

Working Structures of Parliaments in East Africa

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List of abbreviations

| | |
|--------------|--------------------------------------|
| CCM | Chama Cha Mapinduzi |
| IBEAC | Imperial British East Africa Company |
| KANU | Kenya African National Union |
| LEGCO | Legislative Council |
| MP | Member of Parliament |
| PAC | Public Accounts Committee |
| PBO | Parliamentary Budget Office |
| PIC | Public Investments Committee |
| PSC | Parliamentary Service Commission |
| UPDF | Uganda People's Defence Forces |

Foreword

Parliament as one of the institutions of government performs very critical functions in governance. It acts as an avenue for the citizens to have their voice heard in the management of national affairs through their chosen representatives. It also acts as a check on the executive through its oversight role. To perform its functions effectively parliament should have democratic, open and efficient structures and working arrangement. How true this can be said of the parliaments of Kenya, Uganda and Tanzania was the focus of this study.

This study is a collaborative effort between the Friedrich Ebert Stiftung (FES Kenya) and Legis Consult, a firm of Legislative consultants based in Nairobi. Being preliminary in scope, the study was not based on in depth fieldwork in the targeted countries. The principal motivation for this study was the need to push the campaign to take the democratic space a notch higher by documenting a critical review of the working structures of the East African legislatures. It is hoped that such an effort would complement, albeit in a small way, the ongoing legislative reform efforts underway in the three East African countries.

The study reveals that despite having similar historical origins, the three parliaments have developed at varying speeds and with different levels of success. There is a lot that each could borrow from the working structure of the others to improve on their performance. Importantly too is the positive lessons that the East African Legislative Assembly could learn from the working structures of each of the national parliaments in efforts to strengthen itself and to evolve into a vibrant and effective regional parliament properly discharging its functions.

We would like to acknowledge the contributions of Francis Ang'ila for editing the report and also the production of this popular version, and Collins Odote, Programme Manager, FES for his technical input and support throughout the whole process.

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Section I: Introduction

1. Background

The legislature, as one of the three arms of government, must perform 3 basic and interrelated roles of Representation, Lawmaking, and Oversight. The specific functions of the three legislatures in the East African countries of Kenya, Uganda and Tanzania are laid down in the various laws of each country. While the working structures in place have evolved in response to the various socio-cultural and political exigencies that have prevailed in each of these countries, the roots of the three East African legislatures can nevertheless be traced to the Westminster system — which was inherited from Britain, and remains one of the most visible legacies of British colonialism in East Africa.

Many East African citizens are yet to appreciate the crucial role that is played by Parliament in their respective countries. Neither is there any sufficient understanding of the role of the legislature and how Parliament should and/or does represent their will and aspirations. As a result the majority have little contact with their MPs while others only meet their MPs during the electoral campaigns. Yet if the East African integration initiative is to bear much fruit, citizens need to have some basic understanding of what their representatives do in their name. This study is an attempt to document the respective evolutionary paths that the Parliaments in the three countries have experienced over the last three decades of their formal existence as well as their practices and operations.

2. Study Methodology and Limitations

This study combines the theoretical framework developed from a literature review with the primary information that was generated through the administration of questionnaires in Dodoma and Dar es Salaam in Tanzania, Nairobi in Kenya and Kampala in Uganda in the year 2002. Due to the dearth of literature on the parliamentary systems of the three countries, much of the information in this report was obtained from interviews. The quantitative and qualitative data generated from this exercise was utilized to supplement

the findings of a limited literature review carried out earlier in Tanzania. The study findings are reported as case studies. A brief synthesis is presented after the 3 case studies but drawing qualitative inferences from the respective country studies. The parliamentary systems are then evaluated on the basis of specific criteria.

Section II: The Parliamentary System System in Uganda

1. Historical Background

The first elements of a legislative body in Uganda can be traced to 1888, when the then Imperial British East African Company (IBEAC) started an administration in Uganda, and made regulations for this purpose. In 1902, an Order-in-Council was passed which, amongst others, established a system of legislation through the promulgation of personal decrees of the Commissioner as the sole representative of the British Crown in Uganda. In 1920 another landmark Order in Council created the Legislative Council (LEGCO), a legislative body with the power to designate its own membership. The first-ever direct elections for the greater part of the Protectorate were nevertheless held in 1961, under the new Franchise Law. Under the Independence Constitution of 1962, the First Parliament of Uganda was partly elected and partly nominated. In 1967, a Republican constitution came into force and maintained a multi-party system of Government. However, the elections provided for under this new Constitution were never held due to the military coup that took place in January 1971. Since then, with the exception of the periods between 1971 and 1979 and 1985 and 1986, when Uganda was under military rule, the country has held regular elections.

Presidential and parliamentary elections are held every five years. Uganda has a first-past-the-post electoral system, under which the country is divided into 214 constituencies. As long as the Movement System remains in force, a candidate wishing to represent a constituency in the unicameral Parliament cannot be sponsored by a political party, cannot campaign on a political platform nor use or attempt to use any political party colour or symbol. In addition to the 214 directly elected members who represent geographical constituencies, there is one woman representative for every district, representatives of the army, youth, workers, persons with disabilities and ex-officio members.

2. Procedure and Workings of Parliament

The Ugandan Parliament is presided over by the Speaker of Parliament. The Prime Minister is the Leader of Government Business and is thus responsible

Composition of the Parliament of Uganda

| | |
|------------------------------|------------|
| Constituency Elected Members | 214 |
| District Representatives | 53 |
| UPDF Representatives | 10 |
| Youth Representatives | 5 |
| Persons with Disabilities | 5 |
| Workers' Representatives | 5 |
| Attorney-General | 1 |
| Total | 293 |

for presenting government Bills for debate before the House. The Speaker, in consultation with the Clerk, prepares the daily order of business for Parliament, through the House Business and Welfare Committees. Whereas the Speaker, in consultation with the President, may prorogue Parliament at the end of a Session, the House can only stand dissolved upon expiry of its five-year term, or if extended for 6 months at a time, during a state of war or other emergency. The Committee of Supply is established to monitor expenditure while that of Ways and Means monitors taxation. The accounting system is also strengthened by the Public Accounts Committee (PAC) and the provisions of the Exchequer and Audit Act.

MPs have access to library and research services. Employees of Parliament serve MPs collectively and individually as the case may be. For individual purposes, MPs have access to computers, the Internet and international databanks. To change the national budget, a quorum of 1/3 of the members is required. The Parliamentary Budget Office, peculiar only to Uganda, provides Parliament and its committees with objective and timely analyses required for economic and budget proposals, and the information and estimates required for the Parliamentary Budget Process.

Parliament does not participate in foreign policy formulation. However, Parliament provides oversight of the policies so formulated by the

government. In this regard it reserves the power to compel the government to answer questions simply by (the Speaker) demanding that the answers be given in the House. This is further strengthened by the fact that Ministers, as a general rule cannot fail to answer questions without meeting disciplinary sanctions.

An MP must be accountable to his/her electorate. It is only when he/she is so accountable that he/she will fulfil his/her basic functions of representation, law making and oversight. When this is achieved, then the legislature to which he/she belongs will maintain the checks and balances that are central to promotion of good governance and, consequently, improvement of the welfare of the citizens.

In Uganda, there are 6 components of the accountability principle namely the right to recall, crossing of the floor, conduct of an MP, absence from Parliament, conviction in a court of law and extension of life of Parliament. Before the promulgation of the 1995 Constitution of Uganda there were constant complaints about the people's inability to remove non-performing MPs from Parliament before the expiry of the term. There were calls for inclusion in the Constitution mechanism by which an MP could be recalled by the electorate. This currently exists and a member of parliament who fails to represent the interests of his/her constituents faces the danger of being recalled and thus losing his/her parliamentary seat.

A member can also vacate his/her seat if he/she leaves the political party that sponsored him/her to Parliament. An MP can also lose his/her seat through involvement in conduct that breaches the Leadership Code of Conduct or for absence from Parliament. If a court sentences an MP to a period of imprisonment exceeding 9 months without option of a fine, the seat of such an MP automatically falls vacant.

3. The Committee System

Procedures of the House provide for the formation of three kinds of committees namely; Standing, Sessional and Select Committees. Parliament has appointed 9 Standing Committees and established 10 Sessional Committees. The Constitution further allows Parliament to appoint any other committees (usually referred to as Select Committees), as it may deem necessary.

Membership of Standing Committees is for the entire life of Parliament while Sessional Committees are constituted at the beginning of every session of Parliament. The Vice- President or a minister is not allowed to assume membership of a Standing or Sessional Committee; and if a member of any such Committee becomes the Vice - President or a minister, he or she ceases to be a member of the Committee. Members are appointed to various committees based on profession and expertise, taking into consideration both regional and gender balance. The Speaker, subject to the approval of the House, appoints members of Select Committees while membership to Sessional Committees is voluntary. Each member chooses which Sessional Committee to belong to or to serve and the House approves him or her. Parliamentary committees have no power to initiate legislation but have a lot of influence once legislation has been tabled before them.

They may summon government officers to appear before them on the pain of censure. Though the committees themselves do not have powers to prosecute, they can, nevertheless order for the arrest or detention of such errant officers. While committee recommendations are not binding on any government agencies, the Committee on Government Assurances and the State Enterprises Committee work on behalf of both Parliament and the Prime Minister's Office (the government) to ensure compliance.

Committee reports, like all other documents tabled in the House and adopted by it, become public documents and no authority can veto the publication of committee reports. Though committee proceedings are often not conducted in public, individual interest groups and lobbyists send position papers to the relevant committees and such recommendations are often adopted as committee recommendations. This provides a consistent link between the legislature and civil society in Uganda.

4. The Legislative Process

Bills are first introduced formally to Parliament. The majority of Bills are researched, developed and drafted by the Executive arm of government. In some instances, committees also initiate their own studies and conduct public hearings on public policy issues, from which they originate Bills. Study commissions may be formed (which often consist of outside experts) to review

a major Bill or collection of Bills. The commissions' reports are then circulated for public comment. Individual members wishing to introduce private member's motions benefit from both research and legislative drafting support. Private Members Bills are allowed, but there has been little success in such efforts owing to the prohibitive cost and procedures of mobilization. If legislation is proposed which could affect major interests, or a special class of citizens or a substantial part of the population, these classes of people have a right to be heard before the enactment of any such Bill.

All Bills are first referred to the Department of Legislative Counsel. Prior to this, the mover may seek the support of the Table Office in the Clerk's Department. The major functions of this Office include, inter alia, providing advice to members intending to move private members Bills; advising members on the manner of presenting petitions as well as all issues pertaining to questions, amendment of Bills, resolutions and motions; preparation of the Order Paper in consultation with the Speaker; and to ensure the safe custody and circulation of all documents relating to business in the plenary of Parliament.

The introduction of a Bill entails a brief speech by the mover. Bills are typically held on the floor for a second reading, during which debate and a vote "in principle" on the Bill takes place. The Bills are subsequently referred to committee, where the task of the committee members is to work on technical details and amendments. The committees substantively amend Bills at this stage but cannot prevent them from being reported back to the plenary for a possible future vote. Time is allocated on the floor of the chamber for consideration of Bills and when and how votes will occur. Complicated or controversial issues are generally allocated more time. In order to relieve pressure on parliamentary time, many Acts of Parliament give ministers and other authorities powers to make subsidiary legislation. Once Bills are introduced in the House, they are given time to mature. However, depending on the type of Bill and the urgency with which the MPs regard the Bill, the minimum period between the 1st reading and the 2nd reading can be just a few minutes or hours. The same case applies to the minimum period between the 2nd and the 3rd readings.

In all the above cases, there is a special quorum needed to amend any legislation. For instance, 1/3 of members constitute the quorum of the House

for the discussion of any ordinary Bill, while Constitutional amendments require the presence of at least 2/3 of voting MPs in the House. The current Parliament of Uganda has not passed any constitutional amendments. In addition, there is a government agency, the Uganda Law Reform Commission, which is designated to look into the relevance of any Bill that seeks to amend the constitution. For motions in public interest, the issues are first presented to departmental committees, which may organize seminars and workshops to synthesize the proposals for inclusion in the final Act. Such interest groups can at times use lobbyists to channel their grievances. Similarly, they may choose to use their MPs who in turn can propose amendments to the respective Bills at the Committee Stage.

5. Publicity and Outreach

Uganda's committees are, with few exceptions, covered by the press. The media is free to report on parliamentary proceedings and in fact, there is a press gallery from where the media can record or take the proceedings. There are also a few radio and television stations transmitting recorded broadcasts of both selected and, occasionally, full feeds of Parliamentary proceedings. Plans are currently underway to start exclusive, live and unedited coverage of parliamentary proceedings on both radio and television.

There are a number of programmes by Parliament to educate members of the public on the legislative process and the role of Parliament though the level of public engagement and input into legislative work is still considerably low. The Parliament of Uganda has a website (<http://www.parliament.co.ug/>) comparable only to those of legislatures of South Africa and Zambia. It also produces a number of public awareness publications. Schools and other group visits are very well supported by Parliament. The explosion in the growth of satellite and cable technologies is also likely to create instant public access to more stages of the legislative process.

Section III: The Legislative System in Tanzania

1. Historical Background

Under colonialism, the then Tanganyika established its own first lawmaking organ that was known as the Legislative Council (LEGCO) in 1926. In 1960 the name of the Legislative Council was changed to the National Assembly prior to Independence in 1961.

Tanzania has a first-past-the-post electoral system. The country is divided into 231 constituencies that are directly contested in elections. The unicameral National Assembly has 295 members, 231 of whom are elected from both the mainland and Zanzibar. Of these only 213 seats are currently filled with the rest (18) remaining vacant for various reasons. In addition there are another 10 seats to be nominated by the president and 48 special seats reserved for women to be nominated by the respective political parties. In addition, 5 seats are set aside to represent the special interests of the Revolutionary Government of Zanzibar. However it is a requirement that the 5 should be ex-officio members of the Zanzibar House of Representatives. The last general elections were held in 2000, in which CCM took up to 86% of all parliamentary seats. The Attorney General remains an ex-officio member of the House.

48 seats are reserved for women. Each political party receives a proportion of appointed seats commensurate with the number of constituency seats won. Zanzibar's House of Representatives, which maintains jurisdiction over all non-union matters, has a total of 76 members, 50 of whom, are elected directly by the people, 10 appointed by the president of Zanzibar and 5 ex-officio members.

2. Procedures and Working of Parliament

The Parliament of Tanzania consists of the President of the United Republic on one side and members of the National Assembly on the other. Tanzania's President, Vice President, and members of the National Assembly are elected concurrently by direct popular vote for 5-year terms.

The Leader of Government Business is the Prime Minister, who is appointed by the President. He/she sets the parliamentary calendar. However a Parliamentary Steering Committee agrees upon the daily order of business, with substantial representation from members of the opposition. The Leader of the Official Opposition is a senior member of the House Business Committee and plays a big role in determining the official opposition's representation in the Committee.

Despite its relative autonomy in legislative and administrative matters, the Zanzibar House of Representatives has limited jurisdiction on Union Affairs. All non-union matters, which are not under the purview of the Revolutionary Government of Zanzibar, fall under the jurisdiction of the United Republic. Laws passed by the National Assembly on the designated union matters are valid for Zanzibar. Save for such exceptions the Zanzibar House of Representatives can make laws for Zanzibar without the approval of the union government. The term of office for both the Zanzibar president and the House of Representatives is also 5 years.

The National Budget is usually discussed and adopted by the entire House membership. Parliament retains control over budgets covering specific Union matters. However the House of Representatives in Zanzibar debates and approves the Budget of the revolutionary government but which must only cover non-Union expenditure items. Parliament must sanction all foreign policy Blue Prints. On matters related to foreign policy and national security, the Tanzanian legislature adopts a minimum agenda approach that eliminates the potential of partisan and parochial debates from rival parliamentary parties.

All members must subscribe to a Code of Conduct governing the conduct of business in the House. Parliament can compel the government to answer questions of any nature related to government policies by the Speaker merely demanding an answer before any debate can proceed. MPs involved in gross misconduct and who abuse the privileges of the House may be suspended from attending subsequent sittings of the House. Though there is no specific law compelling members to attend all sessions of Parliament (5 days per week), or even to visit their constituencies, the Daily Register may be used to deny non-attending MPs their sitting allowances. At the constituency level, it is assumed that the spectre of losing subsequent elections presents MPs with adequate motivation to maintain constant touch with their electorate.

Though there is a provision for MP's access to library and research services as well as computers, the Internet, and international databanks, access to these facilities is hampered by the incessant shortages of up-to-date materials and expert services. Furthermore, the cost of originating and delivering Private Members Bills remains quite prohibitive.

3. The Committee System

The Tanzania National Assembly has 2 types of Committees: Standing Committees and Ad hoc Committees. Standing Committees are those committees that are permanent in nature and whose members are nominated by the Speaker every year. Ad Hoc or Select Committees are constituted by the House or the Speaker to consider and report on a specific matter and become *functus officio* as soon as they have completed their work on that matter. Appointment to committees is not based on documented criteria, although factors like professional background, members' work/vocational experiences and preferences are generally used to select members to the various committees.

Parliamentary committees have no power to initiate legislation. Neither are their recommendations/resolutions binding on any government agency. However once a Bill is presented before the House, they have the power to summon government officials to either clarify any issue or to censure them in case of any wrongdoing. Failure to respond to summons by parliamentary committees is an offence and is punishable under the law or according to parliamentary rules. Implementation of the recommendations of the committee becomes the responsibility of the Prime Minister once the House favorably adopts them. No law or rule obliges the government to implement such resolutions. Committee proceedings are also not held in public and public scrutiny of government behaviour is minimal. A public hearing system was recently initiated to provide an avenue for various interest groups to present their own proposals for consideration.

4. The Legislative Process

A Minister or the Attorney General can introduce Government or Public Bills in the House. Private Members' Bills normally can also be introduced into

the House. Bills are sometimes withdrawn or allowed to lapse if the Government states that it will set up an inquiry into the subject, or if it undertakes to introduce legislation at a later date, to the satisfaction of the sponsor of the Bill. With some Bills, the sponsor may consider the publicity to be more valuable than actual legislative results.

All Bills, with the exception of Money Bills, after being given notice of 21 days in the Official Gazette, can be introduced in the House. However, under certain circumstances, a Bill can be introduced in the House without notice, so long as there is a Certificate of Urgency signed by the President indicating the importance of such a Bill. Ministers and other authorities have powers to make subsidiary legislation. A Legal and Constitutional Affairs Committee of Parliament is charged with the task of scrutinizing any Bill and advising the House appropriately. In the case of a Bill to amend the Constitution for a non-union matter that is not under the purview of Zanzibar Revolution Government, a 2/3 majority of the total House membership present and voting is required. However in case of a union matter, 2/3 majority of the members hailing from both Zanzibar and Tanzania Mainland and voting is required.

A Money Bill cannot be introduced in the House without the leave of the President. Before a Minister unveils the Government Budget, normally the House delegates its powers to the Finance and Economic Affairs Committee to scrutinize all aspects of Government Expenditure of each vote holder and report back its recommendation. After a general debate on both budget speeches, MPs pass a resolution to accept it or reject it. Thereafter MPs are accorded an opportunity to debate each vote submitted by the respective Minister in the Whole House Committee of Ways and Means and later in the Committee of Supply. After the Bill is passed it is sent to the President for assent.

The President can assent or withhold his assent to a Bill or he can return a Bill with his recommendation. If the House, by a 2/3 majority of the total Members, passes the same Bill returned by the President in a period of less than 6 months since it was returned, the President is compelled to assent to the same Bill within a period of 21 days or else dissolve Parliament. Some Acts are brought into force immediately, some at a date specified in the Act and others by Commencement Orders (or by any combination of these methods), which may bring into force all or part of the Act. There may be more than one such

order for parts of certain Acts, and some Acts may not be brought into force for a considerable time.

5. Publicity and Outreach

The Tanzanian Parliament has one of the most consistent records of disseminating information on its workings and processes to the public. Deliberate public education programmes aired through the mass media have been instrumental in providing the public with a viable mode of engagement with their representatives. Live nationwide coverage of parliamentary proceedings and recent efforts to establish a model Parliament across learning institutions has contributed immensely to public awareness on legislative matters. The National Assembly produces literature and sponsors visits by various groups to witness and appreciate the legislative process as well as the role of Parliament.

Section IV: The Legislative System in Kenya

1. Historical Background

When it attained its independence in 1963, Kenya adopted a federal system of government with each region having a regional assembly. Additionally, the national Parliament was bicameral, with two Houses (the Senate and the House of Representatives). The House of Representatives, however, held a predominant place in the work of legislation, and money Bills could not become laws without senatorial approval. A unitary system was put in place following a series of constitutional amendments, which also affected the nature, composition, and structure of Parliament.

Legislation by Parliament in Kenya began some 93 years ago. Previously, it had wholly been done in the United Kingdom. Such legislation was conveyed in form of royal instructions, commonly termed Orders-in-Council. The 1906 Order-in-Council established an Executive Council to be chaired by the Governor was established to assist the latter in the administration of Kenya. Provision was also made for the setting up of a Legislative Council (LEGCO).

The composition to the Legislature and the framework of the Government at Independence remained in place until the first anniversary. On December 12, 1964, Kenya declared herself a Sovereign Republic within the Commonwealth. At the end of 1966, the Upper House (the Senate) and the Lower House or the House of Representatives were amalgamated resulting into a single Chamber - the National Assembly. Kenya changed from a de jure multi party state to a de facto single party status then to a de jure one party state before it reverted to a de jure multi-party state in late 1991 after sustained pressure in and outside the government.

As a result of the changes introduced with the reintroduction of multi-party politics, the Seventh Parliament (following the December 29, 1992 General election) became the second multi-party Parliament since Independence on December 12, 1963. The last elections in Kenya were held on 27 December 2002, as a result of which KANU, which had been in power for over 40 years, lost to the National Rainbow Coalition (NARC).

Kenya has a first past the post electoral system with 210 elected members of parliament and 12 nominated by political parties.

Composition of the Parliament of Kenya

| Party | Elected | | Nominated | | Total |
|---------------|------------|----------|-----------|----------|------------|
| | Men | Women | Men | Women | |
| NARC | 117 | 8 | 2 | 5 | 132 |
| KANU | 63 | 1 | 1 | 3 | 66 |
| FORD-People | 14 | - | 1 | - | 15 |
| Safina | 2 | - | - | - | 2 |
| Ford-Asili | 2 | - | - | - | 2 |
| Sisi kwa Sisi | 2 | - | - | - | 2 |
| Shirikisho | 1 | - | - | - | 1 |
| Total | 201 | 9 | 4 | 8 | 222 |

The Speaker and Attorney General are also ex-officio members of parliament

2. Procedures and Working of Parliament

The Kenyan Parliament is presided over by the Speaker or the Chairman of Committees (Deputy Speaker) of Parliament. The Vice President is the Leader of Government Business. Parliament prepares its own calendar through the office of the Speaker. The Speaker, in consultation with the Clerk, prepares the daily order of business for Parliament, through the House Business Committee. Whereas the President may prorogue Parliament at the end of a Session, the House can only be dissolved at the end of its five-year life or if the government is defeated in a motion of confidence against it.

The Parliamentary Service Commission (PSC) regulates the salaries and allowances of MPs. However, there is no compulsion for MPs to make regular,

consistent and visible effort in visiting their constituencies. MPs have access to the library and research services. Employees of Parliament serve MPs collectively and individually as the case may be. For individual purposes, MPs have access to computers, the Internet and international databanks. Parliament votes on the national budget. A simple majority vote is required to alter the national budget, though the power is extremely limited. It does not however participate in foreign policy formulation since this is an exclusive function of the Executive. However, to a limited extent, it provides oversight of the policies so formulated by the government.

There exists a written Code of Conduct for MPs. This is in the form of National Assembly (Powers and Privileges) Act (Cap. 6 of the Laws of Kenya) and the Standing Orders. Based on these laws, MPs may be suspended for misconduct and abuse of privilege. For instance, the Speaker can suspend an MP for the remainder of the House Business. The effect of such suspension is that the member is precluded from participating in debates, making any appearance within the precincts of Parliament and loses sitting allowances for all the days on suspension.

2. The Committee System

The procedures of the National Assembly of Kenya provide for the formation of four kinds of committees; Committees of the Whole House; Standing or Select Committees; Ad hoc Select Committees; and Departmental Committees. Committees of the Whole House comprise all MPs. They are chaired by the Chairman of Committees who is also the Deputy Speaker and assemble in the Chamber. There are 4 types of Committees of the Whole House: Committee on the Whole House on Committee Stage of a Bill; Committee of the Whole House on the Budget; Committee of Ways and Means; and Committee of Supply. The Committee of Supply is established to monitor expenditure while that of Ways and Means monitors taxation. The accounting system is also improved by the institution of the Public Accounts Committee (PAC) and the existence of the Exchequer and Audit Act.

The Committee of Ways and Means and the Committee of Supply deliberate on the annual and supplementary estimates. The life span of these Committees ends with the Session in which they were established. Standing Committees

include the Public Accounts Committee (PAC), the Public Investments Committee (PIC) and the Departmental Committees such as the House Business Committee, the Speaker's Committee, the Standing Orders Committee, the Liaison Committee and the Powers and Privileges Committee. The Departmental Committees investigate or inquire into the activities and administration of Ministries or Departments as assigned; out of such investigation, these Committees could make proposals for legislation. Ad hoc Select Committees are appointed by the House as and when the need arises to investigate, study and make recommendations on certain specific matters and issues for consideration by the House. Committees of the Whole House are constituted on a resolution of the House.

Select Committees have the power to send for persons, papers or any document that may be useful to their work. Should a witness refuse an invitation to appear, the Committee may then decide to summon the witness. The Committees have powers to examine witnesses on matters relating to the subject of inquiry. While witnesses are at the mercy of the Committee and its collective wisdom, it is important to note that they (witnesses) are only compelled to answer questions that the Committee agrees to put to them.

Public servants may decline to disclose certain matters unless consent from the President has been obtained. Nevertheless they can, like any other witness, still be cited for contempt, for not appearing when summoned or refusing to be sworn in. The proceedings of Committees are held in camera and the information relating thereto may not be divulged till the Committee has reported to the House. Committees may visit selected areas to make spot checks of certain government operations. The operations of certain Select Committees require constant contact between the Office of the Clerk of the National Assembly and the officers in the Ministries directly involved. Examples here include the PAC, the PIC and the Departmental Committees.

3. The Legislative Process

Most legislation originates in Bills introduced by the Government. Consultation takes place while legislation is being formulated, and both ministers and civil servants consult a variety of experts, interest groups, trade associations and others likely to be affected by the legislation. When the Bill

has been drafted and agreed by ministers, it is introduced into Parliament. Upon the disposal of a report of a Departmental Committee on a Bill, and/or the Second Reading, the Bill stands committed to the Committee of the Whole House On the Committee Stage of a Bill. Member participation here varies with the interest elicited by the Bills before the House.

The 4 main types of legislation considered by the Parliament of Kenya are: Government Bills; Private Members' Bills; Private Bills and Statutory Instruments. Government Bills embody Government policy and take up the largest proportion of parliamentary time. Private Members' Bills are introduced by an individual MP of any political party. Because relatively little parliamentary time is available for discussing these Bills, research expense and legal expertise, their chances of being enacted and becoming law are much smaller. Private Bills are promoted by organisations seeking specific, usually local, powers. They apply only to a particular organisation or area. In order to relieve pressure on parliamentary time, many Acts of Parliament give ministers and other authorities powers to make Statutory Instruments or subsidiary legislation to apply the law in greater detail and adapt it to fit changing circumstances. They are passed by a simple resolution of the House.

4. Publicity and Outreach

There are limited public education programmes transmitted through the media. There is no live coverage of Parliamentary proceedings though there are attempts to broadcast Parliament, as envisaged by the Kipruto Kirwa Select Committee on Broadcasting Report recently adopted by the House.

However, the National Assembly produces limited literature and supports visits by various groups to witness and appreciate the legislative process as well as the role of Parliament. Parliament, in collaboration with the State University of New York, recently embarked on publishing some work for school children and adults. There is also a legislative internship project, which commenced in 2002.

Section V: Conclusions and Recommendations

In terms of living up to their triple mandate as avenues for representation, lawmaking and oversight over government activities, the three Parliaments have registered mixed performance. It is the strong points in each of these legislatures that could provide a pointer to what aspects ought to be entrenched or the direction in which future reforms of the legislature should move. There are a lot of similarities in all the 3 legislatures. All of them exist in countries that were colonized and attained their independence in the early sixties - Kenya in 1963, Uganda in 1962 and Tanzania in 1961. Elections in Kenya and Tanzania have been regular, consistent and generally peaceful. All the three countries hold elections after every 5 years. The 3 countries all have the first-past-the-post electoral system under which MPs are principally elected on the basis of elections held in single-member constituencies. All the countries have modifications to the system to allow for representation of special interest groups, although Kenya's is by far the weakest.

1. Procedure and Workings

The Kenyan Parliament has had the most active experience with an organised opposition. Since the first multi-party elections, the ruling party had been systematically a minority party garnering less than 40 % of the popular vote. NARC, the current ruling party has a 60% mandate and it will be interesting how this translates into policy formulation and implementation. The distinguishing feature of the Tanzanian legislature is the degree to which it has maintained considerable contact with the public and remains one other most vibrant avenue for public expression. Parliament currently enjoys a high level of political consensus as demonstrated by the overwhelming acceptance of the ruling party as well as the moderate official treatment of the political opposition.

The Parliament of Uganda remains the most robust in the arena of legislative oversight. It is however noted that the movement system of government provides little room for organized opposition to government policies. This compromises the range of alternative policies available in the governance of the country. Based on the anxiety caused by the pro-multiparty activists, a lot

needs to be done as far as allowing diametrically opposing camps to co-exist in the legislature and hence provide it with its traditional vibrancy and competitiveness.

2. Legislative Process

The three countries have similar legislative processes, with Bills going through three stages as a condition precedent to enactment. There are also powers for other bodies and officials to make subsidiary legislation. There are differences, though, with regard to certain Bills. In Uganda, all Bills have to go through the Department of the Legislative Counsel first, a procedure that probably ensures better quality control. Further, the establishment of the Parliamentary Budget Office (PBO) has strengthened the effectiveness of parliamentary oversight on public finances.

3. Committee System

The Ugandan parliament has a strong and vibrant committee system. Because of this, it remains the most robust of the three in the arena of legislative oversight. Their committee system has made considerable input into the welfare of the ordinary citizen in Uganda. The Committee on Government Assurances and State Enterprises monitors the actual implementation of all parliamentary resolutions. In order to enhance the oversight role of legislatures, East Africa Parliaments must take concrete measures to equip parliamentary committees with the necessary human and material resources necessary for their various specialized tasks. Further reforms in the committee system should seek to publicize committee proceedings and open them up for public scrutiny and participation. In the end, however, research capacity is essential for the effective performance of any parliamentary committee.

4. Publicity and Outreach

The Parliament of Tanzania has been particularly strong in their constant engagement with the public. Effective outreach and publicity programmes including live television and radio coverage has contributed to the

demystification of Parliament in the eyes of the ordinary citizens. It has also exposed the legislature to the constant scrutiny of the public and other stakeholders. It is this kind of regular engagement and scrutiny that improves the quality and robustness of the legislature as an organ of governance.

Sufficient resources must be set aside to socialize the public into the workings of the legislature. Efforts towards live coverage of plenary and committee proceedings must be complemented by other deliberate public education programmes seeking to increase awareness and also the relevance and appropriateness of the prevailing legislative structures. Young East Africans need to be exposed to the various parliamentary systems obtaining in their own states. This would contribute significantly to the evolution of a civic culture and hence the quality of legislative inputs in each country's development.

The scope of this survey was limited to documenting the working structures as they are today in the three East African legislatures. The hope is that such documentation would not only increase awareness of the workings and importance of the legislatures of three East African countries but also influence the evolution of the East African Legislative Assembly. A further study may need to be done to assess the intrinsic strengths and weaknesses of the existing structures.

| Comparison of East African legislatures | | TANZANIA | KENYA |
|---|-------------------|---|---|
| UGANDA | Background | <p>Originated in colonial times 4 elections since independence Recruitment through a first-past-the-post system, quota for women and other interest groups N/A No official opposition due to movement system</p> | <p>Originated in colonial times 9 elections since independence Recruitment through a first-past-the-post system, with 12 nominated MPs No public funding for political parties Strong "opposition", which has just wrested power</p> |
| | | <p>Procedure & Working</p> <p>Can impeach president Prime Minister is the Leader of Government Business Calendar set through the collective efforts of members, Speaker and Clerk Executive determines salaries No quorum requirement to amend budgetary estimates No Parliamentary Budget Office Sits 5 days a week</p> | <p>Vote of no confidence Vice-President is the Leader of Government Business Calendar set through the collective efforts of Speaker and Clerk MPs determine their own salaries No quorum requirement to amend budgetary estimates No Parliamentary Budget Office Sits 3 days a week</p> |
| | | <p>Committee System</p> <p>Differences in establishment of committees Committees have power to summon government officers</p> | <p>Differences in establishment of committees Committees have power to summon government officers</p> |

| Comparison of East African legislatures cont... | | |
|---|---|---|
| UGANDA | TANZANIA | KENYA |
| <p>No powers to prosecute Recommendations of committees not binding on government Government Assurances Committee and State Enterprises Committee to follow up recommendations Committees do not sit in public Committees obtain views from other people/groups through memoranda and summons</p> | <p>No powers to prosecute Recommendations of committees not binding on government No such committee Committees do not sit in public Committees obtain views from other people/groups through memoranda and summons</p> | <p>No powers to prosecute Recommendations of committees not binding on government No such committee Committees do not sit in public Committees obtain views from other people/through memoranda and summons</p> |
| <p>Bills originated mainly by the Executive Once introduced, Bills are given time to mature 3 reading precede passing of Bills Quorum of 1/3 members to amend ordinary legislation Sub justice rule applies to deliberations</p> | <p>Legislative Process Bills originated mainly by the Executive Once introduced, Bills are given time to mature 3 reading precede passing of Bills Quorum of 50% members to amend ordinary legislation Sub justice rule applies to deliberations</p> | <p>Bills originated mainly by the Executive Once introduced, Bills are given time to mature 3 reading precede passing of Bills Quorum of 30 members to amend ordinary legislation Sub justice rule applies to deliberations</p> |
| <p>Media free to cover proceedings No live broadcasts allowed Programmes in place to educate public on role of legislature On the Web (www.Parliament.co.ug)</p> | <p>Publicity and Outreach Media free to cover proceedings Live broadcasts allowed Programmes in place to educate public on role of legislature On the Web</p> | <p>Media free to cover proceedings No live broadcasts allowed Programmes being initiated to educate public on role of legislature Not on the Web</p> |