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THE AFRICAN LEGISLATURES PROJECT: FIRST FINDINGS

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January 7, 2010

EXECUTIVE SUMMARY

This report presents the “first findings” from the African Legislatures Project or ALP. The report is based on the preliminary coding and analysis of data obtained from research in six countries—Kenya, Malawi, Mozambique, Zambia, Namibia and South Africa. Because the purpose of ALP is to achieve a *comparative* understanding of legislative institutions across Africa, and is funded from multiple sources, we have adopted the practice of including data from as many countries as possible when we present findings from the project. Field research for ALP began in late February 2008 and is expected to continue through the end of 2010 as the work proceeds seriatim in 18 African countries. Funds from DfID supported the field research in Kenya, Malawi, Mozambique and Zambia. We wish to thank DfID for this support.

Data and approach

ALP employs a comparative, quantitative, and multidimensional approach to understand the operations and development of African legislatures. As such, the field research in each of the eighteen countries included in the project consists of four distinct modules: *Module 1* consists of a codification of the formal rules that specify the role and powers of the legislature and the rules governing its internal operations. *Module 2* consists of data on the composition of the legislature, a compendium of all bills introduced to the legislature over a five year period, an information sheet on the composition and performance of key parliamentary committees, plus additional information on the operations of the legislature obtained from interviews with key informants.

Module 3 consists of data from questionnaire based interviews with a random sample of 50 members of the national legislature in each country. These interviews cover a wide range of topics including MP’s conceptions of their roles, the demands they face from their constituents and other key political actors, how they allocate their time, and the nature of their activities within the legislature. *Module 4* ascertains public perceptions of the legislature and its members via a sub-set of questions included in Round 4 of the Afrobarometer. Data from all four modules are coded on the basis of a common scheme to facilitate a comparative analysis of the study’s findings across the 18 countries.

This report of first findings is divided into four sections that address the following topics: (1) The defining functions of democratic legislatures worldwide. (2) The role orientations and role expectations held by African MPs and citizens with respect to the defining functions of the legislature. (3) How MPs and the legislatures to which they belong approach the legislative process. (4) The nature of MPs’ engagement in constituency service and the burdens they incur. A final section summarizes the principal findings from this analysis and their implications for donor agencies such as DfID that seek to improve the quality of governance in selected developing countries. Those findings and recommendations can be summarized as follows:

First Findings

1. As expected given the demographics and history of African countries, both citizens and MPs place a much higher emphasis on representation and constituency service than on legislating and oversight, two defining functions of the legislature. This poses a dilemma for MPs in most African legislatures—do they emphasize representation and constituency service with the result that the legislature of which they are members will not develop into a sufficiently powerful institution capable of holding the executive accountable to the public? Or, do they devote more time to legislating and oversight at the risk of displeasing the electorate and suffering defeat when running for reelection?
2. The form of electoral system via which a country selects its members of the legislature has a profound effect on the relationships between MPs and the public, the operations of the legislature, and the nature of legislative-executive relations. The form of electoral system also has profound effect on the nature and structure of African political parties and the relationship of MPs to their parties. Put differently, there is much more at stake than simply translating votes into seats and whether that translation is “proportional.”
3. The strength and internal cohesion of political parties and especially of the ruling party impacts greatly on the legislative process. Further analysis, however, is required to fully understand the impact of political parties on the process of legislative development.
4. Notwithstanding the historical weakness of African legislature and the emphasis placed on representation and constituency service, it is clear that some of these legislatures have made significant progress in recent years and are asserting their role in the political process. Viable albeit undeveloped committee systems are emerging within some of these legislatures. Bills introduced by the executive for passage by the legislature are no longer “rubber stamped” but increasingly scrutinized and often amended before being passed into law. More extensive and effective oversight of the executive also appears to be emerging in some countries though an examination of this function was not included in this report. Though limited in some countries, the involvement of civil society in the legislative process, especially in countries with large urban sectors, is also on the rise.
5. The amount of resources provided to both MPs and to the institution impacts on legislative performance. In countries such as Kenya and South Africa where MPs salaries and travel allowances are high, and where legislative committees are better staffed, the frequency and quality of both committee service and constituency service is higher than in countries such as Malawi, Mozambique and Namibia where the legislature is relatively under resourced. Put differently, the viability of the legislature with respect to the performance of its defining functions is impacted by the availability of resources for the legislature and its members. This in turn begs the question of how and why sufficient resources are provided to the legislature in some countries but not in others.

Implications for Donor Agencies

Given the provisional nature of these findings we are also tentative in suggesting what these findings imply for donor agencies such as DfID that engage in legislative strengthening programs in selected countries. Some recommendations, however, flow from the summary above:

1. More attention needs to be paid, both generally and in countries where donors have or are contemplating legislative strengthening programs, to the form of electoral system and its impact on the political process. Electoral system design is generally an area neglected by the donor community or considered only when engaging in election support. The choice of electoral system, however, impacts on the legislative process and must be taken into account.
2. Donor efforts devoted to strengthening the development of the committee system are well placed, especially where efforts are being made to establish an appropriate number of sectoral or portfolio committees that shadow MDAs.
3. Donor efforts to support civil society should perhaps devote greater attention to raising civil society engagement with the legislature, particularly with those committees relevant for individual CSOs.
4. Because resources count, and because some countries such as Kenya and South Africa have committed substantial resources to supporting the operations of their legislatures including travel support for MPs to their constituencies, donors should be careful when considering any provision of funds to support legislative operations. The sustainability of reforms that build capacity within the legislature and between the legislature and the public are, in the final analysis, dependent on the willingness by political elites to provide necessary resources. Donors should therefore concentrate on sharing best practice via the provision of technical assistance to the extent that such assistance is requested by key leaders in the legislature, e.g. the Speaker, the Clerk, heads of party caucuses, etc.
5. Above all else, donors must recognize that building capacity within emerging legislatures takes time. Today's legislatures in Africa are very different from those of a decade or a decade and a half ago, but the changes observable within these bodies have been slow in emerging and did not occur overnight. Building legislative capacity is also invariably a "messy" process that is part of a larger political process. Donors seeking to build legislative capacity should do so only when and where they are committed to a sustained effort over a sustained period of time, and where they are sensitive to the political realities of the exercise.

INTRODUCTION

This report presents the “first findings” from the African Legislatures Project or ALP. The report is based on the preliminary coding and analysis of data obtained from research in six countries—Kenya, Malawi, Mozambique, Zambia, Namibia and South Africa. Because the purpose of ALP is to achieve a *comparative* understanding of legislative institutions across Africa, and is funded from multiple sources, we have adopted the practice of including data from as many countries as possible as we present findings from the project. Field research for ALP began in late February 2008 and is expected to continue through the end of 2010 as the work proceeds seriatim in 18 African countries.¹

The Department for International Development (DfID) of the United Kingdom was instrumental in launching ALP by funding the research reported in this paper in Kenya, Malawi, Mozambique, and Zambia. These were the first countries where field research was conducted for ALP. We wish to thank DfID for its timely support. Early funding by DfID was also enabled the project to secure complementary funding from the Heinrich Böll Stiftung, the US Agency for International Development (USAID), the University of Cape Town, and the World Bank.² Responsibility for the data and analysis reported in this paper, however, are those of the authors alone. ALP is based at the Centre for Social Science Research (CSSR) at the University of Cape Town. This and subsequent reports will be posted on our website: www.africanlegislaturesproject.org which became operative in September 2009.

Data and approach

ALP employs a comparative, quantitative, and multidimensional approach to understand the operations and development of African legislatures. As such, the field research in each of the eighteen countries included in the project consists of four distinct modules: *Module 1* consists of a codification of the formal rules that specify the role and powers of the legislature and the rules governing its internal operations. These include constitutions, standing orders, and other relevant documents. *Module 2* consists of data on the composition of the legislature, a compendium of all bills introduced to the legislature over a five year period, an information sheet on the composition and performance of key parliamentary committees (e.g. standing orders, finance or budget, public accounts, agriculture, education and health), plus other information on the operations of the legislature obtained from interviews with key informants and staff. These

¹ The countries included in ALP are 18 of the 20 countries included in Round 4 of the Afrobarometer: Benin, Botswana, Burkina Faso, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mozambique, Namibia, Nigeria, South Africa, Senegal, Tanzania, Uganda, Zambia, and Zimbabwe. Cape Verde, Liberia and/or Sierra Leone (which is not yet included in the Afrobarometer) will be added to the project contingent on funding. At the end of 2009, fieldwork had been completed in the six countries reported in this paper plus Ghana and Nigeria. Research was continuing in Lesotho and South Africa. ALP will commence field research in four additional countries during the first half of 2010—Benin, Burkina Faso, Mali and Senegal.

² The Heinrich Böll Stiftung is funding the field research in Namibia and South Africa which will be completed by the end of August, 2009. USAID is funding field research in Tanzania and Uganda which will be completed by the end of September, 2009. The World Bank has provided ALP with a major grant that is funding research in Nigeria plus seven additional countries for a total of 16. Research in the remaining two (perhaps four) countries to match the expanded number of Afrobarometer countries is planned for late 2010 or the first half of 2011.

include, but are not limited to the Clerk, the head of the parliamentary budget office where such exist, journalists reporting on the legislature, and civil society leaders.

Module 3 which is arguably the most ambitious and difficult component of ALP, consists of data from questionnaire based interviews with a random sample of 50 members of the national legislature in each country (56 in Nigeria).³ These interviews cover a wide range of topics including MP's conceptions of their roles, the demands they face from their constituents and other key political actors, how they allocate their time, and the nature of their activities within the legislature.⁴ *Module 4* ascertains public perceptions of the legislature and its members via a sub-set of questions included in Round 4 of the Afrobarometer to complement the data obtained in Modules 1 through 3. Data from all four modules are coded on the basis of a common scheme to facilitate a comparative analysis of the study's findings across the 18 countries. This large and complex dataset will eventually be made available to other scholars and practitioners via SPSS (the Statistical Package for the Social Sciences).

This report of first findings is divided into four sections that address the following topics: (1) The defining functions of democratic legislatures worldwide. (2) The role orientations and role expectations held by African MPs and citizens with respect to the defining functions of the legislature. (3) How MPs and the legislatures to which they belong approach the legislative process. (4) MPs' engagement in constituency service and the burdens they incur. We conclude with some tentative conclusions about the significance of our findings and their implications for donor agencies such as DfID that seek to strengthen the legislative process to improve the quality of governance in selected countries.

I. THE DEFINING FUNCTIONS OF DEMOCRATIC LEGISLATURES

ALP in Context

The scholarly literature on African legislatures and on legislatures in emerging democracies generally, is limited to a small number of country case studies from which few general lessons have been drawn. The policy literature is likewise limited consisting mainly of assessments of individual legislatures in preparation for donor programs to build up their capacity, or one-off evaluations of such programs. The result is a limited knowledge of how and why legislatures have developed as institutions across Africa or why legislative development is weakly related to the larger process of democratization. Donor knowledge of what constitutes best practice for strengthening the legislature is likewise limited. Only one comparative study of the legislative process and legislative development exists on Africa (Barkan 2009), but it too is based on a limited number of country case studies with the result that its principal conclusions remain hypotheses to be tested by further research. This work has nevertheless informed ALP together with the extensive literature on the legislative process in established Western democracies as well as parallel research efforts in other "Third Wave" democratizers.

³ In countries with a bicameral legislature, interviews were confined to members of the lower house.

⁴ Interviews with MPs are quite lengthy and typically last between one and one and one half hours.

This literature has led to a consensus among scholars and (to a lesser extent) among policy makers that legislatures are vital institutions for all democracies because they facilitate both vertical and horizontal accountability of the rulers to the ruled. Indeed, as noted by Steven Fish, a leading student of legislative development in Eastern Europe, “stronger legislatures, stronger democracies” (Fish 2006). Legislatures foster increased accountability, and thus “good governance” on the part of the executive branch when they develop into independent institutions of countervailing power. They do so by performing a unique configuration of three core functions that are performed collectively inside the legislature: *Representation*, *legislating in the broad sense* (i.e. making laws that set forth government policy), and *oversight* or monitoring of the executive branch. Depending on the nature of the society and its system of electoral representation, legislators—acting individually and largely outside the legislature rather than as members of a collective body—also perform a fourth function, that of *constituency service*. This is particularly true where members of the legislature (e.g. MPs) are elected from single member districts or small multimember districts rather than by proportional representation (PR) from districts with many members, i.e. districts with high district magnitude. How and whether MPs perform all three of the core collective functions of the legislature tells us much about the performance of specific legislatures and how much power they wield. Such knowledge also provides a guide to organizations seeking to enhance the legislature’s capacity to perform these functions.

If the three functions of representation, legislating and oversight define what legislatures do, another defining attribute of all legislatures is that the three core functions plus constituency service exist in tension with each other. Representation, arguably the first function of all legislatures, requires that MPs “re-present” the expectations and demands of their constituents or party. By contrast, legislating requires members to negotiate and bargain amongst the competing interests they represent to craft legislation that can be passed by the chamber as a whole. The core functions exist in tension both functionally and in real time by competing for the time and resources individual members devote to each. It is, to a large extent, a zero-sum game. Time spent on representation and constituency service means less time available to spend on legislating or oversight. Time spent on oversight to ensure accountability means less time available to spend on legislating.

Why Most African Legislatures are Weak Legislatures

Most African legislatures have been historically weak institutions because of a combination of factors that are a major disincentive for members to perform the three 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. It consists of two principal elements. (1) *Africa’s demographics* particularly the fact that most African societies are poor, agrarian, plural, and unevenly developed societies. (2) The *colonial legacy*, especially the formal rules (e.g. constitutions, standing orders) that established the basis for today’s legislatures in the run-up to independence. This legacy imposed the following constraints on the legislature and include (i) limited constitutional powers for the legislature especially with respect to the budgetary process; (ii) poorly resourced legislatures including low salaries for members, limited physical infrastructure, and few professional staff to support members in their work; (iii) limited provisions for a system of parliamentary committees, especially “sectoral” or “portfolio”

committees that shadow ministries, departments and agencies (MDAs) of the executive branch and whose members and staff develop specialized expertise over time; (iv) the election MPs from single member districts or small multi-member districts rather than by proportional representation (PR) from large multi-member districts.

The interaction between Africa's demographic conditions and the circumstances surrounding the establishment of the legislature across the continent created a structure of incentives and disincentives that led MPs to emphasize constituency service and neglect performance of the three core functions. On the one hand, MPs (and backbenchers in particular) had few opportunities to shape legislation or involve themselves in oversight of the executive. On the other, MPs who were elected mainly from rural constituencies by electorates that expected them to bring "pork barrel" type resources back to their communities or address their individual needs. The basis for electoral politics was *and remains* decidedly local which meant that citizen expectations of the legislature did not emphasize MP performance as legislators or overseers of the executive, but as deliverers of public goods back to the constituency (e.g. schools, health clinics, water supplies, roads). This in turn became the basis for clientelist politics and eventually for the emergence of neo-patrimonial, i.e. "Big Man" regimes.

The emergence of clientelist politics also meant that African political parties were (and remain) weak organizations that rarely distinguished themselves on the basis of policy or program. Nor, therefore, were they disciplined organizations that shaped the legislative process within the legislature. As African nationalism morphed into neo-patrimonial rule during the 1970s and 1980s, African presidents purposely starved the legislature and its members of resources to ensure their dependence on (and thus their compliance with) the executive.

Notwithstanding this general pattern, there are significant differences between African legislatures in their performance of the three core functions as well as differences between individual MPs in their performance of constituency service. These differences did not emerge until after the return to multiparty politics in the early 1990s or, in the case of Namibia and South Africa, until after their transitions from minority to majority rule. These variations are often a direct result of deliberate changes made by the members of some legislatures to the formal rules that specify the extent of legislative power, as well as differences in the amount and type of resources provided to the legislature. The extent of such changes and resources has accelerated since 2000, that is to say, after the second or third multiparty election. Differences in the type of electoral system used to elect the legislature also shape the extent to which different legislatures perform the core functions that define these bodies.

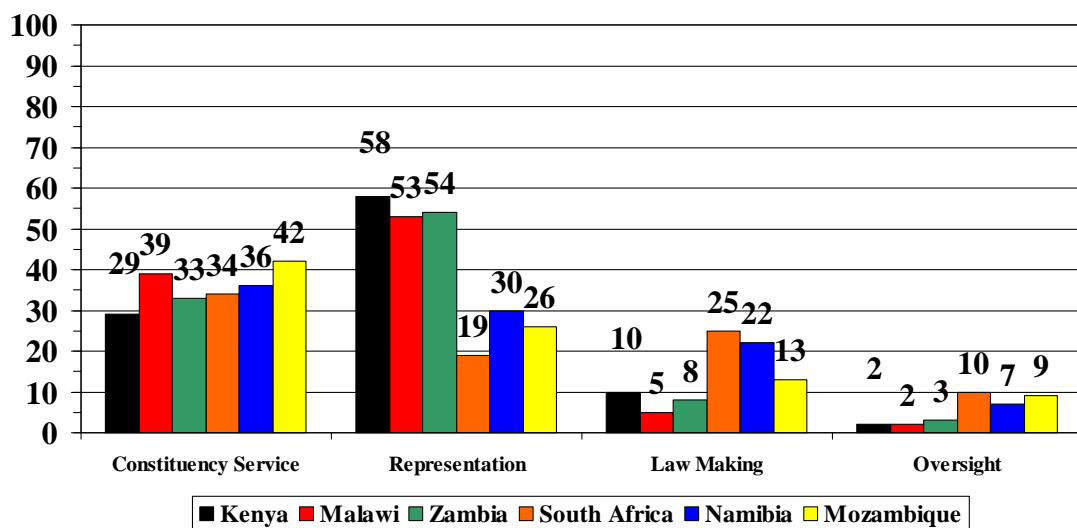
II. ROLE ORIENTATIONS

We begin this presentation of "first findings" with an analysis of the role expectations that citizens and legislators hold about what are the most important aspects of the MP's job. We then discuss these in respect to the defining functions of legislatures and what these role expectations suggest for the process of legislative performance and development.

How Citizens Define the Job of MPs

The public's role expectations for MPs are presented in Figure 1 and are consistent with what one would expect from the six countries through with some interesting variations. Three main findings are suggested by the data: *First, that in respect to the core functions of the legislature, citizens in all six countries express a strong preference that MPs should focus first on the needs of the constituencies that elect them to office*—either by representing their views within the legislature or by engaging in constituency service. By contrast, citizens have much lower expectations that MPs should engage in the two other defining functions of legislatures—legislating and overseeing the operations of the executive branch. Indeed, *citizen appreciation of the value of legislative oversight is particularly low suggesting that for most citizens, oversight is a very distant and abstract activity that has little meaning for their lives.*

**Figure 1: Public Expectations:
Most Important Part of MP's Job
(Afrobarometer 2008)**



Representatives to the National Assembly have different responsibilities. Which the following do you think is the most important responsibility of your representative to the National Assembly: Listening to Constituents and represent their needs? Deliver jobs or development to your constituency? Make laws for the good of the country? Monitor the President and his government?

Second, yet contrary to the conventional wisdom of the primacy of constituency service, Africans emphasize the ability of MPs to represent their opinions upward and within the legislature and government generally.⁵ Particularly surprising is the finding that representation is regarded as more important than constituency service in those countries that elect MPs from

⁵ Whether they view representation as closely related to constituency service—that obtaining state resources to bring back to the constituency is achieved at the center—is hard to determine from our data.

single member districts (SMDs) rather than by proportional representation (PR).⁶ Conversely, citizens in countries that use PR place a greater emphasis on constituency service than on representation, perhaps because there are no geographically defined constituencies for MPs to service in this context. Whether this means that citizens in PR countries are dissatisfied with the extent to which the legislature is responding to their needs is unclear. It is also unclear whether the respondents in all six countries view representation and constituency service as two sides of the same coin—the upward and the downward dimensions of the process of making the state accountable to the governed—but our findings suggest this possibility. If so, the finding that citizens in countries that elect their MPs from single member districts emphasize representation more than constituency service while the reverse is true for countries using PR further suggests that citizens within each group are calling for their MPs to address the dimension of the state-society relationship that is discouraged by the type of electoral system used in their country.

Third, *the type of electoral system shapes citizen expectations about how MPs should perform their jobs, but highlights the historic dilemma of electoral system design for agrarian and plural societies including those in Africa.* Should electoral systems be inclusive and faithfully translate the proportion of the vote received by each political party into a similar percentage of seats? Or, should the method of translating votes into seats be tied to geographic areas at the risk of yielding disproportional results? The problem with the first, is that because PR systems do not seek to represent constituencies that are geographically defined, only a tiny proportion of citizens in countries that employ PR have any direct (i.e. face to face) contact with members of the national legislature (Mattes 2002). Legislators in PR systems rarely travel out into the rural areas to meet members of the public, but do spend more time legislating and on oversight than their counterparts in countries that elect MPs from small geographic constituencies.

The problem for countries that elect the legislature from small geographic constituencies is just the opposite. Citizens in these countries (e.g. Kenya, Malawi, and Zambia) place so much emphasis on constituency service and representation, that MPs devote little time to legislating and oversight. Indeed, the more time spent on these functions the lower their prospects for reelection. These tendencies also undermine the development of the legislature into an independent branch of government that limits executive power and holds the executive accountable to the public (Barkan 2009).

The results in Figure 1 illustrate this dilemma. Whereas the combined percentage of citizens in Kenya, Malawi and Zambia, who state that the most important job for an MP is to engage in representation or constituency service ranges from 87 to 92 percent, the percentage in Mozambique, Namibia and South Africa is much less—from 53 to 68 percent. Conversely, the combined percentage of citizens in Mozambique, Namibia and South Africa who state that the most important job of MPs are to legislate or exercise oversight of the executive ranges from 22 to 35 percent while citizens in Kenya, Malawi and Zambia the range is much lower, from only 7 to 12 percent. Appreciation of two of the most important and defining functions of the legislature is particularly low in countries that elect the legislature from single member districts.

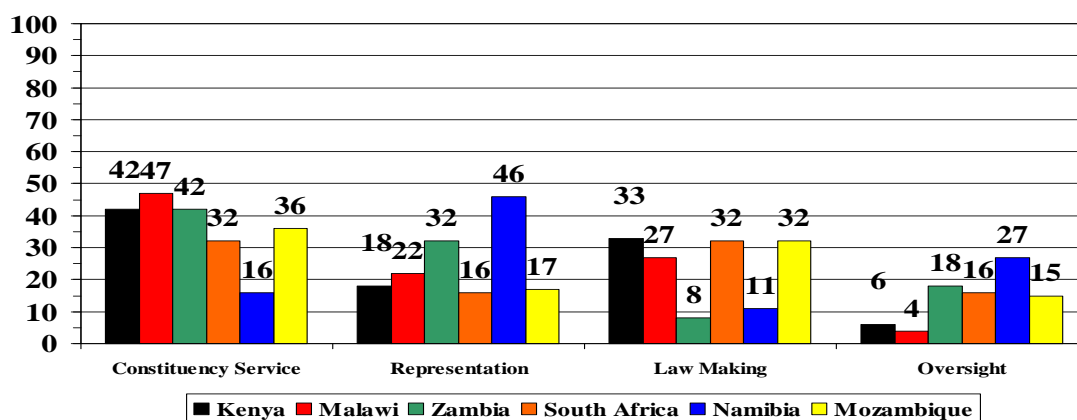
⁶ Of the six countries considered in this report, Kenya, Malawi and Zambia elect MPs from SMDs while South Africa, Namibia and Mozambique elect their representatives via PR using closed party lists.

How MPs Define Their Job for Themselves

Turning to how MPs consider these same functions, the results are consistent with citizen preferences but with some important variations. As shown in Figure 2, legislators in all six countries state that constituency service is the most important aspect of their job. Most important but not surprising, *MPs put a much greater emphasis than citizens on law making and oversight*. With the exception of Zambian MPs, the legislators in our samples regard law making as the second most important aspect of their job.

The impact of the electoral system also appears to have less impact on MPs than on citizens. While the emphasis on constituency service is greatest in countries that elect MPs from geographic constituencies, it is not pronounced. Conversely, MPs in countries that use PR do not place greater emphasis on law making than do their counterparts elected from geographic constituencies though the impact of electoral system design is clearly seen with respect to oversight.

**Figure 2: MP Role Orientations:
Most Important Part of Job**



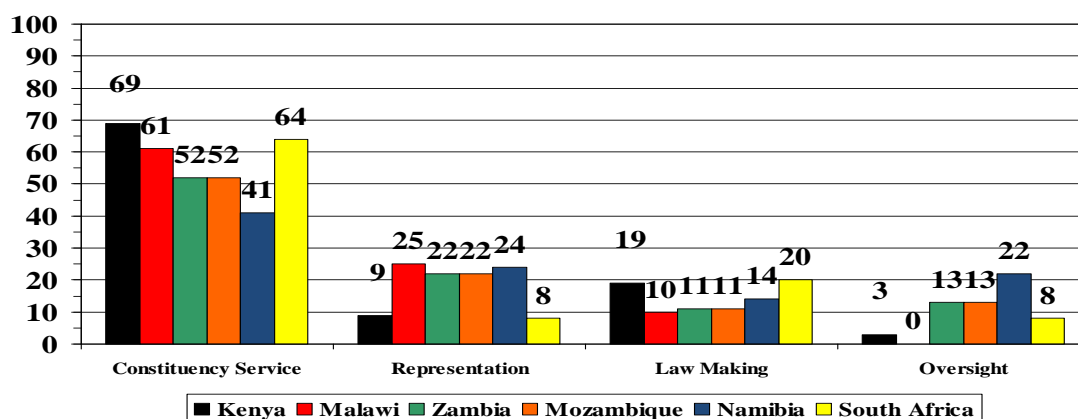
In your opinion, which of these following jobs is the *most* important part of being an MP?

Sources of Job Satisfaction for MPs

Notwithstanding the how MPs define their official roles—what they believe they should do, constituency service is the most satisfying aspect of their jobs. The finding, presented in Figure 3, is present in all five countries for which data was available. Clearly African MPs gain great pleasure from “taking care” of their constituents. This should come as no surprise in countries where the dispensing of patronage and services has long been the basis of successful political careers. Indeed, this view no doubt reinforces such tendencies as much as it driven by them. What is surprising is that constituency service ranks so high in South Africa, the most urbanized country in this study and a country that elects its MPs via PR. The finding

partially explains why South Africa has adopted a “shadow constituency system” to complement PR,⁷ and why there has been an ongoing discussion in that country of changing the electoral system to a mixed member proportional (MMP) system that would elect some MPs via PR to achieve proportionality overall, and some from constituencies that are geographically defined.⁸

**Figure 3: MP Role Orientations:
Most Satisfying Part of Job**



For you personally, which one brings you the most satisfaction?

The findings in Figure 3 are also disturbing, because they suggest that legislating and oversight; the two defining functions of the legislature that MPs perform on a collective basis are not regarded as particularly rewarding by most members of the institution. But if this is true, and if the finding is replicated in the remaining 13 countries included in ALP, then the prospects for the development of the legislature across Africa seem limited. Several reasons explain this finding. First, as noted at the outset of this report, African MPs have historically been under great pressure to respond to the needs of rural communities while at the same time deprived of resources, indeed actively discouraged, to engage in legislating in the broad sense and oversight. There has been no tradition of legislating. Second, as in the legislatures of established democracies, legislating can be a messy and contentious process, or one determined mainly by the executive branch. This is particularly true in parliamentary systems. For African MPs, the emergence of the legislature into an institution that fully performs the legislative and oversight functions is a long and steep climb, and one that will take many years. The

⁷ Each party represented in the South African National Assembly is provided a grant of 5,000 rand per MP per month to facilitate the travel of its members to such constituencies as the party defines for itself. This system favors the ruling African National Congress which holds nearly two-thirds or 260 of the 400 seats in the legislature, because the party has been able to create a shadow system of a large number of small geographic districts for each of its MPs. For smaller and minor parties, the task of servicing such districts is much greater because they are fewer and larger.

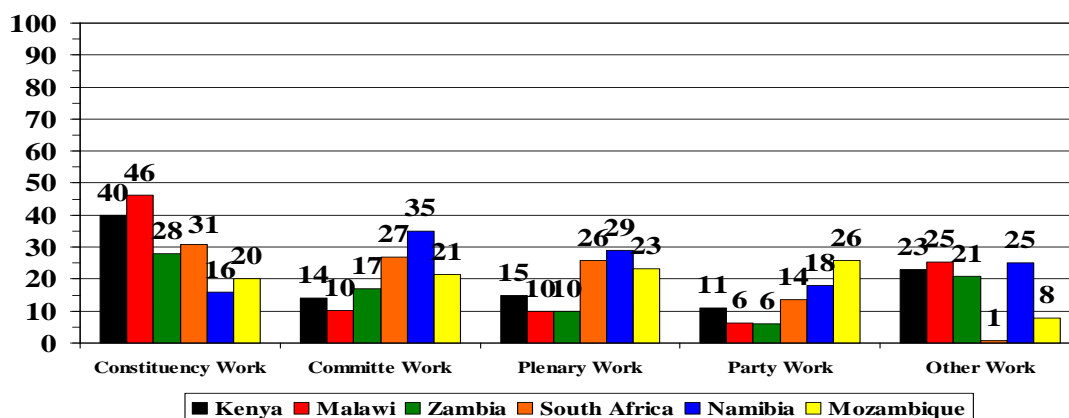
⁸ The promise to change South Africa’s electoral system was one of the main policies advocated by the Congress of the People (COPE), a party formed by dissident members of the African National Congress (ANC), during the run-up to the 2009 national elections in South Africa. Whether it attracted any voters to COPE is difficult to determine.

implications of this finding for DfID and other donors seeking to strengthen legislative performance, should be clear; namely that it is a long term exercise that one only engages in if one is prepared to commit resources for at least a decade, perhaps more.

How MPs Allocate Their Time

Turning lastly to how MPs actually spend their time, Figure 4 indicates the average percentage of time the MPs interviewed in each country devote to five basic tasks. The results, which are consistent with those presented above in Figures 1 through 3, indicate that constituency work is the single greatest claimant on MP's time in all countries except Mozambique. The impact of electoral system design is again clear in Namibia, Mozambique and South Africa. Notwithstanding the time they spend on constituency work, the time MPs spend working on tasks performed within the legislature in these countries is substantially greater than the time spent by MPs in countries where members are elected from single member districts. MPs from countries that elect members via PR are also more likely to engage in party work though the tendency is not as pronounced in South Africa and Namibia as in Mozambique. The significant amount of time MPs in Mozambique, Namibia and South Africa devote to party,

**Figure 4: MP Time Allocation
(Percentage of Time)**



What percentage of your time is devoted to each of the following?

however, is not explained by PR alone. Political parties in these countries have historically been much stronger organizations than political parties elsewhere in Africa in terms of their ability to mobilize the public behind their goals. Parties in Southern Africa have likewise been more effective at articulating a clear set of philosophical and programmatic goals.

III. THE LEGISLATIVE PROCESS

Although African publics and MPs emphasize the importance of constituency service, it is essential to consider how the latter approach their work within the legislature to understand how and why the institution functions as it does. We first consider some dimensions of MPs' involvement in the legislative process generally including how they resolve the various cross pressures that they are under, and then turn to an examination of the nature of their involvement in committee work because as noted above it is essence of the modern legislature.

It is useful to begin with a review of Figure 2 (page 9), because it reminds the reader that "law making" is the second most important function identified by MPs in four of the six countries for which data is available. While MPs place great emphasis on constituency service, because it gives them great satisfaction and their careers depend on it, they nonetheless recognize the importance of law making, especially in South Africa and Mozambique.

Legislative Assertiveness in the Law-Making Process

One sign of the historical weakness of African legislatures, and indeed weak legislatures elsewhere, is the limited number of days and hours that they are in session per year. No legislature, including legislatures in established democracies are in session continuously, and

**Table 1: Legislative Activity:
Scheduled Time In Session and In Plenary***

	Kenya	Malawi	Zambia	South Africa	Namibia	Mozambique
Hours Per Year	N/A	357	316	N/A	N/A	180
Hours Per Week	N/A	21	19.8	N/A	N/A	9
Sessions Per Year	N/A	3	3	N/A	3	2
Weeks Per Year In Session	N/A	17	16	N/A	26	20

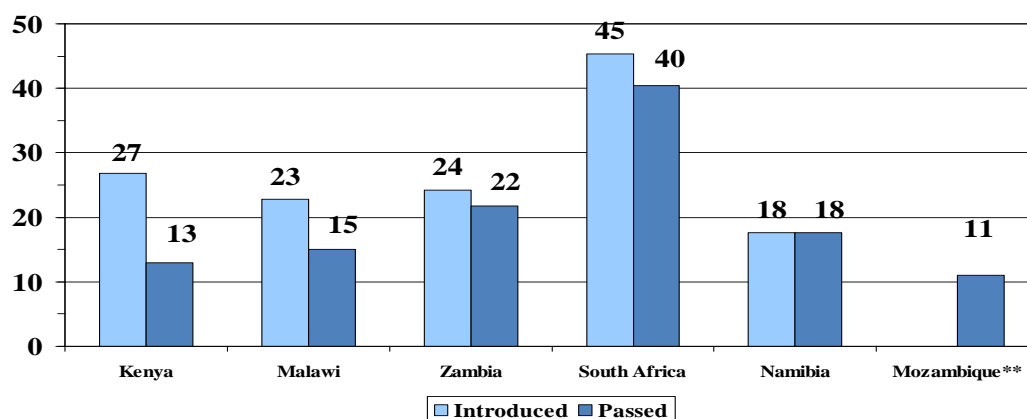
* Average over past five years

most limit the days they are in session to the middle of the week so that members can spend time in their constituencies on weekends. Most legislatures also limit the number of plenary sessions to provide meeting time for legislative committees which are arguably the most important deliberative forum of the modern legislature. As indicated in Table 1, the legislatures in three of the countries for which we currently have data are in session from between 9 and 21 hours per week, or roughly one to three full days. While Mozambique is definitely on the "low side" in

terms of providing its legislature sufficient time in plenary to conduct much business, the Malawi and Zambia are not. Further discussion of the legislative calendar will follow in subsequent reports after the ALP research team has coded the relevant data for more countries included in the study. In the meantime we present this initial finding to provide readers with a rough sense of the extent to which the legislature is “open for business.”

A second area of legislative assertiveness in the law-making process is the number; source and type of legislative bills introduced and passed by the legislature annually. Although all bills are not of equal importance, the best measure of a legislature’s capacity and power to legislate is its ability to deliberate, amend and pass bills into law.⁹ As indicated by Figure 5, the number of bills introduced and passed by the six legislatures considered in this study is low to modest except in South Africa where the level of legislative business appears to be nearly double that in the other five. It is particularly low in Mozambique where the legislature is in session for the shortest period annually. Here again additional data is required from the other countries included in ALP and also from a select number of established democracies to accurately interpret these findings in their broader context. The same is true when understanding the proportion of bills introduced that are passed into law. When, for example, the legislature passes a very high percentage of bills introduced as is the case in South Africa and Namibia is an indication of a “rubber stamp” legislature, or merely the fact that both countries elect their legislature via closed list PR, a practice that places tremendous power with the leadership of all parties? The ruling parties in both countries also hold large parliamentary majorities. By contrast, in Kenya

**Figure 5: Legislative Activity:
Average Number of Total Bills Introduced & Passed***



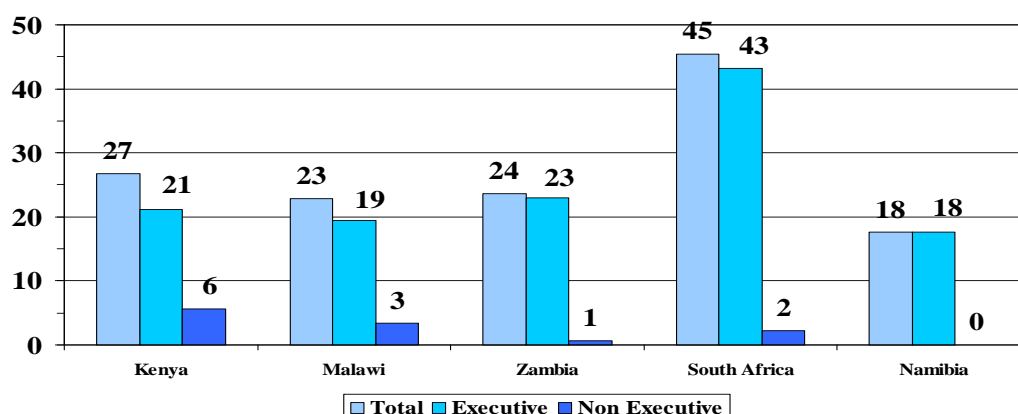
* Average over past five years
** 2003-2004

⁹ In making this statement, we are mindful of the fact that “rubber stamp” legislatures, especially in the context of authoritarian political systems, often pass many bills. However, few such legislatures do so after deliberating the merits and shortcomings of proposed legislation. Nor do rubber stamp legislatures amend pending legislation.

and Malawi (but not in Zambia), two countries where the party system is more fragmented and where the legislature is elected from single member districts, the legislature appears to be more independent by passing only half to two-thirds of legislation introduced.

The continued dominance of the executive as the source of legislation is apparent in five of the countries for which we can report data on this question. As indicated in Figure 6, the data confirm the long historical experience of executive dominance in Africa where private members' bills were all but suppressed until recent years. The emergence of a significant minority of private members' bills in Kenya where nearly a quarter of current legislation is now introduced from the back bench is indicative of other efforts by reformist parliamentarians in that country to assert the independence of the National Assembly from the executive branch. Indeed, the proportion of private members' bills may increase as the Parliamentary Service Commission in Kenya hired its own legal draftsman to facilitate the introduction of bills by individual members in 2009.¹⁰

Figure 6: Source of Legislation Introduced*



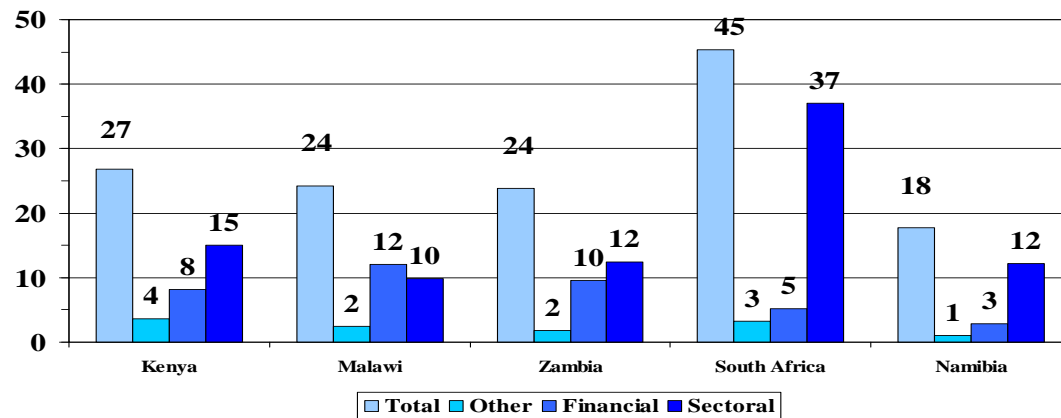
* Average over past five years

Turning to the type of legislation introduced in the legislature, the mix of legislation appears again to be shaped by type of electoral system and the extent of ruling party dominance. Figure 7 suggests that the proportion of bills introduced that address sectoral policy issues is higher in countries where the ruling party has the greatest control over its own MPs than in countries where MPs are elected from single member districts (SMDs). This in turn suggests that the executive in SMD countries must devote a higher proportion of its time focusing on the passage of financial bills to keep government running than in countries that use closed list PR. It would also appear that countries that use closed-list PR spend less time on “other” legislation including constitutional amendments and treaties than countries that elect their members from SMDs. This is not surprising

¹⁰ Previously, as in nearly all other African countries, individual members were dependent on the Attorney General's Office for drafting expertise, a situation which resulted in few if any such bills being officially introduced.

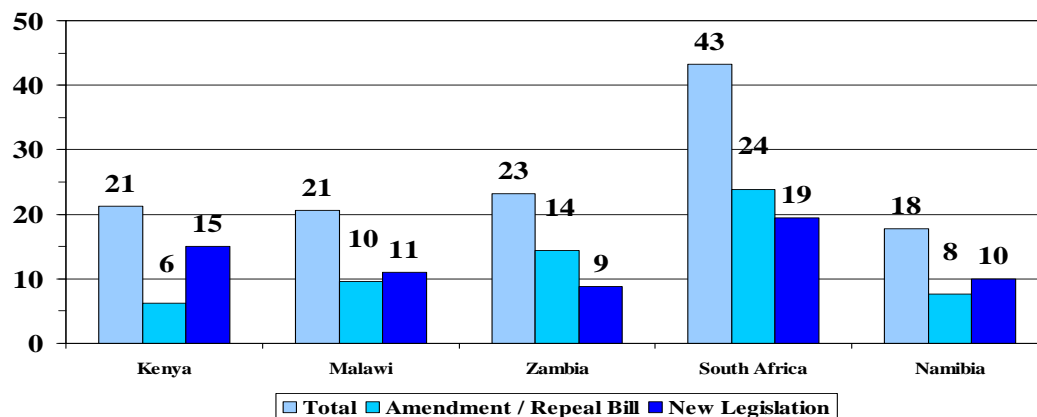
given the higher probability of party discipline in these countries. However, further analysis is required to confirm the presence and reasons behind this relationship.

Figure 7: Focus of Legislation Introduced*



* Average over past five years

Figure 8: Type of Executive Legislation Introduced*



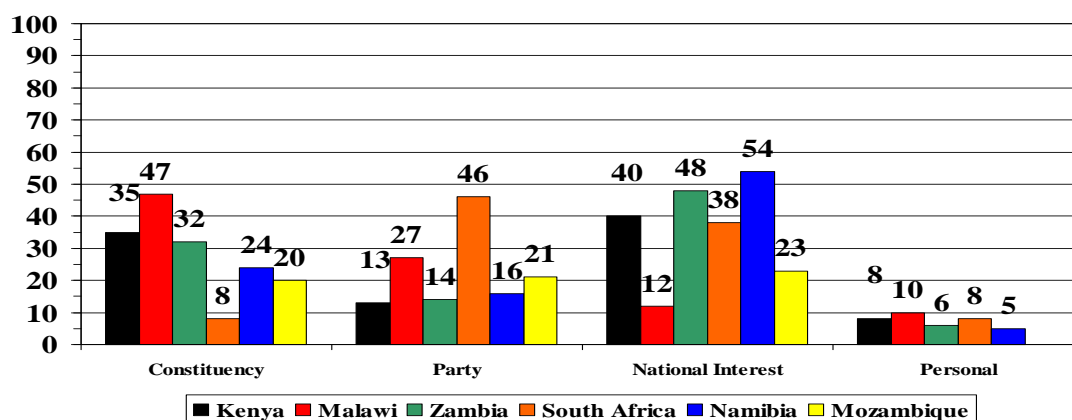
A significant portion of the legislation introduced by the executive in all countries is not “new” initiatives, but amendments to or the repeal of existing legislation. Except in Kenya, roughly half of all legislation introduced in the other countries considered in this report is addressed to existing legislation. The higher percentage of bills introduced (71 per cent) that were classified as “new” legislation in Kenya may be another indication of the rising independence of the Kenya National Assembly. As discussed above, the number of private members bills in Kenya is higher than elsewhere, and reflects the belief held by some Kenyan MPs that their proper role is to propose new legislation addressed to the problems facing their country. The fact that Kenya does not use PR may also be a factor as backbenchers have more latitude to propose legislation than in countries that use PR.

To summarize, just as the choice of electoral system clearly shapes both public and MPs’ role expectations of which functions to emphasize in the carrying out of one’s legislative duties, so too does the choice of electoral system appear to influence the extent of legislative independence from the executive branch as well as the mix of legislation considered by the legislature. The extent of the extent of ruling party dominance is also a clearly factor.

Influences on the Positions MPs Take on Issues in the Legislature

MPs are subject to a multiplicity of cross-pressures with respect to the positions they take within the legislature. Figure 9 indicates four different sources of such pressure including their own personal views. Once again the impact of electoral system is evident though it would appear that other factors, most likely the extent of urbanization, are also at play. As expected, constituents’ views are considered particularly important in Kenya and Malawi where MPs are elected from single member districts, but somewhat less so in Zambia, a country of high urbanization. Notwithstanding this variation, MPs in the three countries that elect the legislature

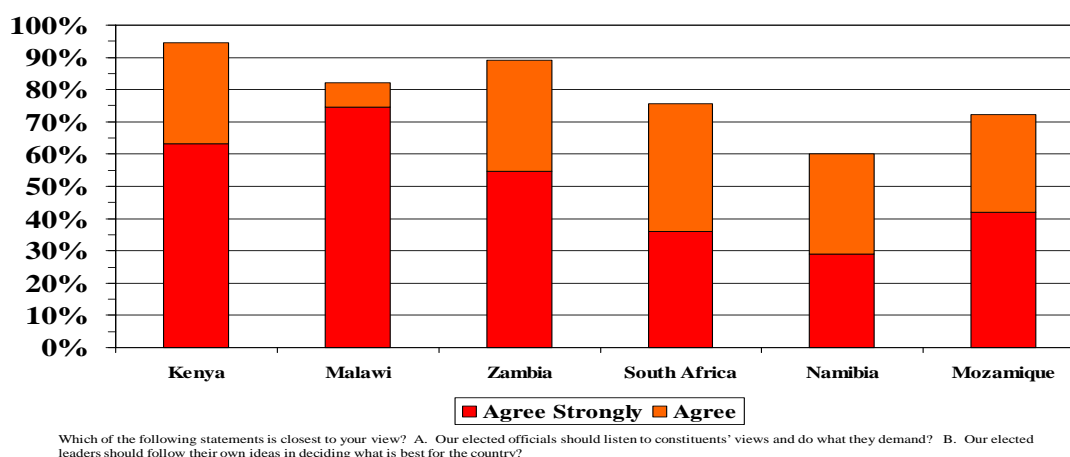
**Figure 9: Influences on MP Positions
(Most Important Influence)**



In general, when you take a position about an issue in the [legislature], which of the following is most important: Views of your party / party leaders? Views of your constituents? The national interest? Your knowledge about the issue? Your personal convictions?

from single member districts are more likely to cite the views of their constituents than MPs from the three countries that utilize closed list PR. The impact of electoral system, however, is ambiguous with respect to party and “the national interest.” While one would have expected that party to be the most powerful influence on MPs in countries that utilize PR, the expected finding is present only in South Africa. Indeed, the most consistent finding presented in Figure 9 is that personal views do not count for much amongst African MPs regardless of the electoral system that brought them to office. Further analysis is clearly required to better understand why MPs respond to these different influences as they do. Moreover, this analysis does not compare different types of MPs within each country, e.g. those from rural vs. those from rural areas; those from the ruling party vs. those from the opposition. ALP will address these dimensions in greater detail and rigor as additional data is obtained from other countries, and a multivariate analysis is undertaken.

**Figure 10: Public Preferences on Cross-Pressures:
Listen to Public Opinion (Vs. Follow Own Views)
(Afrobarometer 2005)**

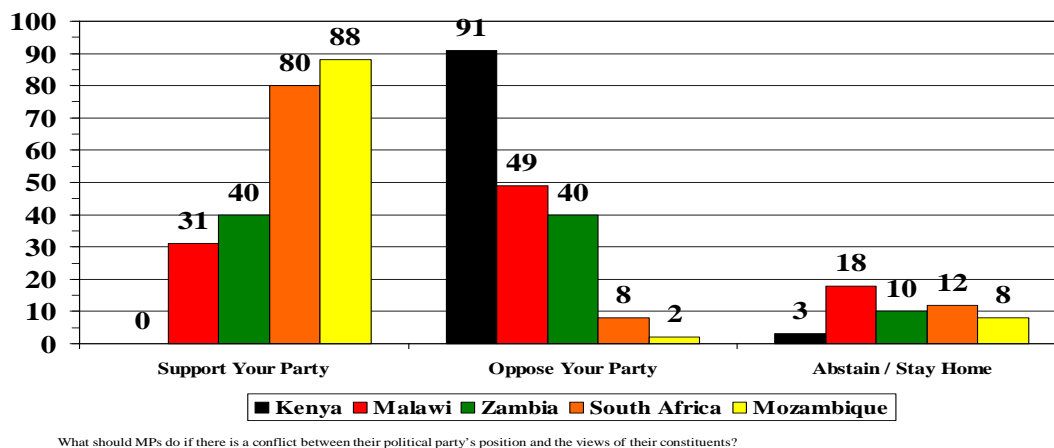


In the meantime, Figure 10 examines the issue of cross-pressures by asking citizens whether MPs should listen to their constituents or follow their own views and convictions. The data is from Round 3 of the Afrobarometer. By large margins—between 60 and 95 percent—the respondents in all six countries believe that MPs should follow the views of their constituents rather than their own, a finding consistent with the data presented in Figure 9. The impact of electoral system, however, is also clear. Not surprisingly, this view is more pronounced in countries that elect members of the legislature from single member districts (82 to 95 percent) than in countries that use PR and where the influence of party looms large (60 to 75 percent).

The impact of the electoral system is again pronounced when MPs must choose between the position of their party vs. the views of their constituents. As shown in Figure 11, MPs in South Africa and Mozambique are far more likely to support the position of their party than MPs in Kenya Malawi and Zambia. Conversely, Kenyan MPs, and to a lesser extent those in Malawi

and Zambia are more likely to oppose the position of their party. Indeed, in countries that elect their legislatures via closed list PR, opposing the position of one's party is close to unthinkable.¹¹

**Figure 11: Resolving Cross-Pressures:
Party Position Vs. Constituency Opinion?**



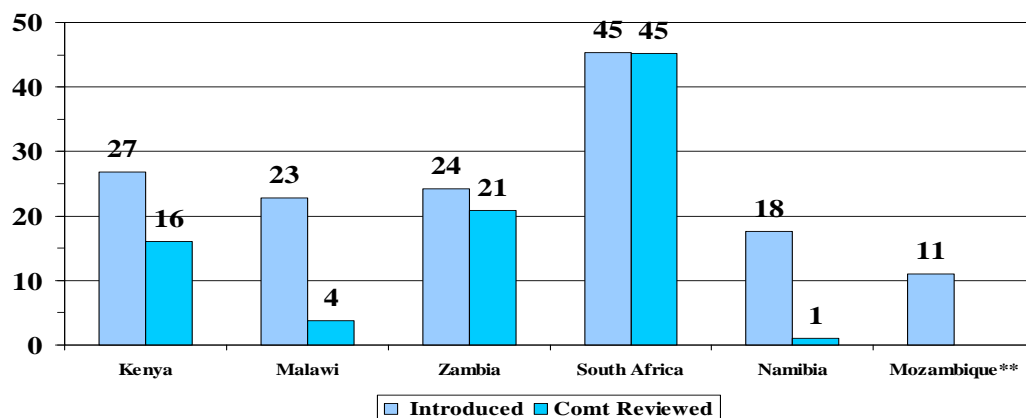
Committee Involvement in the Legislative Process

If there is one universally accepted principle of “best practice” that applies to all modern democratic legislatures, it is that a well developed system of parliamentary committees that shadows government ministries, departments and agencies (MDAs) is essential for the legislature to perform its defining functions, especially legislating and oversight. A well developed and effective committee systems share at least three attributes. First, there exists is a sufficient number of departmental or portfolio committees to facilitate a useful division of labor and specialization amongst MPs and parliamentary staff to permit both to fully understand the policy issues for which their respective committees are responsible. An appropriate number of departmental committees are also required to effectively scrutinize the operations of all MDAs. Second, irrespective of the number of departmental committees, a committee system cannot deliberate or amend legislation or scrutinize MDAs unless each committee and especially key committees such as finance, agriculture, education, health and defense are led and populated by MPs motivated to spend time on committee work, and who understand the subject matter with which their committee is concerned. Third, to be effective a system of departmental committees must be supported by trained and specialized staff and be provided with some minimum level of resources in terms of meeting space and funds to conduct its business. All three of these attributes have been the focus of discussion across Africa in recent years as reformist MPs in a selected number of legislatures have sought to enhance the capacity of their institutions to effectively perform the defining functions of the legislature.

¹¹ Additional data to support or refute this conclusion will be provided from ALP data for Namibia at a later date.

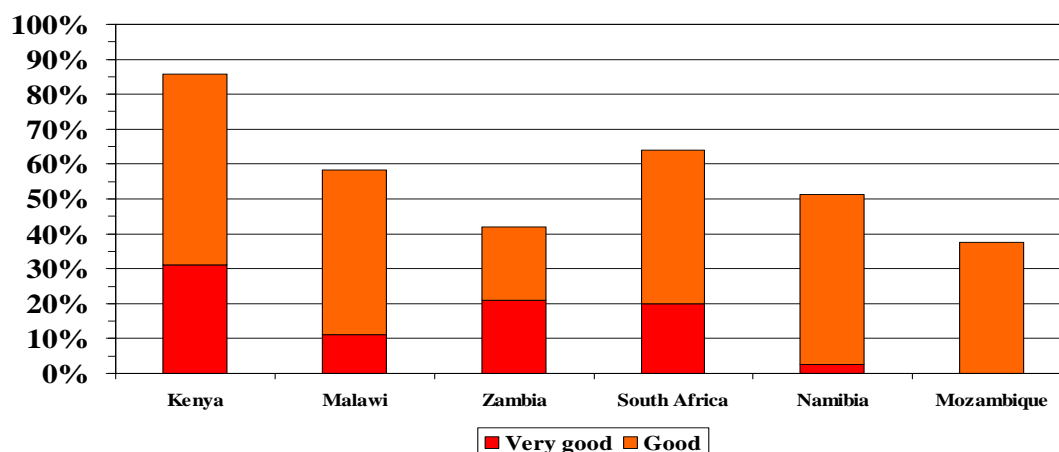
We begin this short analysis of committee involvement in the legislative process by comparing the average annual number of bills introduced to the legislature with the average annual number reviewed by one or more parliamentary committees. As indicated in Figure 12, there is a wide variation across five of the six countries for which data is available. Whereas in Namibia, slightly more than 5 percent of legislation was reviewed by a legislative committee, in Zambia it was nearly 88 percent and in South Africa all proposed legislation was reviewed by an appropriate committee. In Kenya it was 59 percent. Further analysis is required to explain

Figure 12: Committee Scrutiny of Legislation*



* Average over past five years

Figure 13: MPs' Perceptions of Capacity of Members to Understand Legislation



Thinking of the committees on which you serve, how would you rate the typical members' understanding of the legislation and policy issues they consider?

this variation, but two clusters of variables are likely to be the most important: (1) The personal attributes of MPs including their education and motivation. (2) The amount of resources available to the legislature to support the work of the committee system. With respect to the first, Figure 13 presents MPs' estimates of the capacity of their fellow members to understand the legislation considered by the committees on which they served. There is a considerable variation across the six countries both in the percentage who thought MPs' capacity was merely "good" and/or "very good." Whereas only 38 percent of Mozambican MPs regarded the capacity of their fellow MPs as "good" or "very good," the figure in Kenya was 85 percent. Sixty-four percent of South African MPs rated their colleagues in these categories while the percentages of MPs in the other three countries were lower. The high rankings given by Kenya and South African MPs no doubt reflects the higher levels of education amongst MPs in those countries, especially Kenya where 95 percent of the MPs in the 9th Parliament had received post-secondary education and 21 per cent had received post-graduate degrees. The large percentage of highly educated MPs also explains why 30 percent of Kenyan MPs were estimated to have a "very good" grasp of pending legislation whereas in South Africa and Zambia the percentage was 20 or slightly higher. The educational background of the South African and Zambian legislatures is more heterogeneous than Kenya—while there is a core group of members with high educational qualifications, the educational backgrounds of many backbenchers are much lower.

Figure 14: MPs' Perceptions of Capacity of Committee Clerk

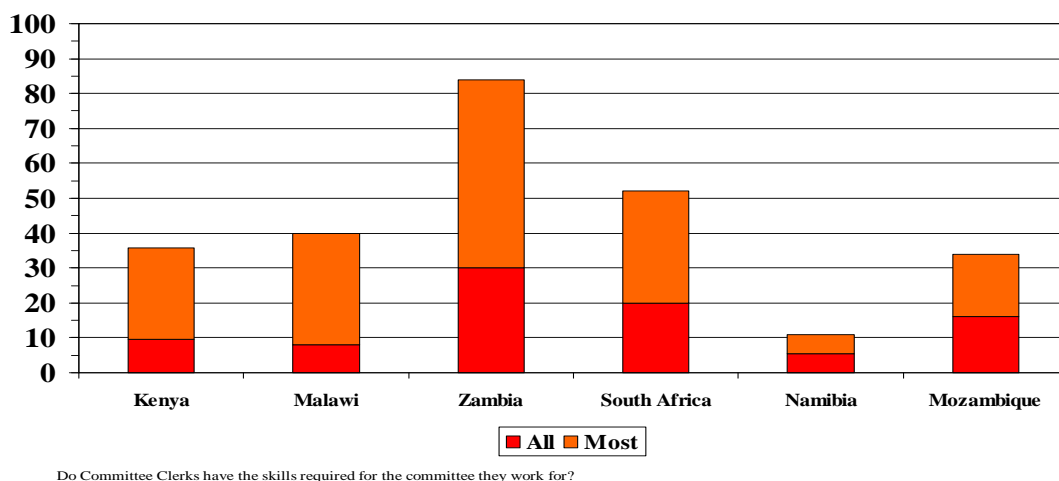
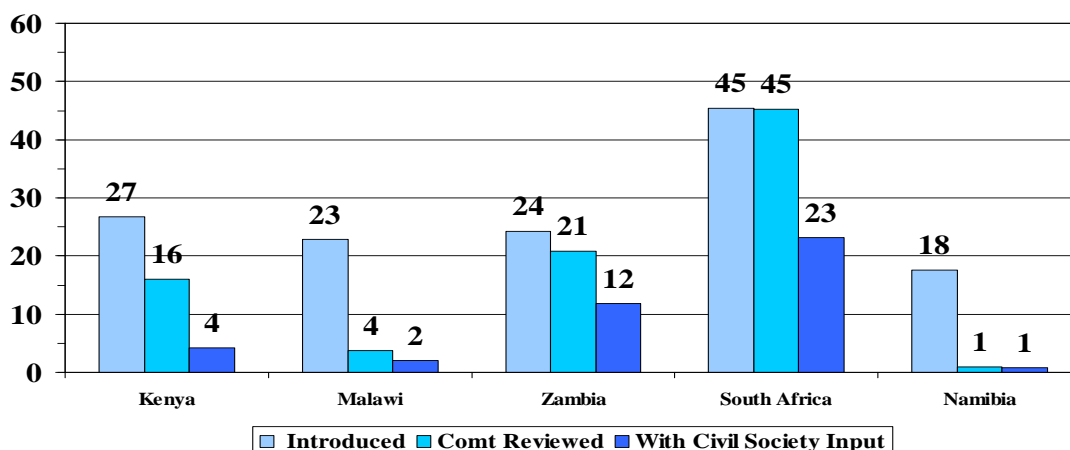


Figure 14 presents MPs' assessments of the capacity of the clerks assigned to parliamentary committees. Once again, there is considerable variation from the very low rating for committee clerks in Namibia to the high rating accorded committee clerks in Zambia.

Another important dimension of the committee system is its interaction with civil society. Do committees operate in isolation of the public? Or do they seek submissions of input and/or provide access to organizations that purport to represent the interests of selected segments of the

public? Our findings, which appear in Figure 15 for five of the six countries, present a very mixed picture. By far the highest involvement of civil society in committee work is in South Africa followed by Zambia and Kenya. The finding is direct reflection of the extent of urbanization—highest in South Africa and Zambia where over 50 percent of the population resides in the urban areas and then by Kenya where the percentage urban dwellers is roughly 35 to 40 percent. Civil society in Africa is basically an urban phenomenon, especially those organizations that become engaged in the political process by lobbying both the executive and the legislature, to advance their views. Civil society contact with the legislature has historically been low relative to its engagement with the executive branch, but the level of engagement is rising as the legislature emerges as a more significant institution in some African countries. That is particularly true in South Africa and Kenya. Although the South African National Assembly remains very much under the control of the leadership of the ruling African National Congress, the fact that the committee system scrutinizes all legislation suggests why civil society engages the committee system over roughly half of all legislation. Put simply, because the committees have become a significant arena for the deliberation and amendment of legislation, civil society is going where “the action” is. The same pattern appears to be emerging in Kenya and Zambia.

Figure 15: Civil Society Involvement During Committee Review of Legislation

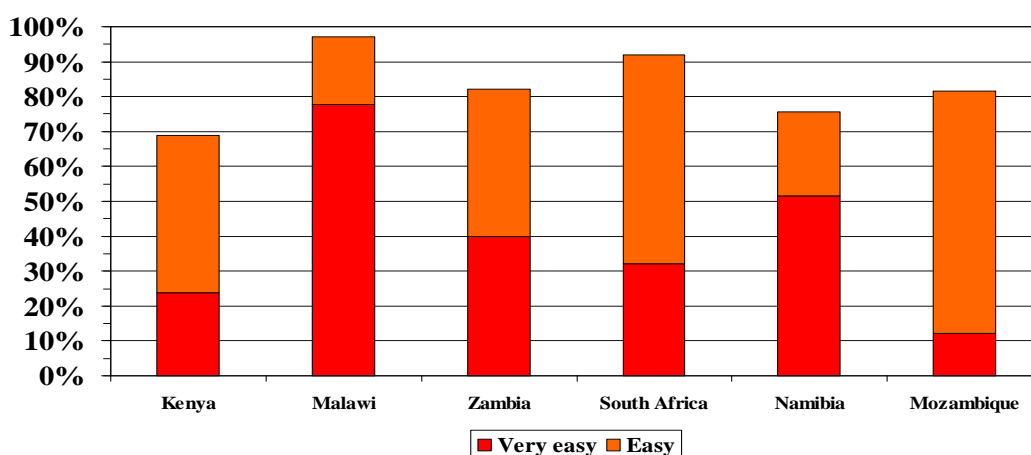


Civil society engagement is no doubt also rising. In marked contrast to the pre-democratic era, African legislatures have taken steps, albeit to varying degrees to facilitate civil society’s input at the committee stage. Civil society organizations, especially in South Africa, Kenya and Zambia have also demanded such. It is therefore not surprising that MPs in all six countries estimated that civil society’s access to hearings was “easy” or “very easy” as indicated in Figure 16. Similar percentages of MPs in each country except Kenya indicated that it was “easy” or “very easy” for civil society organizations to make formal submissions to parliamentary committees.¹² We would, however, expect that MP assessment of the welcome

¹² Data on this relationship is not presented here given space limitations. The combined percentage of Kenyan MPs who estimated that it was “easy” or “very easy” for civil society organizations to make submissions was 55 percent.

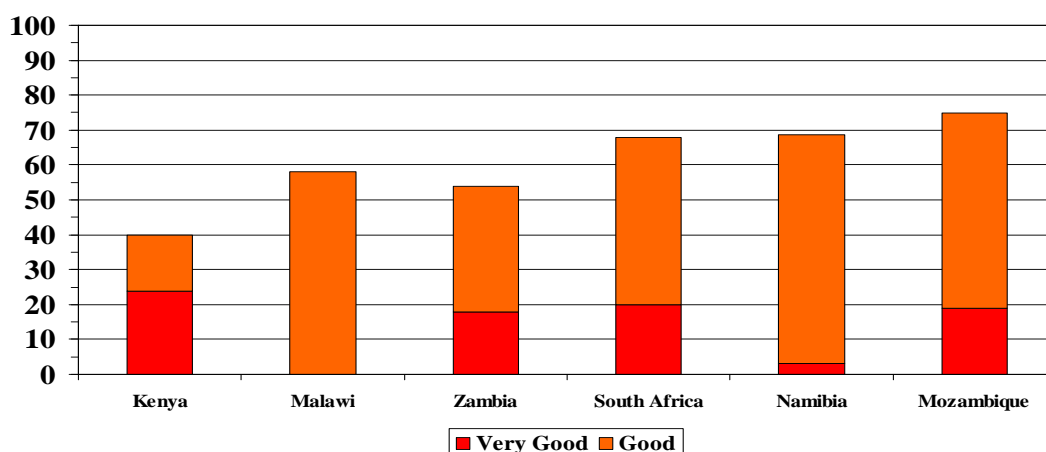
their legislatures extend to civil society organizations is somewhat higher than what civil society leaders would ascribe to the process. Unfortunately, ALP did not question civil society leaders re how they assessed their relationship with the legislature generally and the committee system in particular.

Figure 16: MPs' Perceptions of Ease of Civil Society Organizations' Access to Hearings



Thinking of the committees on which you serve, how difficult or easy is it for civil society organizations to gain access to committee hearings?

Figure 17: MPs' Perceptions of Quality of Committee–Civil Society Interaction



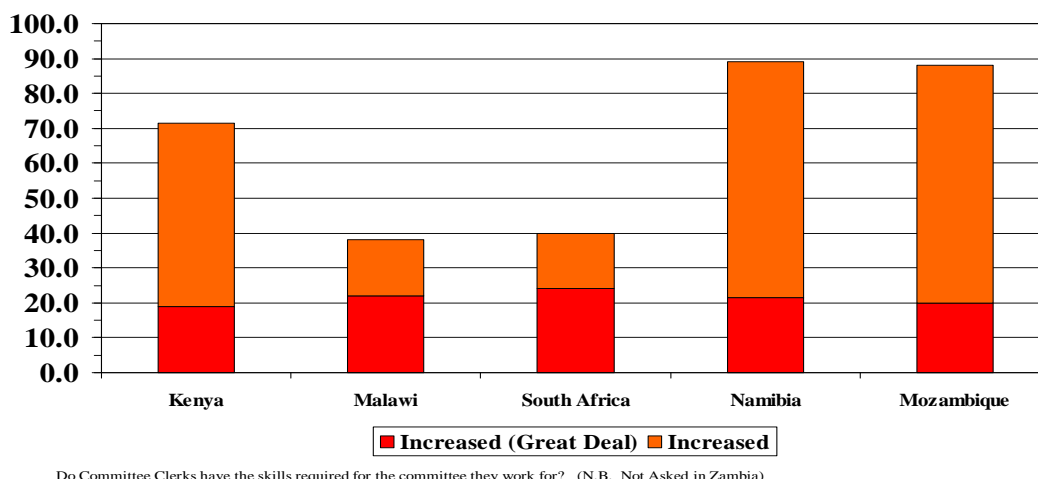
Thinking of the committees on which you serve, how would you rate the quality of your committee's interactions with civil society organizations?

The overall picture presented in Figures 15 and 16 is that while civil society has access to legislative committees in all six countries, it only takes advantage of that access at a moderately high level in one (i.e. South Africa) and at a much more modest level in two more (Kenya and

Zambia). It is probably for this reason that MPs' estimate of the quality of committee-civil society engagement as more modest as indicated in Figure 17. Not surprisingly, 68 percent of South African MPs rate committee-civil society interaction as "good" or "very good." However, the high rankings accorded the relationship by MPs in Malawi, Namibia and Mozambique is somewhat puzzling given that few bills are amended with civil society input in those countries. Unfortunately, no data assessing the relationship in Zambia is available at this time.

We conclude this discussion of the emerging systems of legislative committees by considering MPs' perception of the changes in committee effectiveness. These assessments, presented in Figure 18,¹³ are quite positive, especially in Kenya, Namibia and Mozambique where between 70 and 90 percent of the MPs indicated that committee effectiveness had "increased" or "increased" a great deal. Surprisingly, the ratings were much lower in South Africa notwithstanding the fact that it is arguably the best resourced legislature in Africa. One possible explanation for these variations in assessment is whether or not the legislature received technical assistance from one or more international aid agencies to build the capacity of the committee system. The National Assemblies in both Kenya and Namibia, for example received such assistance during the preceding decade. Another, potential explanation is the quality of committee chairs and members. While at least a third of the committees in the South African National Assembly are regarded as having very good to excellent chairs, it is also acknowledged that the overall membership of most committees is mediocre given the presence of many MPs of the ruling party whose educational backgrounds are significantly lower than the chairs of the committees to which they belong. Further analysis is clearly required to properly interpret the data reported in this section.

Figure 18: MPs' Perceptions of Changes in Committee Effectiveness

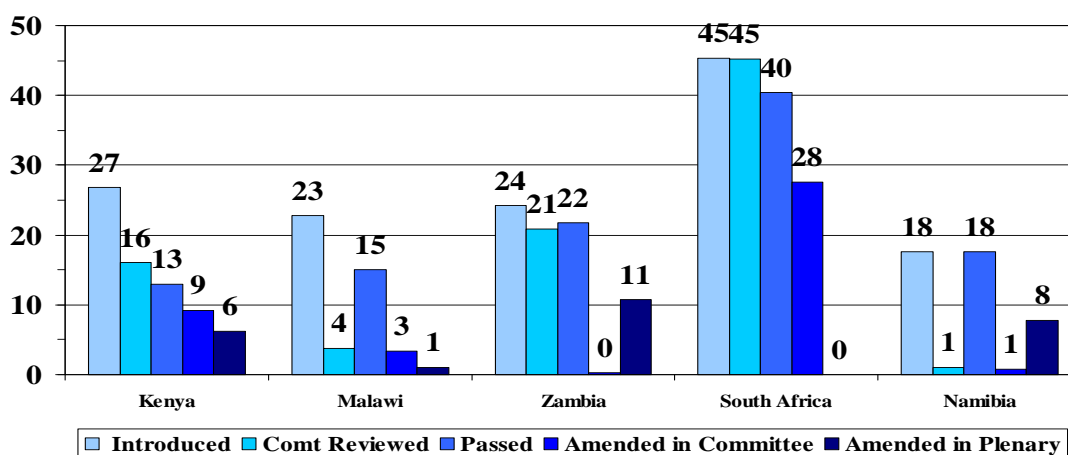


¹³ Please disregard the legend at the bottom of Figure 18 which was inserted in error except the notation that no data is available for Zambia at this time.

Legislative Assertiveness—A Second Look

We conclude this discussion of the legislative process by presenting a summary of the disposal of legislation in five of the six legislatures discussed in this report. Figure 19 presents the full summary of the legislative process from introduction through passage including whether the legislation was amended in committee or in plenary session. The numbers over each bar are the average annual number of bills over the last five years. Having already considered the extent to which bills are scrutinized by departmental committees (see Fig 12, page 19) our focus here is on the extent to which bills are amended. The first finding presented in the Figure that merits comment is that while bills are rarely if ever amended by committees in Zambia and Namibia, a substantial number are amended in plenary. This begs the question of what drives the amendment process in the two countries. While it may be a committee recommendation in Zambia where a very high proportion of legislation is reviewed by committees, it is not true in Namibia where committees rarely scrutinize legislation.

Figure 19: Legislative Assertiveness—A Second Look



The bottom line, however, is that 56 per cent of the bills introduced in the Kenya National Assembly are amended at either the committee or plenary stage; 17 per cent of those introduced in Malawi are amended; 49 per cent in Zambia; 62 per cent in South Africa; and 44 per cent in Namibia.¹⁴ The percentages are even higher when calculated as the number of bills amended as a percentage of those actually passed—115 per cent in Kenya,¹⁵ 27 per cent in Malawi, 50 per cent in Zambia, 70 per cent in South Africa and 44 per cent in Namibia. By

¹⁴ These percentages were computed by first adding together the number of bills amended in committee and plenary and dividing the total by the number of bills introduced.

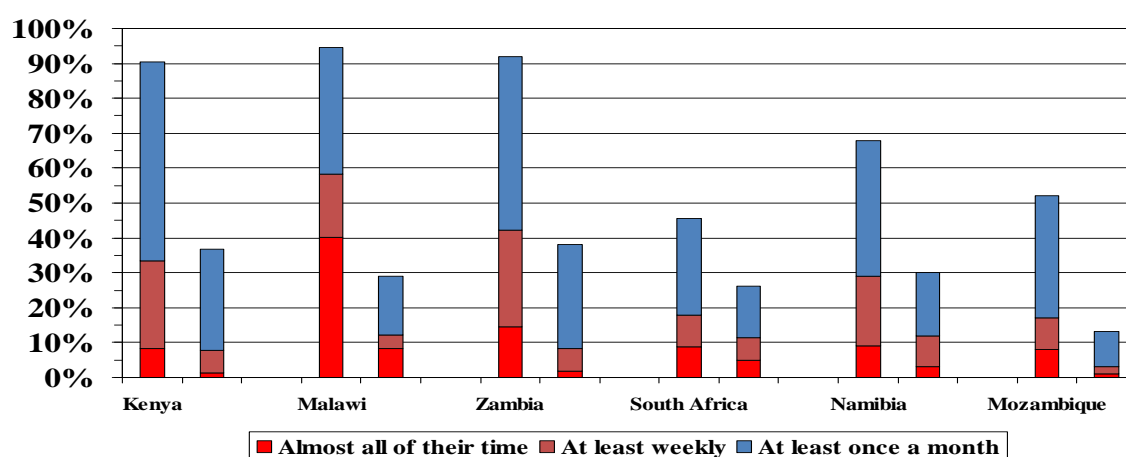
¹⁵ The percentage of bills passed that were amended in Kenya exceeds 100 because the number of bills amended is the total of all those introduced rather than bills actually passed into law. In other words, the number of bills amended includes some that did not pass the third reading in the National Assembly, or were not assented to by the President of Kenya.

either measure the picture suggests a significant to moderately high level of legislative assertiveness in four of the five legislatures considered in Figure 19. Indeed, compared to the era of one-party rule and the period before the end of Apartheid in the early 1990s, these legislatures have made real progress in emerging as independent institutions vis-à-vis the executive. While there is much work to do in terms of building capacity amongst these legislatures, they are very different institutions than they were a mere decade and a half ago. The extent of legislative independence is particularly striking in Kenya and South Africa though for very different reasons. In Kenya, the extent of parliamentary independence suggested by this data marks the culmination of a decade-long effort by reformist MPs to assert the independence of their institution vis-à-vis the executive. By contrast in South Africa, where the ruling ANC holds two-thirds of the seats in the National Assembly, the high percentage of bills amended at the committee (but not the plenary stage) is indication of an emerging committee system notwithstanding the rather modest marks South African MPs give to committees when assessing their effectiveness (Barkan 2009).

IV. CONSTITUENCY SERVICE

We close this report of “first findings” from ALP with an examination of the activity that MPs regard as the most important aspect of their job (Figure 2, page 9) and which gives them the greatest satisfaction (Figure 3, page 10) in five of the six countries considered—constituency service. Constituency service is also the activity to which MPs allocate the greatest percentage of their time in four of the six countries (Figure 4, page 11).¹⁶ We begin in with a comparison in Figure 20 between the level of citizen demand for MPs to be present in their constituencies and their assessment of MPs’ actual presence as reported in Round 4 of the Afrobarometer.

Figure 20: Citizens’ Perceptions of MP Presence in Constituency: Desired Versus Actual
(Afrobarometer 2008)

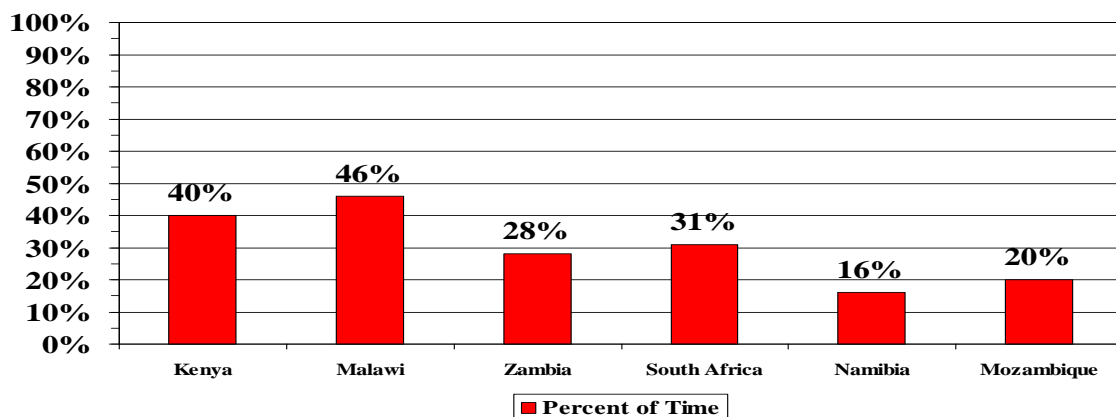


How much time should your representative to the National Assembly spend in this constituency to visit the community and its citizens?
How much of the time does your representative to the National Assembly spend in this constituency to visit the community and its citizens?

¹⁶ Kenya, Malawi, South Africa, Zambia

After all, constituency service is unlikely if MPs do not visit their constituencies on a regular basis.¹⁷ Not surprisingly, the demand for MP presence in the constituency is greatest in countries that elect the legislature from single member districts. Indeed, more than 90 per cent of respondents in Kenya, Malawi and Zambia expect their MPs to visit his or her constituency at least once a month. The percentage ranges from 45 and 68 per cent in countries that elect the legislature via PR—more modest, but still significant. The contrast with citizen reports of the actual presence of MPs in their constituencies is thus striking and suggests why so many incumbents in countries using SMDs are defeated when they run for reelection. The gap between “supply” and “demand” for MP presence also makes clear why MPs spend so much time on constituency service, and why they are in a bind when it comes to choosing between servicing the constituency or devoting time to legislating including committee work and oversight. The average percentage of time MPs devote to constituency work in the six countries is found in Figure 21. Again the percentage is highest in countries that elect the legislature from SMDs although Zambian MPs fall below the average for these countries while South African MPs are above the average for countries that elect the legislature via PR.

Figure 21: MP Time Allocation to Constituency Work



Two reasons explain why MP behavior falls significantly short of public expectations. The first are the multiple demands on legislators’ time. If MPs matched citizen demands to be present in their constituencies, especially in countries that elect the legislature from SMDs, they would have significantly time for legislating or oversight. Second and equally important is the cost of visiting one’s constituency or the area to which one has been assigned by one’s party in

¹⁷ For countries that elect their MPs from single member districts visiting the constituency means visiting the geographic area that elected the MP to office. For countries that elect the legislature via PR, the term “constituency” is more loosely interpreted to mean visiting regions of the country distant from the legislature, particularly rural areas. In South Africa, the term is interpreted as the “shadow constituencies” to which MPs are assigned by their respective parties.

the case of South Africa. As indicated in Table 2, a visit back to the constituency is not without cost. In addition to the cost of travel, MPs are expected to spend a substantial amount of money on contributions to individual constituents (e.g. school fees, hospital bills, burial services) or on contributions to community development projects (e.g. schools, health clinics, water systems). However, how MPs actually allocate their expenditures between travel, contributions to individuals and contributions to development projects varies greatly from one country to the next. As we obtain data for additional countries, ALP will seek to explain that drives these allocations in greater detail. A review of Table 2, however, suggests that one variable is distance of travel to the constituency. The greater the distance, as in South Africa or Mozambique, the greater percentage of the cost devoted to travel. As for whether MPs contribute to individuals or to community development it would appear that the former accounts for two-thirds to four-fifths of all contributions except in Kenya where there is a strong tradition and history of rural communities providing for their basic needs.

**Table 2: Cost and Allocation of Constituency Service
(Single Trip)**

	Kenya	Malawi	Zambia	South Africa	Namibia	Mozambique
Travel to Constituency	49.5%	13.1%	N/A	53.7%	N/A	69.4%
Contributions - Individuals	23.7%	57.9%	N/A	29.2%	N/A	25.8%
Contributions - Community Development	26.8%	29.0%	N/A	17.1%	N/A	4.8%
Total Cost (USD)	\$2,741	\$1,256	\$2,527	\$574	N/A	\$1,390

Members of Parliament often incur significant costs in constituency service. What is your best estimate of each of the following?

- The average total travel cost (that is, travel, lodging, food) incurred in a single trip between your constituency and Cape Town? (that is, including any amounts that parliament pays for)?
- The average contributions you personally make to individual constituents to help them with personal problems per month?
- The average contributions you personally make to local community development projects per month (excluding [Constituency Development Funds])?

Whatever the particular allocation of expenditures, the cost and time burden of visiting ones constituency is considered be a major or minor burden from between 72 to 85 per cent of the MPs interviewed in five of the six countries for which data is presently available as indicated in Figure 22 (next page).

Figure 23 (next page) explores how MPs spend their time once in the constituency or, in the case of MPs in countries that elect their legislatures via PR, how they spend their time when visiting areas distant from the legislature. Here again the pattern differs depending on the type of electoral system employed. In countries that elect their MPs from SMDs, MPs devote the largest proportion of their time to interacting with constituents via meeting and groups, that is to say, via organized forums. The second most important activity is simply “listening to constituents,” a perspective that is consistent with citizens’ expectations as presented back in Figure 1 (page 7) that MPs should focus first on representing their views. Spending time on “party work” requires little or no time of MPs in Kenya, Malawi or Zambia, but is very

important in the three countries that elect the legislature via PR. Time spent on party work also seems to crowd out time spent on meetings and other organized forums which suggests that it is most likely the party that organizes such forums in these countries. While some MPs do spend

Figure 22: Cost and Time Burden of Constituency Travel

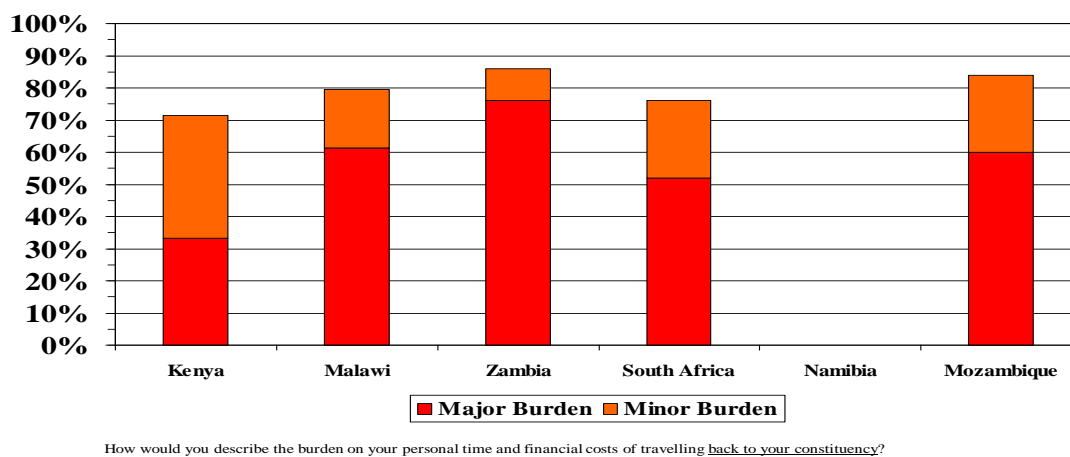
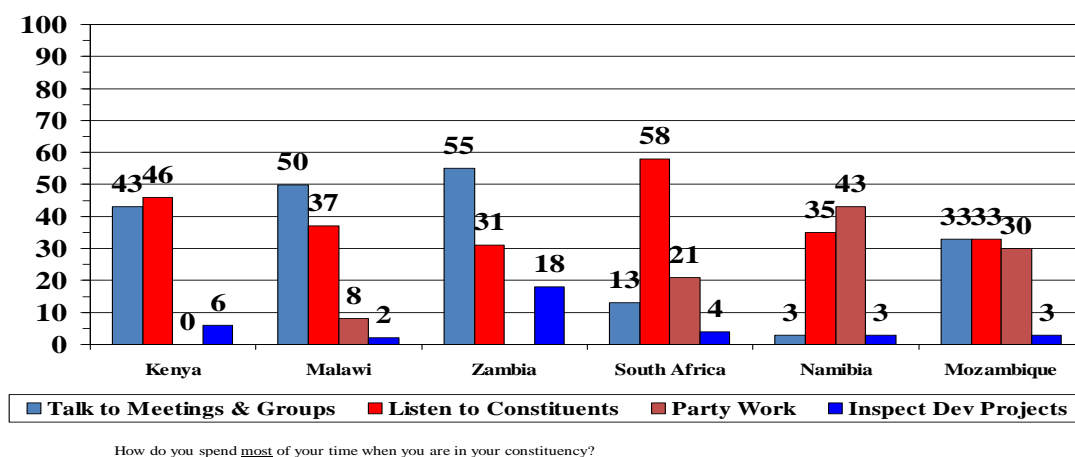
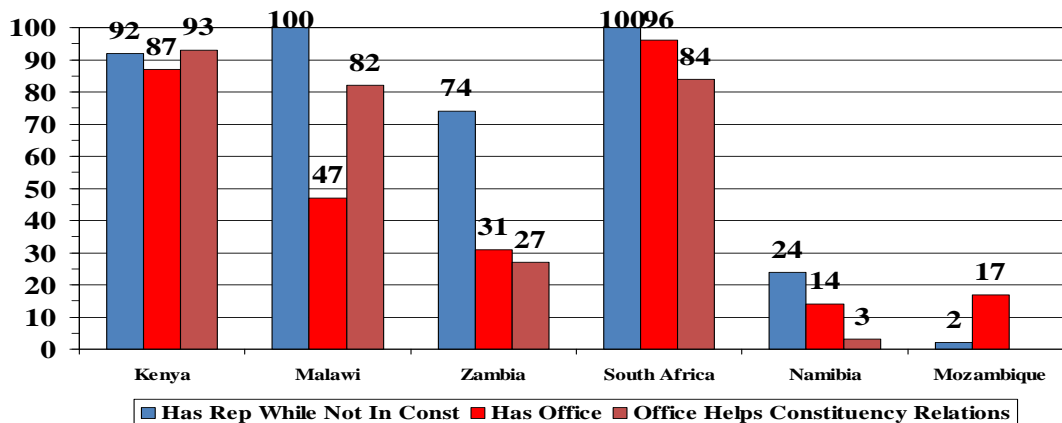


Figure 23: MP Activity in Constituency



time inspecting development projects it does not appear to be a major claim on MPs time when they are back in their districts.¹⁸

Figure 24: MP - Constituency Relations



Do you have someone who represents you when you are not in your constituency ? Do you have a constituency office? Regardless of whether you have an office or not, does having an office in your constituency improve your relationship with your constituents, make no difference, or only make things worse?

We conclude this discussion of constituency service by reviewing the efforts MPs are making to maintain a presence in their constituencies when they are away in the legislature. As presented in Figure 24, MPs are now making considerable effort in some countries to have a representative back in the district when he or she are not there and to maintain an office to deal with constituency relations. This is a major step forward compared to the situation of only a decade ago when maintaining such staff or offices was rare. Three additional findings are present in the data. First, that Kenya and South Africa, the two legislatures with the most resources in terms of salaries and travel allowances for members and an extensive staff complement lead the way in facilitating an extensive MP presence at the constituency level. Put simply, resources count with respect to performing the function of constituency service and representation as much as they count with respect to performing the functions of legislating and oversight. Second, notwithstanding, the very high level of MP presence at the constituency level in South Africa, MPs in countries that elect their legislatures from SMDs perform higher than in countries that elect the legislature via PR. Indeed, the data for Namibia and Mozambique underscore how poor such relations can become in PR systems. Third, the South African experience suggests that countries using PR can overcome the limitations of the system if they create a shadow system of constituencies and provide adequate resources to MPs to maintain a robust presence in ones “assigned” constituency.

¹⁸ The low figures given to “inspecting development projects” is somewhat surprising given the expectation that MPs devote time to promoting development in their districts. The low response may be an artifact of the wording of the question. We will explore this issue further in a later paper devoted solely to constituency service.

CONCLUSIONS

As noted at the outset of this report of “first findings” from the African Legislatures Project, *the conclusions presented herein are tentative* and require at least two forms of follow-up analysis to confirm with confidence. First, the data presented in this report is limited to five or six countries depending on the variable considered. Confirmation of the generalizations made to all six countries, or to different subgroups such as those that elect their legislatures from single member districts contrasted with those that use PR, requires more country cases. During the course of 2010 ALP will expand the dataset to include data for 14 countries. Depending on funding the ALP dataset will ultimately include data from 18 to 20 countries.

As data for more countries come available, the generalizations advanced will become more robust. For this reason, the three co-principal investigators for ALP have decided to emphasize data collection and data preparation over the writing of additional reports for the near term. While we appreciate that the various donor agencies including DfID that have supported ALP are eager for us to present our findings as soon as possible, we do not wish to issue reports that are premature and which later require qualification or revision. That said, a limited number of papers will be written during the course of 2010 as we press ahead with the field research in the remaining countries.

The conclusions advanced in this report have also been based solely on a selected analysis of “one way” frequency distributions across the six countries. That is to say, we have examined one variable at a time, and based this reports on clusters of variables relevant for each section of the report. However, to fully explore the relationships suggested in this discussion it is necessary to do more than simply describe the basic findings for each country *and explain* why the findings reported occur as they do. This in turn requires a multivariate analysis of the causes behind the patterns reported in this paper.

First Findings

Notwithstanding the limitations of this report, we can summarize its major conclusions that flow from our findings as follows:

1. As expected given the demographics and history of African countries, both citizens and MPs place a much higher emphasis on representation and constituency service than on legislating and oversight, two defining functions of the legislature. This poses a dilemma for MPs in most emerging legislatures—do they emphasize representation and constituency service with the result that the legislature of which they are members will not develop into a sufficiently powerful institution capable of holding the executive accountable to the public? Or, do they devote more time to legislating and oversight at the risk of displeasing the electorate and suffering defeat when running for reelection?
2. The form of electoral system via which a country selects its members of the legislature has a profound effect on the relationships between MPs and the public, the operations of the legislature, and the nature of legislative-executive relations. The form of electoral system also has profound effect on the nature and structure of African political parties and the

relationship of MPs to their parties. Put differently, there is much more at stake than simply translating votes into seats and whether that translation is “proportional.”

3. The strength and internal cohesion of political parties and especially of the ruling party impacts greatly on the legislative process. Further analysis, however, is required to fully understand the impact of political parties on the process of legislative development.
4. Notwithstanding the historical weakness of African legislature and the emphasis placed on representation and constituency service, it is clear that some of these legislatures have made significant progress in recent years and are asserting their role in the political process. Viable albeit undeveloped committee systems are emerging within some of these legislatures. Bills introduced by the executive for passage by the legislature are no longer “rubber stamped” but increasingly scrutinized and often amended before being passed into law. More extensive and effective oversight of the executive also appears to be emerging in some countries though an examination of this function was not included in this report. Though limited in some countries, the involvement of civil society in the legislative process, especially in countries with large urban sectors, is also on the rise.
5. The amount of resources provided to both MPs and to the institution impacts on legislative performance. In countries such as Kenya and South Africa where MPs salaries and travel allowances are high, and where legislative committees are better staffed, the frequency and quality of both committee service and constituency service is higher than in countries such as Malawi, Mozambique and Namibia where the legislature is relatively under resourced. Put differently, the viability of the legislature with respect to the performance of its defining functions is impacted by the availability of resources for the legislature and its members. This in turn begs the question of how and why sufficient resources are provided to the legislature in some countries but not in others.

Implications for Donor Agencies

Given the provisional nature of these findings we are also tentative in suggesting what these findings imply for donor agencies such as DfID that engage in legislative strengthening programs in selected countries. Some recommendations, however, flow from the summary above:

1. More attention needs to be paid, both generally and in countries where donors have or are contemplating legislative strengthening programs, to the form of electoral system and its impact on the political process. Electoral system design is generally an area neglected by the donor community or considered only when engaging in election support. The choice of electoral system, however, impacts on the legislative process and must be taken into account.
2. Donor efforts devoted to strengthening the development of the committee system are well placed, especially where efforts are being made to establish an appropriate number of sectoral or portfolio committees that shadow MDAs.

3. Donor efforts to support civil society should perhaps devote greater attention to raising civil society engagement with the legislature, particularly with those committees relevant for individual CSOs.
4. Because resources count, and because some countries such as Kenya and South Africa have committed substantial resources to supporting the operations of their legislatures including travel support for MPs to their constituencies, donors should be careful when considering any provision of funds to support legislative operations. The sustainability of reforms that build capacity within the legislature and between the legislature and the public are, in the final analysis, dependent on the willingness by political elites to provide necessary resources. Donors should therefore concentrate on sharing best practice via the provision of technical assistance to the extent that such assistance is requested by key leaders in the legislature, e.g. the Speaker, the clerk, heads of party caucuses, etc.
5. Above all else, donors must recognize that building capacity within emerging legislatures takes time. Today's legislatures in Africa are very different from those of a decade or a decade and a half ago, but the changes observable within these bodies have been slow in emerging and did not occur overnight. Building legislative capacity is also invariably a "messy" process that is part of a larger political process. Donors seeking to build legislative capacity should do so only when and where they are committed to a sustained effort over a sustained period of time, and where they are sensitive to the political realities of the exercise

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