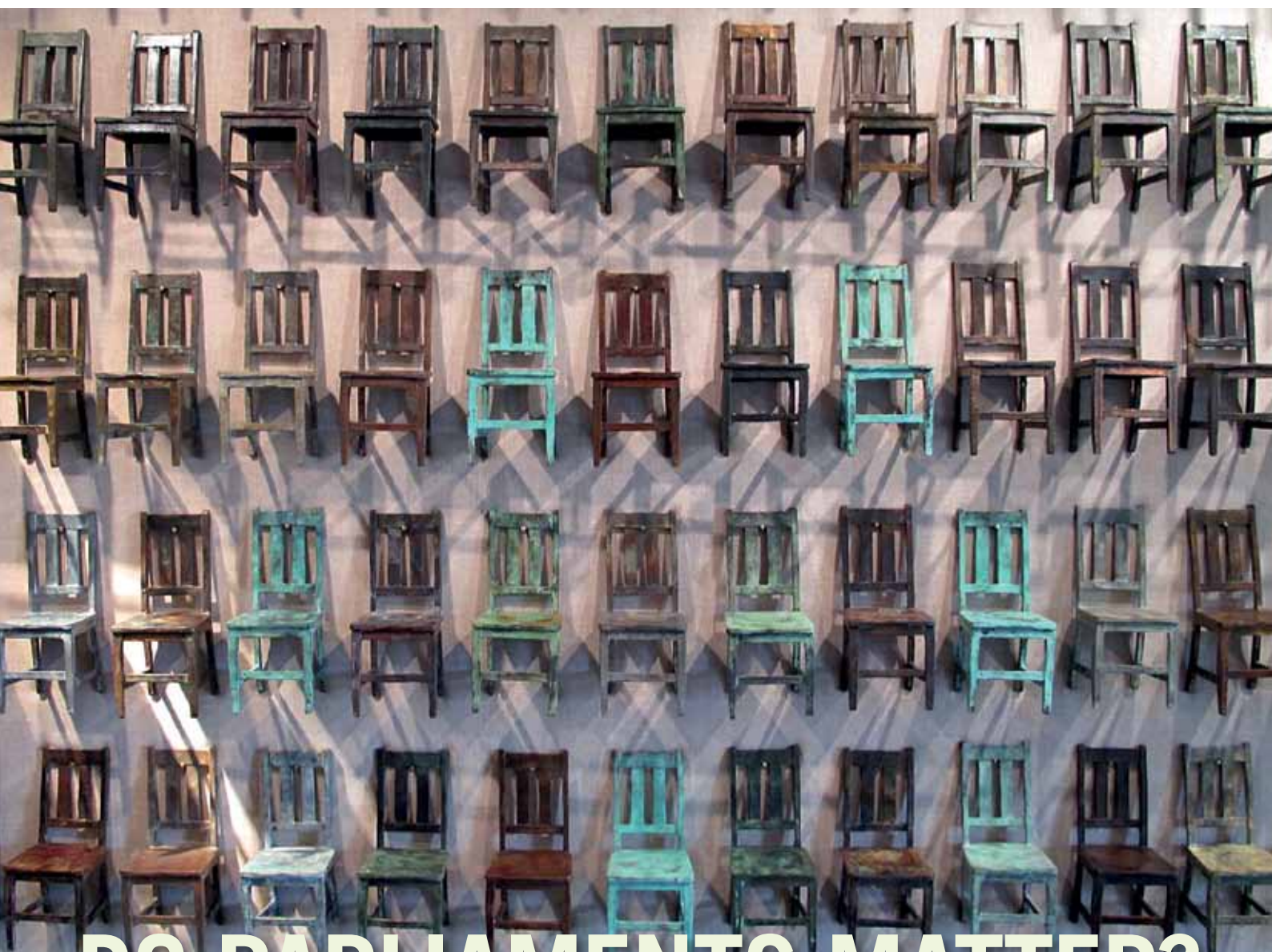


PERSPECTIVES

Political analysis and commentary from Africa



DO PARLIAMENTS MATTER?

AFRICAN LEGISLATURES AND THE ADVANCE OF DEMOCRACY

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Editorial

Are Legislatures Serving Africa's Democratic Project?

Strong legislatures, alongside free and fair elections, are the bedrock of representational democracies. This importance is predicated on Parliaments as houses of elected representatives who, at least in theory, “re-present” the interests of the electorate and, in so doing, provide a counter-weight to the executive’s powers over the state apparatus.

On the African continent, colonialism bequeathed a legacy of repressive governance and weak institutions; it also forced disparate groups into single nations. Apart from limiting executive powers, legislatures should therefore have been important also for establishing deliberative forums for the mediation of conflicts within these diverse populations. Indeed, over the last five decades Parliaments established in post-colonial Africa have, to some extent, served deliberative functions, while their track records as institutions for public policy making has not been as strong, and their oversight role undermined by powerful executives.

The articles in this issue of *Perspectives* seek to reflect on the extent to which African legislatures have taken steps that mark their shift from being the “weakest link” of government to stronger, independent institutions. In essence, we ask – do African Parliaments really occupy the privileged position accorded to them in representational democracies? Are legislatures serving Africa’s democratic project, and if so, how well? Are the continent’s legislatures elite ventures, or do they allow the voices of “the people” into spaces of power?

At least on one level, the articles show that African legislatures have embarked on a new path. Mattes, Mozaffer and Barkan argue in their contribution that over the past two decades legislatures in countries such as Ghana, Kenya, Uganda and South Africa have taken steps to develop into institutions capable of fulfilling representative, legislative and oversight functions. This has included the, often uneven, emergence

of committee systems to shadow ministers and the building of professional staff. African legislatures increasingly scrutinise and amend bills, and in a limited way, involve civil society, especially where large urban sectors exist.

However, as reflected by other contributions (including that on Kenya), resources do not necessarily build genuine political will to represent citizens’ interests and countervail executive powers. Internationally, as our contributor Zwelethu Jolobe argues, the rise of strong and centralised political parties, interest groups, the media, corporate power, and an increasingly specialised policy-making machinery have eroded legislatures’ power. The rise of the “Occupy” movement in the US, and the popularity of “anti-establishment” political parties such as “The Pirates” in Germany, demonstrate, among other things, that in the so-called developed world, despite all its resources, legislatures are increasingly seen as non-participatory or the extension of an indifferent elite.

For African Parliaments, who largely serve impoverished constituencies and must still establish themselves as the “*sine-qua-non*” of democracies in the eyes of citizens, this raises important challenges. How could we re-imagine Africa’s legislatures so that they better bridge the gap between citizens and elites? How can legislatures more robustly contribute to institutionalising democracies? South Africa and Kenya’s constitutional requirements that legislatures contribute to participatory and not just representative democracies, indicate shifting conceptions of how legislatures should relate to citizens.

Relationships between citizens and legislators, and the electoral systems that govern them, underpin another important question threaded through this edition. Proportional representation (PR) systems give political party leadership extensive powers over members of Parliament, and in so doing lessen the importance of constituency services while emphasising adherence to party

political positions and agendas. Constituency systems, on the other hand, favour community services at the expense of “institutional” legislative and oversight agendas. In 2009, a high level report on South Africa’s Parliament strongly argued that mixing the country’s pure PR closed-list system with a constituency system is essential for strengthening Parliament. In this issue, paradoxically, the critique of Kenya’s Parliament indicates that stronger party discipline is needed to replace narrow and sectarian interests; and Mattes et al. suggest that the most important breed of parliamentarians are those who prize “institutional” work over their standing in particular voting districts. Both these features – partisan discipline and an “institutional” work focus are discouraged by constituency systems.

Mattes *et al.* argue that the more Africa’s legislatures develop their capacity to robustly





















































engage with legislation, the more civil society and citizens’ interest in them grows. Public engagement with Parliaments through participation and monitoring is vital. Electoral systems, technical capacity and institutional arrangements are only a part of the picture. At least as important is the capacity of citizens to “own” their Parliaments: to keep alive the notion that legislatures are to ensure that state power serves the public good.

Keren Ben-Zeev
Deputy Director



















































Jochen Luckscheiter
Programme Manager

PARLIAMENTS IN AFRICA

A Comparative Overview

	BASIC INFORMATION		RESEARCHERS/STAFF PER COMMITTEE		MP DEMOGRAPHICS		
	Size of Parliament (No. of members)	No. of committees	No. of parliamentary researchers	Committees with dedicated staff support	Average age of MPs (Median)	Percent of women MPs	Percent of MPs with university degree
BENIN	83	7	0	100%	54	8%	NA
					54		
GHANA	230	27	3	43%	55	8%	84%
					55		
KENYA	222	15	4	15%	56	10%	62%
					56		
NAMIBIA	78	7	3	43%	55	24%	50%
					55		
NIGERIA	360	84	6	95%	49	4%	94%
					49		
SOUTH AFRICA	400	39	69	100%	55	43%	68%
					55		
TANZANIA	320	17	5	80%	57	36%	58%
					57		
UGANDA	350	22	15	96%	49	35%	90%
					49		
ZIMBABWE	204	20	14	5%	50	15%	38%
					50		

No. of committees: Includes portfolio, joint and standing committees, Lower House (Parliament websites) | Gender: IPU archive on % of women in national Parliaments 2011 | Average age & education level: African Legislatures Project (ALP) MP survey | ALP MP survey merged dataset 11 countries | Legislative activity: ALP bill trackers for each country; Zimbabwe data from 2010; Benin data from 2008 | Average no of committee meetings: ALP committees dataset

CONSTITUENCY WORK			LEGISLATIVE WORK	LEGISLATIVE ACTIVITY		
Average percent of time MPs devote to constituency work	Average No. of trips per month to constituency (Median)	Average days per trip in constituency (Median)	Percent of committees which meet regularly (>30 mtgs/year)	Average No. of bills introduced per year (over 5 years)	Average No. of bills amended in committee per year (over 5 years)	Average No. of bills passed per year (over 5 years)
NA	NA	NA	NA	21	3	19
						
29	3	3	50%	30	28	24
						
41	3	3	83%	27	8	13
						
16	1	3	100%	18	1	18
						
19	4	3	16%	46	41	31
						
28	4	2	100%	45	28	43
						
36	0	2	80%	18	18	18
						
20	2	3	5%	21	20	14
						
NA	NA	NA	0%	13	7	10
						

Debate: Do Parliaments Matter?

African Legislatures: A Glass Half Full?

The single greatest obstacle to democratic governance in most African countries has been the existence of neo-patrimonial leaders, or “big men”, who dominate their political systems via a toxic mix of patronage, corrupt practice and, ultimately, repression. This combination centralises all power in the person of the president and, in the process, undermines the state.

Thus, while elections are a necessary element of democracy, they are insufficient to break up this concentration of power. Successful democratisation also requires building institutions of countervailing power, including courts, ombudsmen, anti-corruption authorities, human rights and/or truth and reconciliation commissions, electoral commissions, public services commissions, judicial services commissions, auditors general and inspectors general. Institutions of countervailing power keep in check the pathologies of “big man” rule and reduce the power of “the imperial presidency”, by substituting them for forms of democratic governance where the rulers are held accountable to the ruled.

However, legislatures occupy a privileged position amongst institutions of countervailing power: they are the *sine qua non* of representative democracy. All democracies have legislatures whose members perform, with some measure of effectiveness, four core functions. The first and most obvious function is law making, or legislating in the broad sense; that is to say, the engagement by the legislature in the policy making process, in contrast to being a rubber stamp of bills proposed by the executive. The second function, oversight, insures that the executive faithfully implements the law on a day-to-day basis over extended periods. Legislatures also play a central role in representation, or the “re-presentation” of societal interests at the locus of government decision-making. Finally, legislators conduct constituency

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service, bringing back government outputs and services to the citizens who elected them.

The first two functions are performed by members of the legislature acting collectively and within the institution, either in plenary sessions or in sessions of the committees that deal with various areas of public policy or parliamentary business. In contrast, members of legislature perform the third and fourth functions individually by articulating the specific concerns of their constituents in the legislature, or by discussing these concerns with constituents outside the legislature. In countries that elect the members of the legislature from single member districts – which is the practice in most African countries – this means spending considerable time back “home” in their districts.

Most African legislatures have been historically weak institutions because of a combination of factors that are a major disincentive for members to perform the core and collective functions of the legislature. This particular configuration of factors is unique to Sub-Saharan Africa, though components of it are found elsewhere, and consist of two principal elements. The first is Africa’s demographics and particularly the fact that most African societies are poor, agrarian, plural, and unevenly developed societies. The second is the colonial legacy, especially the formal rules (e.g. constitutions, standing orders) that established the basis for today’s legislatures in the run-up



Robert Mattes

Robert is professor of political studies at the University of Cape Town, and co-principal investigator for the African Legislatures Project (ALP), a comparative study of national legislatures in seventeen African countries based at the Center for Social Science Research at the University of Cape Town. He is also a co-founder and co-director of the Afrobarometer, a regular survey of public opinion in eighteen African countries. Robert’s most recent articles have appeared in journals such as the *American Journal of Political Science*, *World Development*, *Journal of Democracy*, and *Democratisation*, and *Party Politics*.

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Stronger Parliaments? Stronger Democracies?

Trends in Africa

Historically, legislatures have been considered significant political institutions in the achievement of democratisation. As institutions established to represent society's diverse political interests in government, they provide for "vertical downward accountability of the state to the public at large, particularly to organized interests or civil society".¹ Legislatures also provide "horizontal accountability" by "scrutinizing the operations of the executive including the civil service, as well as the operations of the judiciary, the military, independent agencies, and state-owned enterprises".²

The extent of legislative power and capacity will vary from country to country, depending on the nature of the separation of powers (particularly whether within a parliamentary, presidential or semi-presidential system), and on the relevant political and institutional culture. Nonetheless, a discernible international trend indicates that legislatures are becoming weaker in relation to the executive. This is largely due to factors such as the emergence of disciplined majority parties that centralise political power; the growth, specialisation and significance of bureaucracies in the public policy-making process; and the rise and increasing significance of interest groups, media and corporate power.

While African legislatures have been immune to these factors, the significance of the executive in African political systems – particularly its role as the focal point of political power and policy – raises questions about the role of legislatures in the consolidation of Africa's new democracies. Will they develop into strong political institutions that will contribute to successful democratisation? A brief comparative historical discussion on the evolution of Africa's legislatures should shed some light on this matter.

African legislatures are not new; their contemporary form can be traced back to the end of colonialism. In Anglophone Africa, Britain's colonies after independence adopted parliamentary systems

Given the global significance and increasing power of other countervailing institutions legislatures are unlikely to develop into the most significant institutional entities necessary for strong democratisation in Africa.

in the Westminster tradition. Barkan identifies five aspects of this tradition, which had long-term consequences for the evolution of legislatures in Anglophone Africa.

First, Parliament was "established as a deliberative body rather than as an institution for the making of public policy".³ Second, there were no provisions for permanent committees to enable legislators to effectively oversee government operations. Third, cabinet ministers were entirely drawn from the ranks of the legislature. Fourth, the role of the legislature in the budgetary process was minimal; "the constitutions that Britain bequeathed to its colonies typically forbade the legislature from passing any legislation that would raise the level of government expenditures".⁴ Fifth, legislators were elected from single-member districts, using a first-past-the-post electoral system.

In Francophone Africa, the evolution of legislatures was also shaped by the colonial experience. However, in contrast to British colonial politics, which established quasi-legislative institutions, during French colonialism all political decision-making was exclusively concentrated in Paris. Inherent in this arrangement was the definition of decolonisation as a process in which Africans in French colonies would in time realise



Zwelethu Jolobe

Zwelethu is a lecturer in comparative and international politics in the Department of Political Studies, University of Cape Town (UCT). He is a regular political commentator on South African and African politics. Zwelethu holds a masters degree in international relations from UCT.

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to independence. This legacy usually imposed constraints on the legislature by limiting the constitutional powers of the legislature, especially with respect to the budgetary process. It also left these legislatures poorly resourced, including low salaries for members, limited physical infrastructure, and few professional staff to support members in their work. Thirdly, colonial legislatures, like their “parent” legislatures in Western Europe, also had limited provisions for a system of parliamentary committees, especially “sectoral” or “portfolio” committees with the expertise to shadow ministries, departments and agencies of the executive branch. Finally, most countries upon independence elected their members of Parliament from single member districts or small multi-member districts rather than by proportional representation from large multi-member districts.

But against all expectations, some African legislatures are starting “to matter” in the political life of their new democracies.

Before the resumption of multi-party politics and the holding of competitive elections in the early 1990s, African legislatures were either non-existent or simply rubber stamps. While one-party states maintained a semblance of the institution, their role was confined to the function of lawmaking in the narrow sense – the mere passage of legislation handed down by the executive – rather than the crafting of legislation and the making of public policy by legislators mediating between competing interests. With few exceptions, these core functions were rarely performed by these bodies. Instead, members of Parliament almost exclusively concentrated their efforts on frequent trips back home to help constituents with their personal problems, and by occasionally delivering new services or infrastructure to their district.

But against all expectations, some African legislatures are starting “to matter” in the political life of their new democracies. Beginning in a few countries such as Ghana, Kenya and Uganda, the legislature has taken significant steps to develop the capacity to represent, make laws, and oversee

the executive. This was particularly true after the second round of multi-party elections held in the mid- to late-1990s and the third round that followed. These elections resulted, in some cases, in near parity between government and opposition parties, and/or the alternation of power between incumbents and challengers. This in turn resulted in enhanced efforts by reformist parliamentarians to expand the autonomy and power of the legislature.

The goal of the African Legislatures Project, based at the University of Cape Town’s Centre for Social Science Research, has been to describe the extent to which some legislatures have become more influential (and others not), and to explain and understand these differences. We have done this, across seventeen Sub-Saharan African countries, through a systematic study of the powers, rules, capacity and output of the legislature and its component offices and committees, as well as a representative survey of the attitudes and experiences of individual legislators. A very small sampling of some of the data we have collected can be seen in the infographic provided elsewhere in this publication.

While we are still in the midst of exploring the detailed contours of this mass of data, a few major findings are beginning to emerge.

Firstly, it is clear that viable, albeit undeveloped, committee systems are emerging within some legislatures. Bills introduced by the executive for passage by the legislature are no longer “rubber stamped” but increasingly scrutinised and often amended before being passed into law. More extensive and effective oversight of the executive also appears to be emerging in some places. Although limited, we find in some countries increasing involvement of civil society in the legislative process, especially in countries with large urban sectors.

Secondly, where legislatures have taken the initiative to do these things, civil society and economic interest groups have begun to respond and are increasingly seeking to advance their particular agendas by contacting legislatures and lobbying individual members of Parliament. National news media have also begun to increase their coverage of the legislature by reporting about bills under deliberation, efforts to exert oversight over the executive branch, and the steps being taken to develop the capacity of the legislature. By placing specially designed questions in the

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Joel D. Barkan

Joel is senior associate at the Center for Strategic and International Studies in Washington, DC and co-principal investigator for the African Legislatures Project. He is also professor emeritus of political science at the University of Iowa and has published articles in the *American Journal of Political Science*, *Democratisation* and the *Journal of Democracy*. His most recent book is *Legislative Power in Emerging African Democracies* (2009).

“their full political rights and citizenship *within a greater France*”.⁵ As a consequence, the legislative structures and procedures of the French colonies after their independence closely resembled the French National Assembly.

In Lusophone Africa, legislative practice was non-existent during colonialism, and the same can be said of the Belgian Congo.⁶ It is therefore only in the former British colonies where legislative practice has long been established. Academic writing on African legislatures during the post-colonial period focused primarily on assessments of these newly independent parliaments. Despite the variation in the legislative traditions of Anglo- and Francophone Africa, research concluded that these legislatures exhibited more similarities than differences. They played no significant role in policy-making, but contributed substantially to the politics of nation-building consistent with the times.⁷

The period between the late 1960s and late 1980s saw a significant weakening of post-colonial legislatures. As one-party states, autocracies and military dictatorships consolidated, legislatures suffered: “they existed in name only, unable to perform any of the core functions, particularly legislating in the broad sense and oversight that required collective action on the part of its members”.⁸ As a result, academic interest in African legislatures also declined. Kjekshus and Barkan’s studies on legislatures in the one-party states of Tanzania and Kenya, respectively, stand out.⁹ Barkan showed that “even within the context of a single-party regime, the Kenyan legislature played an important role in the development of a largely agrarian society by linking widely dispersed local constituencies to the state”.¹⁰

The return of multiparty politics after 1990 has witnessed a rebirth of legislatures as the potential focal institution necessary for democratisation.

However, the transition to multiparty politics has not necessarily given rise to democracies; on the contrary, it has generated a range of systems – from semi-authoritarian to liberal democratic to “hybrid” regimes – which have in turn produced different legislatures. “Whereas the legislature had been a rubber stamp or ceased to exist, some of these bodies remained very weak, while others began to build their capacity to perform the core functions that define this institution after the return of multipartyism”.¹¹

Uganda, for instance, entered the period of multipartyism with a “no-party” system; South Africa, Namibia, Botswana and Zimbabwe established “dominant party” systems; while Zambia and Malawi very gradually consolidated competitive party systems. Many Francophone countries (Burkina Faso, the Central African Republic, Chad and Togo) became semi-authoritarian, and Rwanda, Burundi and the Democratic Republic of Congo experienced very brutal civil wars. Recent research routinely points out these legislatures’ institutional weaknesses and limited decision-making role.

For example, there is widespread popular perception of the Zambian Parliament as an unresponsive institution,¹² and the growing literature on the South African Parliament points to its limited success in oversight.¹³ The development of strong legislatures is thus likely to be a challenging process. Further, given the historical context and the increasing significance of executives and bureaucracies in policy-making, it is unclear whether they will ripen into formidable institutions in Africa’s political systems. Given the global significance and increasing power of other countervailing institutions – such as interests groups, civil society organisations, media and corporations – legislatures are unlikely to develop into the most significant institutional entities necessary for strong democratisation in Africa.

Endnotes

1 Barkan J, “African Legislatures and the ‘Third Wave’ of Democratization”, in Barkan J (ed.) *Legislative Power in Emerging African Democracies*, Boulder: Lynne Rienner, 2009, p. 1.
2 *Ibid.*, p. 1.
3 *Ibid.*, p. 10.
4 *Ibid.*
5 *Ibid.*, p. 11, emphasis added.
6 *Ibid.*, p. 12.
7 See Le Vine V.T, “Parliaments in Francophone Africa: Some Lessons from the Decolonization Process”, in Smith J and Musolfs L (eds.), *Legislatures in Development*, Durham: Duke University Press, 1979 and Stultz N, “Parliaments in Former British Black Africa”, *Journal of Developing Areas*, 2/ 1968, pp. 479-94.

8 Barkan J, *op. cit.*, p. 15.

9 Kjekshus H, “Parliament in a One-Party State: The Bunge of Tanzania, 1965-1970”, *Journal of Modern African Studies*, 12/ 1974, pp. 19-43.

10 Nijzink L, Mozaffar S and Azevedo E, “Parliaments and the Enhancement of Democracy on the African Continent: An Analysis of Institutional Capacity and Public Perceptions”, *Journal of Legislative Studies*, 12/ 2006, p. 312.

11 Barkan, *op. cit.*, 17.

12 Mattes R and Chiwandamira L, “The National Assembly and Zambian Democracy: A Baseline Assessment for USAID/ Zambia and PACT Zambia”, Cape Town: Institute for Democracy in South Africa, 2004.

13 Nijzink et al, *op. cit.*, p. 313.

Afrobarometer national public attitude surveys, we know that citizens are placing greater demands on their legislators for effective representation of their opinions, beyond simply bringing resources back to constituencies.

Thirdly, through an analysis of answers to a series of survey questions about how they understand their jobs, we find that most African parliamentarians can be described as “constituency servants”, who define their role as listening to and responding to the needs of their constituents. A second category of members of Parliament, more prevalent in the one-party dominant, list proportional representation systems of Southern Africa, can be labeled as “partisans”, who see themselves as representatives and servants of their respective political parties, rather than any identifiable group of voters.

But we also find a third, important subset of members of Parliament who we identify as “institutionalists”. Younger, and far more educated than their colleagues, they define legislating and oversight as the parts of the job that are most important and most rewarding. And while they are always the smallest group in each country, they constitute a critical mass in many places.

“Institutionalists” behave in ways that are systematically different from other members of Parliament, and that are important to the potential growth of legislatures as institutions of countervailing power. They are more likely to skip the occasional trip back to the constituency and spend more time in the capital city to work on legislation, or attend committee hearings. They are also more likely, from time to time, to deviate from the wishes of their political party when casting legislative votes. At the institutional level, we have found that those legislatures with the highest proportion of “institutionalists” are least likely to simply pass whatever the executive sends them. Arguably most importantly, “institutionalists” are the members of Parliament most likely to lead efforts to reform the rules and progressively transform their legislatures into real institutions that both represent voters and hold the executive to account.



Shaheen Mozaffar

Shaheen is professor of political science at Bridgewater State University in Boston, Massachusetts and co-principal investigator for the African Legislatures Project. He has published extensively on ethnicity and electoral process including in the *American Political Science Review*.

Perhaps the most encouraging is the fact that the strongest internal impetus for maintaining these positive changes and expanding upon them, comes from the youngest, most educated members, a category that should be expected to grow over time.

Whether African legislatures develop into what Zwelethu Jolobe calls “the most significant institutional entities necessary for strong democratisation”, depends of course on several factors. But the evidence we have collected suggests positive, upward trends in many places. Perhaps the most encouraging is the fact that the strongest internal impetus for maintaining these positive changes and expanding upon them, comes from the youngest, most educated members, a category that should be expected to grow over time. It is with these parliamentarians that external actors, such as donors involved in “legislative strengthening”, must work.

At the same time, these members’ pro-institutional behaviours do not come without peril. By devoting less time to constituency service, “institutionalists” are more likely to put their political careers at risk. “Institutionalists” are not only a minority of members in most African legislatures, they are also the members who are most likely to be defeated in the next election precisely because they spend more time on legislating and oversight than on constituency service. Thus, at least one important dimension of legislative strengthening strategies needs to consist of ways to better protect this rare breed, and help them make a stronger case to their voters that they serve them better precisely by not coming home so often. If they can do this more effectively, they will not only keep their seats, but we will have stronger democracies in Africa.

Comment

Fiercely (In-)dependent: South Africa's Parliament

In theory, South Africa's Parliament should be a waste of time and money. Fortunately, we don't live in a world governed only by theory. And so Parliament is doing better than we might expect.

For those who know Parliament, this must seem a strange statement. In late May, the Speaker of Parliament, Max Sisulu, complained about the poor standard of law-making, pointing out that more and more laws were being returned to Parliament by the courts because they were not constitutional. He suggested that this meant that members were not examining laws as carefully as they should. Thus one law failed to prescribe penalties for a range of sexual offences, something legislators should have noticed. Sisulu noted too that many members were frequently absent and that Cabinet ministers did not answer questions on time.

All Sisulu's complaints are valid and all need attention. But, if we consider the context in which South Africa's Parliament operates, what is remarkable is not that these problems exist but that they are not the only reality in our Parliament – for, amidst the inattention and the laziness which Sisulu decries, there is also independence and oversight.

In theory, this should not happen. While every member of Parliament is meant to selflessly serve those who voted for them by finding out what most of their voters want and battling fearlessly for it, members of Parliament are human beings like the rest of us, subject to the same frailties. And so, unless there are strong pressures which prompt members to behave as they should, the chances are that they won't. In South Africa, the pressures to behave as effective representatives and law-makers are very weak.

A Rubber Stamp Waiting to Happen?

The problem with insisting that South African members of Parliament fight for their voters is that voters don't have much of a say in whether they are elected.

At national and provincial level South Africa uses the closed list proportional representation system. Voters vote for a party and members are elected by the order they appear on the party list. To get elected, it is far more important to impress the party structures who draw up the list than any voters – members could perform devotedly throughout their term and then lose their seat because the party bosses don't want them around. In theory, members might make themselves attractive to the bosses by showing their power to win votes but usually voters have no idea who is on the party list so that does not work and no-one tries it.

To get elected, it is far more important to impress the party structures who draw up the list than any voters.

Parliament has tried to deal with this by encouraging parties to allocate constituencies to members, who run constituency offices and receive allowances for doing so. But, because the constituency can't vote the member of Parliament out, there is no reason for members to take their constituents seriously and the evidence suggests that they don't.

The problem is worsened by the fact that members in the larger parties have not had to work hard to win votes. South Africans, like voters in many parts of the world, vote their identities – people support parties which are closest to them, racially or culturally or even regionally. So parties have guaranteed vote banks which will support them whether or not they perform well in Parliament.

The African National Congress (ANC) also has almost a two-thirds majority and so does not really



Steven Friedman

Steven is the director of the Centre for the Study of Democracy at Rhodes University and the University of Johannesburg. He is a political scientist who has specialised in the study of democracy. Over the past decade, he has largely written on the relationship between democracy on the one hand, social inequality and economic growth on the other. In particular, he has stressed the role of citizen voice in strengthening democracy and promoting equality. He is currently studying the role of citizen action in strengthening and sustaining democracy.

need the support of opposition parties. It could get any law it wanted by using its voting power – including, in almost all cases, changes to the constitution. (It can be prevented from achieving the two-thirds majority it needs only if all opposition parties vote against it. This has happened only once). And so it would be easy for Parliament to become a rubber-stamp for whatever the leadership of the majority party wants and the opposition could be reduced to ineffective protest.

All of this explains the problems Sisulu has pointed out. What they do not explain is the exceptions.

With Pawns Like These... The Birth of Oversight

Until 2007, Parliament behaved much as we might expect it to, given the constraints described here. The ANC leadership kept a tight control on its members of Parliament and largely ignored the opposition.

Since then, there has been significant change. An effective Parliament is impossible unless members of the ANC majority show more independence and this they have done. Most of it is not visible in the house where members tend to show loyalty to parties. But, in the portfolio committees where members discuss laws before they reach the floor of the house and are meant to hold ministers to account, there have been shows both of independence by majority party members of Parliament and co-operation between them and the opposition. This was particularly strong in 2007 but is still evident. Committees still query legislation, make changes to it, sometimes working across party lines, and hold ministers and officials to account.

Among the examples are the defence committee, which once so irritated the minister that she refused to appear before it, and the police committee which, at least until recently, was well-known for its refusal to accept at face value what the ministry or the police told it.

There is perhaps no greater testimony to the independence of several portfolio committees than the fact that the ANC leadership, in late 2010, removed several chairs who were particularly independent, claiming they were not showing enough respect for ministers. Recently, the fiercely independent chair of the police committee, Sindisiwe Chikunga, was appointed deputy minister of transport, an ostensible promotion but a shift which was inevitably seen as an attempt to silence her.

The attempts to punish independence have enabled the party leadership to contain some of the portfolio committees' zeal, but not all of it. But, the fact that some ANC members are prepared to challenge the executive does not necessarily mean that they listen to the citizens they are meant to represent. To examine the degree to which Parliament is responsive to citizens, we need to look at a case which tested this, the Protection of State Information Bill.

Listening Despite the Noise

It is hard to imagine a campaign less calculated to persuade Parliament to listen than that against the Protection of State Information Bill.

The campaign against the bill by the media and civil society organisations who coalesced in the Right 2 Know campaign has been widely reported. Suffice it to say that it seemed likely to make passage of a law which would severely curtail democracy inevitable.

Both the media and civil society portrayed the bill as an attempt to cover up government corruption despite the fact that a section of the law explicitly said that it could not be used for that purpose. Its likely effects were repeatedly exaggerated in tones which could well have been interpreted as expressions of deep-seated prejudices about African governments. It was treated as the product of a monolithic governing party determined to crush its opponents despite the fact that the ANC was clearly divided on the law. And it was repeatedly presented as a threat to the media when the real victims were likely to be grassroots citizens' groups in the townships and shack settlements.

A campaign which could have won substantial support in the country and the ANC by presenting itself as a battle for the freedom of grassroots South Africans presented itself as a vehicle for middle-class prejudice. If Parliament was indeed as impervious to citizens as the campaigners implied, a campaign framed in these terms would surely have united the ANC behind a determination to ram through the law regardless of opposition.

Instead, a parliamentary committee mandated to revise the law made substantial changes to it which met most of the demands of the campaigners. The bill is still a threat to democracy because it would shield security operatives from scrutiny and make it more difficult for poor people to acquire government information. But neither of these issues was of

See page 16 for an interview about the Right 2 Know campaign's engagement with Parliament.

interest to the campaigners and so, if this case is seen as a test of Parliament's willingness to listen to public campaigns, it largely passes the test.

The significant changes made to the law could be seen as a result not of Parliament's work but of the effects of engagement between interest groups and the ANC leadership which might then have told the committee to amend the bill. But, while interaction between the ANC and the media may have had some influence on the process, this at most explains a part of the story. Much of the action did occur in the parliamentary committee, both in the interaction between it and civil society activists and between the ANC and opposition members.

There is an important reason for this – that the bill was never, contrary to constant claims by campaigners, an attempt by a united ANC to close down coverage of corruption and mismanagement in government.

It was, ironically, a consequence of a process which began with an attempt to replace an apartheid-era law with one consistent with democratic values. The state security establishment became alarmed and insisted that too much public access to information would compromise national security. The ANC was never united on the bill – it is the site of a battle between the security establishment's supporters and those who have no wish to protect it. Because the majority party has been disunited, it has been possible for citizens' groups and the opposition to influence Parliament.

This reality is not confined to this bill – on the contrary, it has been the dominant pattern in Parliament over the past five years. It is this which explains Parliament's unexpected vitality – and indicates why it remains fragile.

A Work of Faction: The Fragility of Parliamentary Vigour

Since 2007, ANC members have been more independent and thus more willing to hold the executive to account not because they have become more sensitive to the public, but because of the workings of internal ANC politics.

The sharp increase in ANC members' independence in 2007 was a direct consequence of the rebellion against then President Mbeki. While there were expectations that the independence might end once President Zuma was elected, it did not because the factionalism continued – indeed, increased after Mbeki resigned in 2008. Much

of ANC members' independence since has been a product of factional politics: the committee chairs replaced in 2010 were all members of the nationalist faction who were challenging ministers who they believed were not sympathetic to their faction.

The divisions within the ANC over the past five years have made Parliament more vigorous and have opened opportunities for citizen influence.

While there are some exceptions – Chikunga did not seem to be fighting a factional battle – it is difficult to imagine the ANC caucus returning to the docility it displayed under Mbeki unless the factionalism ends. And, since it may be with us for the next five years at least, because no ANC faction is likely to win decisively at its conference, ensuring continued contest until the next one in 2017, we can expect independent behaviour by ANC members until then. And we can expect too that citizens' groups which understand ANC politics will find parliamentary allies within it.

But this is not inevitable – if, for example, current attempts by Zuma to assert his authority on the ANC were to succeed, the caucus could be controlled for a while. In any event, relying on factional battles within the majority party for greater accountability and responsiveness is a very uncertain strategy.

The divisions within the ANC over the past five years have made Parliament more vigorous and have opened opportunities for citizen influence. But only a Parliament more in touch with grassroots citizens will continue to account and respond.

This requires citizen action: the Right 2 Know Campaign could serve as a useful model of how not to proceed. If civil society groups are to play an important role in assuring a Parliament more connected to the people and more willing to do its bidding, they will need to develop far stronger links with citizens at the grassroots and become far more sensitive to dynamics in the ANC than they were during the campaign.

Interview

Bridging the Gap:

R2K's Campaign in the South African Parliament

The Right 2 Know (R2K) campaign was launched on 31 August 2010 in response to the introduction of the Protection of State Information Bill (POSIB)¹ in South Africa's parliament. The campaign's position is that by privileging national security imperatives over transparency, the bill creates loopholes that will exclude the public from some government processes and undermine efforts to curb corruption.

HBS: Who is the coalition for the Right 2 Know?

R2K: R2K is a loose affiliation of people and organisations with a shared interest in promoting openness and transparency. Currently, the coalition comprises around 400 organisations, including community groups, research institutions, faith-based organisations, service delivery action groups, unions, student groups and social movements. Recognising both the necessity of national security as well as the importance of public access to information, these partners have united behind an effort to see POSIB redrafted to meet seven broad principles that promote access to information.²

Work has been coordinated through four provincial committees, each comprised of member organisation representatives as well as individual activists and volunteers.

We've worked on the basis that access to information is an issue critical to all social justice struggles. As such, the campaign has brought together well-established parliamentary policy groups, such as Idasa and Open Democracy Advice Centre, with community based organisations [CBOs] and social movements, such as the Anti-Eviction Campaign, the Mandela Park Backyarders, and "Proudly Mannenberg", which sit on R2K's leadership structures.

HBS: The R2K campaign had to focus on Parliament as the seat of legislative authority. What has been the parliamentary process?

R2K: The bill was re-introduced in the National Assembly in 2010³, and then had to go through

an extensive deliberation process which included public hearings in that house.

Initially, the bill's champions in Parliament and the Ministry of State Security were confident that the bill would pass quickly and without amendment. However, R2K's mobilisation forced a comprehensive consultation process. Initially, both the Ministry of State Security and many parliamentarians were dismissive of criticism. This changed as the parliamentary process unfolded.

Initially, both the Ministry of State Security and many parliamentarians were dismissive of criticism. This changed as the parliamentary process unfolded.

The POSIB did eventually pass through the National Assembly in November 2011, and moved to the National Council of Provinces [NCOP]. In the face of unprecedented opposition, the NCOP held countrywide public hearings, which some saw as attempts to "stage-manage" a process that would rubber stamp the bill.⁴ The NCOP also received about 260 written submissions from NGOs, unions and the public, all but one of which raised further objections. Some of these groups were invited to present their submissions to the NCOP. Two months later the African National Congress [ANC] caucus proposed further amendments that significantly improved the bill. However, even with these changes, the bill remains problematic. Protection to whistleblowers is better than before but still patchy, and restrictions on the bill aimed at curbing corruption have been called legally unsound. POSIB is still effectively written to trump South Africa's Promotion of Access to Information Act. Most



Murray Hunter is the national coordinator of the Right 2 Know campaign and Nkwame Cedile its Western Cape coordinator.

importantly, the unprecedented powers given to the Department of State Security to protect itself from public scrutiny have not been addressed.

While we still would like to see changes to the bill, overall R2K has significantly affected the bill's content. The process of challenging the bill's provision was one in which we were often stonewalled, and our legitimacy questioned. For instance we were labelled as "proxies for foreign agents" by the Minister of State Security. In terms of process, the debates were stalled or attempts were made to rush the bill through; this threatened meaningful participation.

HBS: How was your engagement with Parliament structured?

R2K: Our work with Parliament has had to reflect the diversity of the coalition. We essentially sought to bridge the gap between formal democratic institutions and the lives of ordinary people. To do so, we adopted strategies from previous efforts such as the Treatment Action Campaign, who were present both in Parliament – in committee meetings – but also were active outside of Parliament – communicating with affected citizens on the issues at hand.

With regards to the committee meetings and public hearings, our approach was to bring as many people and organisations as we could right to the coalface of the legislative process, to ensure that legislators heard and took heed of these voices. Every meeting was attended by between two and 20 activists from R2K. These delegations included people considered policy experts, volunteers and CBO representatives within the Western Cape networks of the campaign who had never visited Parliament before.

Strategy was often shaped within these forums. When committee meetings adjourned, the delegations would often gather to debrief and reflect, deciding collectively on next steps. The principle strengths of the campaign – its internal democracy and "broad church" model – sometimes made decision-making a time-consuming and cumbersome process. There was a constant dialogue within the campaign between the moderates, who favoured a diplomatic approach that edged decision-makers towards a compromise, and the radicals, comprising activists and community leaders, often with histories of hard struggles which have made them weary of co-option into party-political matters. This process was

The process of challenging the bill's provision was one in which we were often stonewalled, and our legitimacy questioned.

laborious and sometimes frustrating, but it was also a crucial step in ensuring that the discourse around POSIB was not controlled only by the so-called experts.

HBS: How did you keep the groups who could not attend Parliament informed and part of the process?

R2K: An important part of our work was mobilisation and awareness building. Workshops and public meetings – in township community centres, suburban churches, university lecture theatres, wherever the networks extended – developed answers to some basic questions: What kinds of information do people need, and what stops them from getting it and using it to further their causes? Why do poorer communities struggle infinitely harder to access information that is fundamental to their wellbeing? These information sessions, and the updates on the parliamentary process, often led to forms of direct action – door-to-door pamphleteering, dissemination of flyers at taxi ranks, or picketing outside Parliament.

Because the campaign spoke directly to the concerns of media groups, it enjoyed a lot of coverage. While this was useful in some senses, it also at times created the impression that the driving parties behind it were media owners, rather than communities.

Public awareness efforts bore fruit, especially during the contested provincial hearings hosted by the NCOP on POSIB, comprising over 20 town hall meetings across the country. Most meetings were attended by representatives of the Congress of South African Trade Unions or R2K-affiliated organisations (many of whom still call the ANC their political home), who used the opportunity to express concerns about POSIB and government transparency generally, despite concerns that the meetings were "stage-managed" to "rubber-stamp" the bill.

HBS: How have parliamentarians responded to the campaign's work?

The impact R2K had on the parliamentary process was greater than anyone anticipated. When the campaign launched, POSIB – then in its full draconian form – was seen by many insiders as a sure thing.

R2K: The impact R2K had on the parliamentary process was greater than anyone anticipated. When the campaign launched, POSIB – then in its full draconian form – was seen by many insiders as a sure thing; few outside the parliamentary circles had even heard about it. The members of Parliament tasked with shepherding the bill into law were initially dismissive of criticism, accusing even moderate voices of dissent as being “obsessed with openness”.

However, members of Parliament faced a host of pressures. Most of those sitting in the National Assembly committee were drawn from Parliament’s

Joint Standing Committee on Intelligence, which meets behind closed doors and whose history of vigorous, independent oversight is questionable. As a result, the bill’s initial architects in the Ministry of State Security seemed to have extraordinary influence over deliberations. An investigation by the Mail & Guardian in June 2011⁵ also revealed evidence that the Ministry’s representative was drafting the ANC caucus’s position papers on POSIB at the time.

As public pressure mounted, and continues to mount, both members of Parliament’s indifference to criticism as well as their defence of the national security agenda remained untenable. While there is little love for the civil society coalition, this pressure has given some cover to those within the ANC Parliamentary Caucus and ANC party leadership who are deeply uncomfortable with some of the bill’s provisions, not least because of the powers it gives the state security apparatus. The result has been a number of reforms in the draft legislation, some of which were entirely cosmetic, but many of which introduced valuable safeguards and restrictions to the bill. The POSIB under debate today may still not meet the “7 point freedom test”, but it has undeniably and significantly changed for the better.⁶

Endnotes

- 1 More widely known as the “secrecy bill”, a name which has met with government disapproval.
- 2 See “The 7 Point Freedom Test” at www.r2k.org.za.
- 3 A previous version of the bill was withdrawn in 2008.
- 4 While R2K welcomed the move to host hearings outside of major urban centres, it was concerned that the schedule proposed did not allow people to be familiarised with the content of the bill. During the hearings process, concerns were raised that people wishing to object to the bill were silenced, that translation from English was not provided, and that in some instances questions were disallowed.
- 5 Mail & Guardian, “Info Bill’s Trail Leads to State Security”, 3 June 2011, <<http://mg.co.za/print/2011-06-03-info-bills-trail-leads-to-state-security>>.
- 6 For a detailed analysis of the bill’s contents see www.r2k.org.za. At the time of writing, the most recent amendments were proposed by the ANC caucus on 10 May 2012.

Interview

Expanding Participatory Spaces in Parliament: The South African Experience

South Africa's legal framework contains exemplary constitutional and legislative provisions, aimed at enshrining citizen participation in the processes of both national Parliament and the provincial legislatures. These provisions are intended to build public trust in democratic institutions and engender a sense of inclusiveness. However, in 2006 the Constitutional Court declared two acts passed by Parliament invalid on the grounds that the decision-making processes had not allowed for sufficient public consultation. As a result, numerous policies and practices of the legislatures – such as outreach initiatives and easy public access to committee meetings and public hearings – have been expanded and subjected to greater procedural rigour. Nonetheless, the question of what constitutes “meaningful” public participation remains politically contested.

Samantha Waterhouse of the Community Law Centre shares some of her insights and experience regarding how participation in parliamentary procedures works in practice.

HBS: How effective, in practice, are the mechanisms and structures in place to facilitate public participation?

Waterhouse: The mechanisms that have been put in place are certainly effective to a point – it is clear that they enable a level of interaction between citizens and parliamentary committees. Civil society organisations [CSOs] have access through their responses to public notices inviting them to comment on and participate in law-making processes. Limited efforts by the National Assembly and National Council of Provinces Committees to host hearings on legislation in towns and cities around the country, versus just in the Western Cape [where Parliament is located], have taken this further. This has had a positive impact on the development of some legislation, such as the Children's Act.

Civil society engagement with Parliament has tended to be focused on the legislative function only.

The Constitution – notably, sections 59 and 72 – provides for public participation in Parliament's legislative and “other functions” (such as oversight and accountability mandates). However, civil society engagement with Parliament has tended to be focused on the legislative function only.

Until the recent launch of the “Oversight Model of the South African Legislative Sector” in March 2012, no framework provided clear roles and guidelines for public participation in the other processes beyond Parliament's legislative mandate – most importantly, its oversight and accountability mandates. In practice, the systems in place are geared toward participation in legislative reform, but are sorely lacking in respect of these other critical roles. Because it is still so new, the opportunities for engagement outlined in the oversight model have yet to be implemented.

Parliament has engaged to some extent with questions of access for the wider public and ordinary citizens. The “Taking Parliament to the People” programme launched in 2002 is led by the National Council of Provinces, and provincial and national legislatures have implemented annual “Sectoral Parliament” events such as the Youth Parliament and Women's Parliament. These mechanisms do, in principle, provide some space for public engagement on the oversight and accountability functions of Parliament. However, these initiatives are framed as once-off events, and the “participation” tends to lack meaningful space for engagement between the public and



Samantha Waterhouse

Samantha is currently the Coordinator of the Community Law Centre's Parliamentary Programme, based at the University of the Western Cape. She is responsible for strengthening civil society engagement with Parliament in order to facilitate parliamentary oversight on the delivery of key human rights obligations. She was previously employed in senior advocacy positions at Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN) and before that, at the Rape Crisis Cape Town Trust. Samantha has developed particular expertise in promoting social reform and advocating for development, reform and implementation of law and policy that promote children's and women's rights.

parliamentary officials. As such, they are tokenistic in nature.

In addition, sections 59 and 72 of the Constitution mandate the National Assembly and the National Council of Provinces to not only *allow* for, but to actually *“facilitate”* public participation. To do so requires commitment to the principle of participation, and also to the allocation of systems, time and financial resources. Efforts to provide platforms for participation in smaller towns are costly. Further, parliamentary funding to bring people to Parliament is extremely limited, and its effectiveness is dependent on Parliament’s awareness of the range of possible stakeholders.

Most importantly, effective use of the mechanisms for public participation is dependent on political will. Participatory processes take time and pose a risk to political priorities that have often been predetermined. This dynamic manifests in a number of ways. Short timeframes between the call for and the date of participation can seriously impact on the participation of under-resourced, more rural or grass-roots organisations and individuals, affecting the quality of stakeholders’ coordination and preparation. The manner in which a call to participate is publicised can also have a negative impact – it is often the case, for example, that only limited notification channels are activated, and selected stakeholders alerted. When participation does take place, there is disagreement between civil society and public representatives about what would constitute it as “meaningful” or “influential”.

HBS: What role do committees play in facilitating public participation?

Waterhouse: Most participation in parliamentary processes takes place through engagement with the work of committees. Effective engagement with a committee depends on a number of different factors – notably, the approach of the chairperson. In the current Parliament (2009–2014), there are a number of exemplary committee chairpersons who do encourage public participation. This means that, beyond official engagement with formal written and oral submissions, in many committees civil society stakeholders get informal opportunities to engage in the discussions. By being present in committee meetings and by building relationships with chairpersons and committee members, stakeholders are able to engage with the committee on an ongoing basis. This usually takes place in the context of discussions on law reform.

For example, during deliberations on the Child Justice Bill, the Portfolio Committee on Justice and Constitutional Development invited selected civil society representatives to participate directly in committee discussions. Recently both the Portfolio Committees on Police and Justice have responded positively to requests from CSOs to provide input on departmental annual reports. The Portfolio Committee on Correctional Services has, over the past few years, invited such engagement on its own initiative. These are positive steps toward stronger engagement with Parliament’s oversight functions.

Participation in committee discussions, formal or informal, is dependent on having access to information about what’s on the committee agenda as well as where and when committee meetings are taking place. Notification of committee meeting schedules is available through the parliamentary website and the NGO the Parliamentary Monitoring Group [PMG]; however, these schedules can change at short notice. Furthermore, venues for meetings also frequently change. These obstacles confound participation in and monitoring of committee discussions. Importantly it is larger CSOs that access notification services, more effort to facilitate use of the notification services by smaller organisations is important.

When participation does take place, there is disagreement between civil society and public representatives about what would constitute it as “meaningful” or “influential”.

HBS: Is civil society making good use of these mechanisms? Which organisations make the most use of them? And what kind of interventions have civil society organisations focused on?

Waterhouse: Civil society – in the form of the better-resourced NGOs, academic institutions, industry bodies, professional bodies and private individuals – have developed routine responsiveness to Parliament and parliamentary engagement. The challenge remains to extend participation beyond these better-resourced “usual suspects” to a

broader range of organisations and individuals. This will enhance the quality of information available to Parliament, and is of particular value with respect to oversight on service delivery.

Research on civil society engagement with Parliament from January 2007 to June 2010, undertaken by Lukas Muntingh for the Community Law Centre, showed that civil society's engagement is overwhelmingly related to the legislative mandate of Parliament. Engagement on oversight or accountability functions, by contrast, is dismal. Thus, while many CSOs lament the poor implementation of legislation and policy in the country, systematic engagement with Parliament on the issue is being neglected. As much as parliamentary systems for this are weak, the opportunities are there and can be seized and further created through concerted effort by CSOs.

The challenge remains to extend participation beyond these better-resourced “usual suspects” to a broader range of organisations and individuals.

HBS: What have been the most common challenges facing those from civil society who do participate?

Waterhouse: There is a long list of challenges. I've noted some relating to access to information on committee schedules. In addition, the timeframes in which Parliament operates are often too short to allow for effective consultation among CSOs on the issues. Further, few CSOs have staff dedicated to the role of parliamentary liaison. The few that do are more responsive to and engaged with Parliament; but those who do not tend to be too swamped with service delivery and other projects to notice many important parliamentary processes in time to make adequate responses. These challenges have been addressed most effectively through CSOs functioning in networks and alliances.

I think that many CSOs don't incorporate the possibility of engagement with parliament into their organisational planning and funding proposals. This means that such engagement must take place over and above the funded work of the organisation. This

is especially true of organisations with strong service delivery functions. At the same time, it is difficult to know in advance when the relevant issues will be on Parliament's agenda. CSO funding cycles require some advance knowledge of what will be coming up in the next twelve to eighteen months.

Notwithstanding the above, parliamentary briefings on departmental annual reports, strategic plans and budgetary reviews take place annually. Although public participation is seldom invited on these, such briefings do provide a definite opportunity for engagement on an almost unlimited range of issues relating to the implementation of legislation and service delivery. There is nothing to prevent civil society from making submissions, being present in discussions, engaging informally with committees, and providing accessible information to committee members on issues pertinent to their organisations in these spaces.


HBS: How could marginalised groups be motivated, empowered and equipped to engage Parliament more effectively?

Waterhouse: Without question, making information available about what Parliament is, its role, how people can interact with it, and the agendas of committees is essential. In addition, information on how to access Parliament – who to contact and how – will go a long way. What remains is the question of how we go about making this information available.

I also think that there is scant knowledge of or commitment to the principles of meaningful participation within Parliament, and this needs to be addressed by both parliamentarians and CSOs. At times, civil society organisations act as further gatekeepers to Parliament for marginalised groups. Greater cooperation between CSOs and existing community structures will enhance opportunities for more effective engagement at this level.

HBS: Can you give an example of a civil society organisation that has succeeded in challenging interest and power in Parliament? If so, how did it do so, and why did it succeed?

Waterhouse: I can provide many examples of CSOs' public participation and engagement impacting positively in the development of legislation, and in questions of oversight. It is more difficult to pinpoint an example in which an organisation succeeded in “challenging interest and power” in Parliament. In contrast, there are too many examples of political interests and power



Since 1994, those with political power have moved further away from the ordinary people. Consequently, the question of meaningful participation has taken on greater urgency.

being used to silence civil society's voice. The power lies with the institution of Parliament and the political parties, and not with the CSOs.

In South Africa we have a single dominant party, while only a small proportion of the vote goes to the opposition. This means that an incredible amount of power is centralised within the dominant party. Its interests and policies dominate. It is clear that certain approaches by civil society – coordinated efforts, sustained engagement with committees, and community mobilisation, amongst other initiatives – are more effective than others in challenging power and political interests. The most effective way power will be challenged is through creating spaces for authentic local participation and mobilisation on issues. I think that many CSOs lack the motivation to facilitate and/or create room for these participatory spaces. Issues of power, voice and silencing within CSOs themselves must also be addressed.

HBS: While civil society organisations do lobby Parliament on their particular concerns, there seems to be little interest in changes that might strengthen Parliament's participatory mechanisms. Why do you think this is the case, and what reforms could improve the institutions and mechanisms that do exist?

Waterhouse: I'm not sure if it is a lack of interest as such. Most civil society organisations are focused on access to Parliament in relation to particular substantive issues, and not on participation as the central point. I also think that CSOs have not engaged in discussion with Parliament on how to enhance and claim participatory mechanisms. The fact that so much legislative reform took place during the first fifteen years of constitutional democracy meant that we were necessarily focused on this parliamentary function during that time. With so much legislation now in place, the space is naturally opening for engagement on implementation. This makes discussion of how best to achieve participation in monitoring and oversight timely and relevant.

Since 1994, those with political power have moved further away from the ordinary people. Consequently, the question of meaningful participation has taken on greater urgency. Protests against poor, and at times non-existent, service delivery are a clear manifestation of this need.

In essence, the time is now right for meaningful conversations about expanding participatory spaces in Parliament.

Comment

The Unwilling Reformist: Kenya's Tenth Parliament

The Kenyan National Assembly is perceived by some as one of the most advanced, active and independent national legislatures on the continent. Barkan and Matiang'i observe that the Kenyan "National Assembly has evolved into an institution of genuine, albeit modest, countervailing power relative to the executive branch. Kenyan presidents can no longer assume, as they did in the past, that the National Assembly will automatically pass their bills into law nor can they assume that the legislature will refrain from rigorous oversight of the executive."¹

Without a doubt, an evolution has been ongoing since the reintroduction of multiparty political participation in 1991, and has become more visible since 2003, when the pro-democracy National Rainbow Coalition (NARC) took over leadership from the Kenya African National Union (KANU). Through a series of reforms during this period, such as formally de-linking Parliament and its operations from the executive branch by amending the constitution (2000), the Kenyan Parliament has grown into an institution well equipped to discharge its core functions of representation, legislation and oversight. More recently, changes to the standing orders of parliament (2008) transformed the operations of the House by, amongst other things, raising the number of departmental committees from eight to fourteen and enhancing the oversight role of Parliament in the budget process. Budget estimates submitted by the minister of finance are now to be examined by the departmental committees.

Against this background, and considering the amplitude of progressive new legislation passed by the Tenth Parliament since its inception in 2008, the current legislature could indeed be characterised as a truly reformist institution. However, without underestimating the individual agency of some of its members and their real commitment to reform, in order to understand the actual state of the institution it is worth reflecting on the origins of this

Parliament and the factors that have determined its recent performance.

It is important to remember that the legitimacy of the Tenth Parliament as a law-making institution needs to be questioned on grounds of the widespread irregularities during the controversial 2007 election.

A Questionable Birth

It is important to remember that the legitimacy of the Tenth Parliament as a law-making institution needs to be questioned on grounds of the widespread irregularities during the controversial 2007 election, which was followed by weeks of violence. The ensuing political stalemate could only be resolved through mediation efforts by the African Union. This mediation, in the form of the Kenya National Dialogue and Reconciliation (KNDR) process, led to a brokered deal that saw the creation of a coalition government under the dual leadership of incumbent President Mwai Kibaki (Party of National Unity) and his main rival, Raila Odinga (Orange Democratic Movement), as prime minister.

In analysing the general elections, the Independent Review Commission (IREC) questioned the integrity of the results released by the Electoral Commission of Kenya (ECK) and reached the conclusion that the management system in the parliamentary and presidential elections "as functioned in the 2007 elections is unacceptable" and that it did not live up to "the basic international standards of transparent, free and fair elections". To exemplify the extent of the irregularities that occurred, the Commission stated that "a



Kimani Njogu

Kimani is the executive director of Africa Health and Development International (AHADI) and an independent scholar in the areas of language, media and governance. Before joining AHADI, he was associate professor of African languages at Kenyatta University. He has worked extensively with a wide range of civil society organisations and currently serves as chairman of the Legal Resources Foundation Trust, a human rights organisation working with poor and marginalised communities in Kenya.

parliamentary candidate who had lost in the polls was actually declared winner of a parliamentary seat".² Since then, all the twelve petitions filed and heard against allegedly unfairly elected members of Parliament have succeeded, suggesting that a significant number of members in the current Parliament may not have been fairly elected.

Accordingly, Parliament is not functioning as an institution that reflects the electorate. The positions taken by members of Parliament are not significantly driven by the interests of citizens, *per se*, but rather by the interests of their political parties and those parties' leaders. The formation of the coalition government has led to a situation where an opposition is virtually non-existent, as the vast majority of members of Parliament belong to parties in government. These parliamentarians consider themselves represented in the executive through the president, vice-president and prime minister, all of whom are leaders of their respective parties. As a result, the struggles within the executive are often vigorously played out in the legislature.

This resonates with the fact that political parties, through which members of Parliament are elected, are largely "owned" by the individuals who fund them. Consequently, parties often lack inner party democracy and a distinct political agenda. By and large, they are tools used by individuals to acquire and/or maintain power. The nomination of candidates by political parties is often marred by malpractice. Clear support for the party leader is strongly considered in determining who gets the ticket to contest under the name of the party. Lacking any form of ideological direction, the political parties in Kenya – and by extension, those who use them to join the National Assembly – are only peripherally instruments of genuine social change.

In discharging their representative role, members of Parliament are therefore caught in a contradiction between public interests and personal interests. Accordingly, public confidence in the institution is low. A 2010 Center for Law and Research International (CLARION) survey found that 55 percent of voters are not satisfied with their representatives, 37 percent are satisfied, and only 8 percent are very satisfied.

Forced to Reform

Admittedly, parliamentary committees have at times during the past four years provided important oversight over the activities of the executive, and

have passed crucial acts and laws in accordance with the KNDR agreements. Prominently featured among these acts are the National Accord and Reconciliation Act of 2008 that paved the way for the formation of the coalition government and the Constitution of Kenya (Amendment) Act of 2008, which required the enactment of a new constitution.

In addition to the passing of KNDR-related legislation, the speaker of the National Assembly, citing matters of constitutionality, statute and standing orders, challenged executive authority on a number of occasions. For example, he ruled that the coalition government needed to appoint a leader of the Government Business Committee and a chair of the House Business Committee after the president and prime minister failed to agree on one candidate. The House expected that the designation would be made, in the words of the speaker, "in good faith, through consultation and willingness to compromise". In the interim, the speaker appointed himself leader of the Government Business Committee to facilitate the affairs of the House and, as an ex-officio member of the House Business Committee, undertook to chair that body as well. This decisiveness on the speaker's part clearly underlined Parliament's independence from the tussles of the executive.

Admittedly, parliamentary committees have at times during the past four years provided important oversight over the activities of the executive, and have passed crucial acts and laws in accordance with the KNDR agreements.

However, it can be argued that what forced the legislature to perform was primarily the clear political roadmap laid down by the KNDR process, in conjunction with the general public's expectations; pressure from media and civil society; and the private sector's lobby for stability in the country. Left on its own, it is quite likely that the political elite, parliamentarians included, would not have had the initiative to enact such transformative

bills – some of which constitute an affront to their hold on power, and certainly hit the fault line between public and party loyalty.

This argument is supported by the institution's behavior in situations where the political elite's self-interest was significantly jeopardised and external pressures were not overwhelming enough. Parliament's reaction to the International Criminal Court's (ICC) intervention regarding the 2007/08 post-electoral violence offers a good example. On 22 December 2010, following the ICC prosecutor's request to have summonses issued against individuals suspected to bear the greatest responsibility for the violence, Parliament passed a motion requiring government to take "appropriate action to withdraw from the Rome Statute".³ The motion, which was opposed by only one member of Parliament (former justice minister and current presidential candidate Martha Karua), was passed under threat that failure to comply within sixty days would lead to actions against the Kibaki administration, including sabotaging government business in the House.⁴ Earlier, on 12 February 2009, Parliament had already voted down a bill proposing the establishment of a special tribunal to deal with crimes committed during the violent post-election period.

Also, Parliament's performance regarding the overhaul of legislation in line with the new constitution has been mixed. The process leading up to the failed 2005 constitutional referendum had already made clear that the political elite did not want a constitution that would increase transparency, integrity and accountability in the running of the state. It also showed that Parliament would not accelerate the passing of bills that have far-reaching consequences for political and economic relations. Consequently, the drafters of the 2010 constitution obligated Parliament to enact a range of legislation as stipulated in the Fifth Schedule (Article 261 (1)) within specified time frames. In other words, Parliament had little choice but to pass specified laws as required by the constitution. Some crucial laws, such as the Independent Electoral and Boundaries Commission law and the Kenya National Human Rights and Equality Commission law, have been passed. Yet Parliament has fallen behind schedule because of delays in the drafting of bills, due to internal struggles within the executive and the legislature over these bills' content. In other instances, Parliament rushed the passing of the laws without sufficient debate.

Without downplaying the fact that there are a few progressive legislators genuinely committed to change, it is important to appreciate that to a vast extent, Parliament's performance is determined by external factors.

Even worse, some of the laws submitted by the executive and passed by Parliament have been audited as unconstitutional by the Commission for the Implementation of the Constitution (CIC), the focal institution charged with facilitating, monitoring and overseeing the implementation of the new constitution. With regard to the Elections Bill of 2011, for example, the CIC in its Third Quarterly Report (July–September 2011)⁵ asserts that its advisory on unconstitutional provisions was not taken into consideration by either the executive or Parliament.

Conclusion

One may be tempted to consider the Kenyan parliament "reformist", based on bills passed and decisions made by the legislature vis-à-vis the executive. Again, without downplaying the fact that there are a few progressive legislators genuinely committed to change, it is important to appreciate that to a vast extent, Parliament's performance is determined by external factors. These include the legal framework and instruments emanating from the KNDR process, internal pressure from Kenya's independent media, and a strong and unrelenting civil society. In essence, therefore, it is quite appropriate to call the Tenth Parliament "unwillingly reformist".

Endnotes

- 1 Barkan JD & Mtiangi F, "Kenya's Tortuous Path to Successful Legislative Development", Country Report, African Legislature Project, Cape Town, 2010, <<http://www.africanlegislaturesproject.org/country-reports>>.
- 2 Independent Review Commission, "Report of the Independent Review Commission on the General Elections Held in Kenya on 27 December 2007", 2008, p. 137.
- 3 Kenya National Assembly, Motion 144, December 22, 2010.
- 4 See: Amnesty International Kenya, "Denouncing the Rome Statute Shall not Have Effect on Investigations Currently on Course", 2010, <<http://www.amnesty.org/en/library/asset/AFR32/019/2010>>.
- 5 See: Commission for the Implementation of the Constitution, "Audit Report of the Acts Enacted by Parliament and Assented to by 26th August 2011", 2011.

Interview

Challenging Mindsets and Institutional Culture in Kenya's Parliament

A defining feature of Kenya's current Parliament is that a significant proportion of its members cut their teeth in the civil society movement. Although some of these lost their seats in the notorious 2007 general election, many current members of Parliament are products of the civil society movement, who joined Parliament as part of the national Rainbow Coalition that swept away the dictatorship of President Moi and its old guard, the Kenya African National Union. Unity and enthusiasm were short-lived, however, as parties that had come together to defeat the Moi autocracy crumbled in the countdown to the ill-fated 2007 election.

Giving birth to what is arguably one of the most progressive constitutions in the world, the ninth (2002–2007) and tenth (2007–2012) Kenyan Parliaments are often regarded as reformist. However, much of this must be attributed to civil society pressure. As old challenges linger, there is growing concern that the current Parliament displays some of the negative attributes of the past – notably, narrow-minded, ethnic-based, parochial and undemocratic politics.

Njeri Kabeberi has had years of experience working with parliamentarians. She took some time out to talk to Dorothy Kweyu, revision editor of the *Daily Nation* newspaper, about the challenges of changing mindsets and institutional culture in Kenya's Parliament.

Kweyu: What does your report card for Kenya's current Parliament look like, especially in relation to other arms of government?

Kabeberi: The current Parliament is lucky in two ways. One, it has a strong speaker, who appreciates the independence of the three arms of government, and who has refused to be held hostage by party or ethnic affiliations. Second, it is the pioneer Parliament for Kenya's new constitution. It has the role of making sure that this document is properly implemented.

Unfortunately, as seen from some proposed bills and in arguments and debates, many members of Parliament do not appreciate that they're in a new dispensation as an independent arm of government.

Like many African countries, Kenya still lacks a clear separation of powers. The current Parliament includes cabinet ministers, for example, though this will no longer be possible under the new constitution. But as we are now, it is challenging to fully separate the two arms of government. There are countries that have achieved this; but you see, here in Kenya we are coming from a culture that has been so over-dominated by the executive.

Kweyu: Do Kenyan parliamentarians see themselves as representatives of the people, of their parties, or simply of their own interests?

Kabeberi: The majority of Kenyan parliamentarians ignore both the party and the people once they get to Parliament. They don't see themselves as representatives of the people, as national leaders, nor as representing their political parties. Consultation between members of Parliament and their parties hardly exists.

I was very surprised when I visited a political party in Denmark recently. Its secretary general told us that the party's parliamentary members meet daily before sessions begin to plan strategies around issues on that day's agenda. Nearly every second or third day, they are in telephone conference with the secretary general. That gave me hope that we're on track in insisting that members of Parliament consult their parties before taking policy decisions.

In the past, the relationship between parties and their parliamentarians has been in a very sorry state. I've seen members of Parliament abuse or abandon their political parties, or move from party to party. The 2011 Political Party Act under the new constitution will no longer allow such activities, and this provides opportunities for improving party-parliamentarian relationships. Parties have very good manifestos, but they're tucked away on shelves. These documents need to be living manifestos, so that parties can hold members of Parliament to account, and so that citizens can hold parties accountable when campaign promises aren't fulfilled.



Njeri Kabeberi

Njeri is the executive director of the Centre for Multi-Party Democracy (CMD) Kenya. CMD was founded by political parties in Kenya, and works to build the capacity of parties in support of multiparty democracy. Before joining CMD, Njeri worked for the Kenyan Human Rights Commission and Amnesty International.

Kweyu: How do you think civil society has influenced parliamentary reforms in Kenya?

Kabeberi: Civil society has been instrumental in pushing reforms in this country, including with respect to Parliament. Our argument has always been that an unstructured parliament that is not well supported will not be able to stand firm against other arms of government. So we fight for it to get adequate support. We say, let parliamentarians have access to the resources they need in order to discuss bills from a position of authority. At the same time, we fight the large salaries paid to parliamentarians. It should not be too expensive to deliver good, just and fair laws to this nation. It has always been a priority of civil society to reform our key institutions so that they can deliver efficiently.

Kweyu: What incentives prompt parliamentarians to engage with civil society organisations? Are they responsive to people's calls?

Kabeberi: The new constitution affirms the necessity for Parliament to interact with civil society. Members of Parliament can no longer ignore civil society organisations, because making laws requires public participation. Ordinary citizens will be able to organise themselves better – even at ward level, village level – and to send petitions, make comments and critique bills. Laws, especially those aimed at changing the constitution, have to be discussed by citizens. Therefore, you must have citizens discuss the pros and cons of a given law, and debate whether it's fair or not.

Civil society organisations have found mechanisms of engaging with parliamentarians. Many organisations are checking bills and sending comments to Parliament. Civil society has become very proactive and alert in the whole process of implementing the new constitution.

Kweyu: Do civil society organisations try to involve parliamentarians in their work?

Kabeberi: This is a good question. No – unfortunately, very few civil society organisations involve parliamentarians, because parliamentarians are often seen as standing aside. Most civil society organisations in Kenya have not placed themselves in a position to work directly with members of Parliament. In my opinion, civil society organisations representing diverse agendas in this country must begin finding entry points to work with members of Parliament. People shun parliamentarians in the same way as they shun political parties, due to our history of a bad political culture. Parties are perceived more as personality cults than as issue-based entities.

In order to build a strong Parliament, we have to empower citizens to realise that there is a connection between the citizen, the political party and members of Parliament.

In order to build a strong Parliament, we have to empower citizens to realise that there is a connection between the citizen, the political party and members of Parliament.

Kweyu: How about women's organisations? Do you think they can advance their agenda meaningfully through working with women parliamentarians?

Kabeberi: Women leaders can influence Parliament a lot if they work closely with members of Parliament. In the past, women's organisations have not fully utilised parliamentarians; they seldom lobbied them directly. I think we must engage more with our members of Parliament so that they do not reject pro-woman or gender-sensitive bills, as in the past.

I also believe that lobbying a majority of members of Parliament of both genders is actually more beneficial than lobbying one woman parliamentarian. Instead of seeing this particular woman as articulating selfish interests, many members will rather have understood the issue.

I have come to realise that gender issues are highly complex. Members of Parliament will reject bills mainly because they do not fully understand the issue. We need to lobby and explain, give them enough arguments to stand firm on our behalf, because gender issues are often only fully understood by those who experience them.

This strategy was recently successful in the fight by women's organisations to retain the gender commission, which was being merged with the Kenya National Commission on Human Rights. My organisation, the Centre for Multi-Party Democracy, got involved. Together with other organisations, we lobbied members of Parliament, explaining the merits and demerits of the proposed change. We also invited the other side to say why they didn't want the gender commission to be an independent body. Parliamentarians eventually voted for the gender commission, which is now waiting to be properly funded and constituted.

The Nigerian Parliament: Finding Its Role as Rent-Seeking Continues

Since the end of military rule in 1999, Nigeria's national Parliament has made gains in terms of its legislative and oversight functions. While there are still significant challenges – particularly in terms of its representative functions, the weakness of political parties and the persistent problem of rent-seeking behaviour – the Nigerian Assembly is developing into an independent counterweight to the executive, and takes its budgetary and oversight roles seriously. In light of the legacies of prolonged military rule – which include the concentration of power in the executive, institutionalisation of corruption and lack of a governmental culture of accountability – this represents significant progress.

Under the 1999 Constitution of the Fourth Republic, Nigeria has a presidential, federal system with a bicameral legislature. The House of Representatives has 360 seats, allotted to the thirty-six states on the basis of population. The Senate has 109 seats, three per state plus one for the Federal Capital Territory (Abuja). Members of the House of Representatives are elected from single-member districts, with elections held every four years concurrently with presidential polls. The People's Democratic Party (PDP) is the majority party in Parliament, and has also won the presidency in every election since the return to civilian rule in 1999.

The first National Assembly seated after the transition faced a number of challenges. Most members had no experience in politics, and a limited understanding of their role. There were also serious financial and technical resource constraints. In the face of a strong president (i.e. former military leader Olusegun Obasanjo), it was difficult for the National Assembly to establish its independence. Since then, however, resources for the Assembly have increased, and parliamentarians and staff members have developed more experience. The increased number and activity of committees, improved premises and a larger support staff are clear signs of

progress. As a result, the Assembly has been able to demonstrate greater assertiveness in challenging the executive. However, the high turnover rate amongst parliamentarians – over 80 percent of representatives in the 2007 Assembly were new members – inhibits capacity development and creates a need for ongoing training activities.

In a recent survey for the African Legislatures Project, members of the House of Representatives identified legislation as their primary responsibility. In terms of its legislative function, the number of bills introduced by Assembly members has steadily increased from less than 50 percent to 80 percent of the total, while the percentage introduced by the presidency has declined. Despite this, a higher proportion of the bills that actually passed were initiatives of the executive (64 percent versus 36 percent during the period 2003–2007).

The oversight function seems to have developed significantly during the Fourth Republic. This role has been identified by both Assembly members and the public as a very important function, and the public has welcomed the Assembly's increasing assertiveness vis-à-vis the presidency. The body confronted the presidency in 2002 over the Elections Bill, and in 2006 the Senate blocked President Obasanjo's attempt to extend presidential term limits from two to three – this despite allegations of threats, blackmail and bribery being used to influence legislators to support the constitutional amendment.

The National Assembly also exercises its oversight function with regard to the budget, scrutinising allocations and monitoring expenditures. In this regard, it conducts visits to government departments to monitor budget implementation and has challenged the presidency on non-implementation of the Appropriation Acts. Unfortunately, these challenges do not seem to have led to a significant improvement, as implementation of the budget remained at less than 40 percent during former President Obasanjo's entire tenure.

This article is largely based on the Nigeria country report by Peter M. Lewis (2011) for the African Legislatures Project, University of Cape Town and commentary by journalist Sola Odunfa. It was compiled by Brittany Kesselmann for the Heinrich Böll Foundation.

National Assembly has also demonstrated greater seriousness in its function of confirming government appointments. The legislature challenged a number of presidential nominees between 2003 and 2007 as unqualified or otherwise inappropriate.

However, internal oversight in the Assembly has revealed various scandals involving improper conduct, prompting the impeachment and/or resignation of a number of prominent Assembly members and leaders. It has been suggested by some researchers that political squabbles and executive interference played some part in these scandals.

A key element of the Assembly's oversight role is the use of public hearings and committee investigations. The expansion of the committee system, in terms of the number of committees, staffing, resources and experience, combined with the introduction in 2006 of "due process" reviews of public expenditures, has led to inquiries into government procurement and spending. A number of Assembly probes received significant national attention. These include probes into alleged misuse of more than USD16 billion for rehabilitation of the national electricity system; safety funds in aviation; projects in transportation and public works; fertiliser distribution; land and housing sales in the Federal Capital Territory; spending under the auspices of the Niger Delta Development Commission; the finances of the Nigerian National Petroleum Corporation; and the use of constituency project funds by legislators and governors. While these committee investigations have created pressure, and to some extent led to greater transparency, the Assembly has limited enforcement capacities. This has led to public ambivalence – citizens have witnessed a barrage of revelations about the misuse of funds, but have seen limited consequences for those responsible. In order for Assembly oversight to translate into greater

government accountability, the body will need greater enforcement capacities.

The Nigerian Assembly is weakest with regard to its representative function. It remains distant from many domestic constituencies, and lacks the institutional channels required to facilitate civil society input into the legislative process. Legislators do provide some representation and services for constituents, though largely on a clientelist basis. It has also been noted that the use of constituency development funds lacks transparency and is open to significant abuse. Representatives regularly visit their districts and complain that the funds allocated for both travel and constituency development are insufficient.

According to Round 4 of the Afrobarometer research network, Nigerians have limited trust in the legislature and limited contact with their legislators. The research also found that the public perceives corruption as a major problem in the Assembly, no doubt due to the public scandals arising from investigations that have revealed inappropriate use of political influence and constituency funds in the legislature. This perception is exacerbated by the fact that Assembly members have allocated themselves very large compensation packages, estimated at approximately USD 1.5 million per annum. These are amongst the highest in the world for legislators, and stand in stark contrast to the poverty of most Nigerian citizens.

Anecdotally, the position of a federal legislator is considered one of the most lucrative in Nigeria. Previous electoral misconduct, vote rigging and violence have further contributed to the legislature's lack of legitimacy, though recent electoral reform may improve the credibility of future elections. Despite these concerns, however, the Afrobarometer research found that the public supports the separation of powers and believes that the legislature, and not the presidency, is the appropriate institution to make laws in Nigeria.

OVERVIEW OF NIGERIAN ASSEMBLY DURING THE FOURTH REPUBLIC¹

NIGERIAN LEGISLATURE	1999–2003		2003–2007		2007–2011	
	Senate	House	Senate	House	Senate	House
Number of members	109	360	109	360	109	360
Number of committees	44	42	42	72	54	72
Number of non-returning members	–	–	73 (67%)	312 (87%)	83 (76%)	271 (75%)

As Nigerian citizens become increasingly vocal on political matters of concern to them, the Assembly may be forced to follow suit.

Researchers have noted a lack of party discipline in the Nigerian Assembly, due in part to the absence of strong ideological programmes differentiating the political parties. This has led to considerable independence in Assembly members' voting behaviour, visible in the attempts (which included members of the president's own PDP party) to impeach the president in 2002; resistance to the extension of presidential term limits in 2006; and the assertion of vice-presidential powers during former President Umaru Musa Yar'Adua's illness in 2009–10.

Weak party loyalty extends both ways—high turnover in the Assembly is also attributed to parties' failure to re-nominate members, rather than to members' failure to win re-election. It has been suggested that the executive cooperate with party leadership to prevent legislators who refuse to toe the line from returning to the Assembly. This difficulty in securing re-nomination by one's own party is believed to contribute to rent-seeking by legislators, who desperately strive to accumulate wealth during their single term in office, at the expense of their legislative, oversight and representation duties.

From the early days of the Assembly, there have been clear improvements in terms of institutional development, including increased financial resources, improved premises and facilities, more support staff, and capacity development. While reform elements remain limited, a multiparty "good governance" caucus has emerged in the House of Representatives, engaging about twenty members on key issues and bills related to transparency, fiscal oversight and responsive governance. This is an important voice in favour of good governance in the Assembly, and seen in conjunction with a trend toward greater political autonomy in the legislature, represents a step toward a more effective, independent institution.

Ongoing challenges include high turnover amongst legislators, which means most members have minimal experience and require training; limited access to information, due to poor governmental record-keeping and non-cooperation of government

officials; lack of enforcement capacity; executive interference; and ongoing rent-seeking behaviour. The latter, in particular, leads to public distrust of the legislature and is a significant hindrance to the institution's effectiveness.

As Nigerian citizens become increasingly vocal on political matters of concern to them, the Assembly may be forced to follow suit. This was the case in January 2012, when labour unions and a coalition of civil rights organisations called a massive general strike to protest the government's 100 percent increase in the pump price of petrol. The budding Occupy Nigeria movement and the government took rigid opposing positions, and the stalemate was overcome through intervention by the leaders of the National Assembly. The government lowered the price of petrol and the strike was called off.

The Assembly then established a joint committee to investigate allegations of large-scale corruption in the petroleum sector. During public hearings, government representatives and oil company officials revealed fraudulent activities resulting in huge financial losses to the country. Discrepancies between what the federal government paid to fuel importers and the actual amount of fuel imported since 2009 revealed that USD 6.8 billion was unaccounted for.

The inquiry, which came as a result of citizen pressure, was hailed in the Nigerian media as a success for the Assembly's oversight function. However, the next step must be to ensure that the findings of the Assembly probe translate into action against those responsible for fraud, and contribute to the prevention of similar financial losses in future. The chairman of the committee, Lawan Farouk, has yet to clear himself of allegations that he, too, took a bribe of more than half a million dollars from an international oil company related to the investigation.

Overall, the Nigerian Assembly has shown some promising moves in the direction of greater transparency, accountability and independence. However, these gains must be sustained and developed in order for Nigerians to feel that they can trust their representatives with the many important functions affecting their everyday lives.

Endnotes

- 1 Table adapted from Fashagba, Joseph 2009 "Legislative Oversight under the Nigerian Presidential System" in *The Journal of Legislative Studies* 15:4, pp439-459.)

GUY DU TOIT

Guy was born in South Africa in 1958, graduating with a BA (FA) from the University of Pretoria in 1982. He has exhibited widely, both at home and as far afield as Bulgaria, China, the Czech Republic, England, France, Germany, Ireland and the USA.

Guy has taught at various institutions in Gauteng. Currently, he teaches sculpture part-time at the University of Pretoria.

Guy's commitment to demystifying bronze casting, and the art-making process in general, expresses itself in ongoing community-based projects. His studio/foundry near Pretoria is available to other artists who would not normally have access to such facilities. The approach to art and life, the relationship between the body and material, art and craft, discourse and practice, and the domestic and the professional that informs his work continues to influence his many students.



Carla Crafford

About the artwork

This work is derivative of the 1964 work *Fat Chair (Fettstuh)* by Joseph Beuys, who co-founded the German Green Party in 1980. It speaks of power and the incumbent.

Title: one hundred small chairs

Medium: patinated bronze

Size: each of 100 chairs 220 x 75 x 90mm, installation variable

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Editors: Keren Ben-Zeev and Jochen Luckscheiter

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This publication can be ordered from our Africa offices:

Regional Office Southern Africa

123 Hope Street

Gardens, 8001

Cape Town, South Africa

T: +27 – 21 – 4616266

E: info@za.boell.org

I: www.za.boell.org

Regional Office East & Horn of Africa

Forest Rd, PO Box 10799-00100 GPO

Nairobi, Kenya

T: +254 – 20 – 3750329

E: info@ke.boell.org

I: www.ke.boell.org

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Office Nigeria

Rukayat Plaza, 93 Obafemi Awolowo Way

Jabi District, Abuja

T: +234 – 80 – 36290289

E: info@ng.boell.org

I: www.ng.boell.org

Office Ethiopia

Off Bole Medhanealem, House no. 2264

PO Box Number 3174, Code 1250

Addis Ababa

T: +251 – 11 – 6631100

E: info@et.boell.org

I: www.et.boell.org