



New Forces Shaping Kenyan Politics

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Democratization in Kenya

Kenya has been undergoing a protracted transition to democracy since 1990, when Kenneth Matiba and Charles Rubia called for an end to single-party rule and were jailed for their pains. That process made a giant step forward with the December 2002 elections, which swept away the regime of Daniel arap Moi and the Kenyan African National Union (KANU) and brought Mwai Kibaki and his National Rainbow Coalition (NARC) to power. The consolidation of democracy in Kenya, however, is an ongoing process the outcome of which is not assured. One alternation of power, like one election, does not a democracy make. That said, Kenya's prospects—for democratic consolidation, for rebuilding the Kenyan state, and for economic recovery—are the best in years.

Kenya's political system today is *very* different from what it was at the beginning of the 1990s, and it had already changed considerably *before* the recent elections. The outcomes of the elections were in large part a result of several changes that created more political space during the course of the 1990s, and especially since 1998. What are these changes, and why did they occur?

Foremost among them is a demographic shift that is producing a generational change within the political elite. Parallel to—and to some degree derivative of—this shift is the emergence of institutions of countervailing power, especially the development of an increasingly independent legislature and a more policy-oriented and pragmatic civil society. These structural changes progressively undermined the authority of former president Moi. They will increasingly shape Kenyan politics over the next five years and are thus forces with which the new government of Mwai Kibaki will have to deal.

Political liberalization started slowly during the run-up to the first multiparty elections held in December 1992. Following

the elections, and through the next elections of December 1997, the pace of further liberalization was slow and marked by repeated stalemates between President Moi and the opposition. The return of multiparty politics was punctuated by the periodic repression of opposition supporters, including ethnic clashes in 1991, 1992, and 1993, and again in 1997 and early 1998. Opposition political parties as well as civil society organizations were harassed. Little by little, however, the system opened up or, to be more accurate, was pried open by civil society leaders and members of parliament committed to changing the system.

The “New Young Turks”: A New Generation of Members of Parliament

A new generation is beginning to drive, and will increasingly drive, the political process in the years ahead. This generation of “New Young Turks” is between 35 and 45 years of age, a decade younger than Kenya's original “Young Turks” who led the campaign for multiparty politics in the early 1990s. Its most prominent members are not widely known across Kenya, and even less so outside the country, but they are known to each other and in elite circles. They are smart and precocious. They are well educated: virtually all are college graduates, and many have advanced or professional degrees from the best universities in the world (one is a Rhodes scholar). They are worldly in experience: much like their predecessors, nearly all have spent significant periods of time outside Kenya. They are more technocratic and computer literate than the original Young Turks. They are also more pragmatic and were less confrontational in their approach to the Moi regime. As John Githongo, one of their leading members who was recently named permanent secretary for ethics and governance in the new government, put it at the time: “We want change and oppose the Moi regime, but we are willing to engage it selectively if it will bring about reform.” They believe, in other words, that more can be gained by engaging and “out-politicking” the government than by out-shouting it or investing too much energy in proving that “we are smarter.” This disposition is likely to become more dominant given the presence of a new government committed to reform.

The New Young Turks are thus qualitatively different from their predecessors, but they readily acknowledge that they would not exist but for the initial space opened up in the

early 1990s by individuals like Paul Muite, Peter Anyang-Nyong'o, Raila Odinga, Gibson Kamau Kuria, Willy Mutunga, and others. The net impact of this new generation before the 2002 elections was to force the old regime to change: to tolerate criticism as it never had before; to respond, albeit selectively, to the demands of this new generation and its suggestions for reform. The likely impact of the new generation on the NARC government will be to provide assistance in its efforts at genuine reform but offer constructive criticism when and where reform is abandoned or pursued in a manner judged ineffective. Above all, the new generation will remind the new government, as it taught the old, that its members cannot be coerced or bought off—that it is independent of government and beyond its control. Indeed, such reminders are already being given.

Institutional Changes in Parliament and the Development of Ministerial Standing Committees

Institutional change has occurred in two significant areas: parliament and civil society. And increasingly there are signs of progress in the civil service. The changes in these areas are in large part a function of the emergence of the new generation described above. The Kenyan National Assembly used to be a weak legislature in the African mode, although even in the 1970s and 1980s it was never entirely passive. Most members were primarily concerned with providing constituency services and made little attempt to oversee the executive or actively participate in the policymaking process. That is now changing. From 1993 to 1997, there was a stalemate between the legislative and executive branch. President Moi sought to dictate to parliament as he had done during the 14 years of single-party rule. KANU backbenchers went along with this while the opposition cried foul. It was a dialogue of the deaf. Members did not fraternize across party lines.

Major changes occurred during the subsequent parliament of 1998 through 2002, for two reasons. First, KANU initially had only a slim majority, having won 107 of the 210 elected seats to the combined opposition's 103 (or 113 of the 222 member House following the appointment of 12 nominated MPs). Second, more than half of the KANU MPs elected in 1997 had not served previously. Out of the 107 elected KANU MPs, only 38 had been elected in 1992, 3 had been returned at by-elections, 1 had sat in the 1988–1992 parliament, while 65 had never served in the National Assembly at all. The last group comprised a new generation of backbenchers, who were not beholden to Moi. Most members of this group were outside his patronage network and beyond his control. For the first time in memory, members of this group would periodically (and sometimes

publicly) tell Moi that they could not support him on a given issue. Prominent figures, including Mohamad Shidiye, Sammy Leshore, S.M. Kamolleh, and A.F. Angagwe, formed the core of this new generation of KANU politicians.

These backbenchers joined with their age cohort and with the original Young Turks on the opposition benches to create a coalition for reform. They formed a core of about 35 to 40 MPs with a more technocratic, less partisan, view of politics. Cross-party collaboration began when several of them began attending workshops in 1998 on various aspects of parliamentary practice and public policy including the budgetary process, the coffee and tea industries, pastoralism and semiarid lands, and the role and organization of parliament itself. These workshops, which continued until mid-2002, were organized by a new type of nongovernmental organization (NGO), like the Center for Governance and Development, and later the Institute for Economic Affairs, Transparency International, and the Institute for Policy Analysis and Research. They also led to the formation of formal and informal groups of MPs concerned with issues that affected their constituents—for example, the Coffee and Tea Parliamentary Association (COTEPA).

Institutional changes have also taken place with the emergence of an American-style committee system, as in Canada and India, and in Britain since 1979. The Kenyan legislature, as in most former British colonies, traditionally had no committees other than those that actually administered the House and the Public Accounts Committee (PAC)—and in Kenya, the Public Investment Committee (PIC)—to oversee the implementation of the annual budget, and special *select* committees to consider particular pieces of legislation. The PAC and PIC were essentially “post-mortem” committees that scrutinized the activities of the executive long after they had happened. Given this structure, parliament exercised little oversight over the executive. Nor did it contribute significantly to the making of public policy.

Beginning in 1999, however, reform-oriented MPs forced a number of important changes on the Moi government to strengthen the House. They began by establishing eight permanent committees to shadow government ministries, including committees on agriculture, constitutional affairs, education, energy, finance, foreign affairs, and health. Each committee has approximately 11 members, and the power to subpoena ministers, civil servants, and representatives of the private sector. The record to date has been mixed but is perhaps a portent of things to come. Some committees such as agriculture, finance, and energy were very active. They were chaired by MPs eager to weigh in on the policymaking process. But most committees relied on a core of two to three

members to drive their proceedings. The committee members participated actively in the shaping and amending of legislation. Legislation was no longer entirely dictated by the executive, a reality that is already apparent in the current parliament (2003–2007).

Interparty dynamics have also changed within the committees, which now exhibit a high degree of bipartisanship. The Agriculture Committee, in the latter years of the 1998–2002 parliament, represents perhaps an indication of the future. Working with a cooperative permanent secretary who engaged the committee and who was supported for a time by a minister of agriculture with similar reform views, the committee helped to fashion three important pieces of legislation, governing the tea, coffee, and sugar sectors. Its members soon recognized that they could be proactive and undertake informal consultations with the ministry to investigate the background for new policies. Representatives of coffee and tea producers also worked closely with the committee. Now sugar producers lobby the committee directly for reforms. After the minister of agriculture became the minister of finance, he worked hard to establish a similarly close relationship with the Finance Committee. Kenya is now seeing the beginnings of the classic triangular relationship between the relevant government department, the legislative committee, and economic interest groups that shape public policy. These changes have increased the level of governmental accountability and fundamentally changed the political game.

These changes were only just beginning as the 1998–2002 parliament came to a close. The core group of MPs involved in these bipartisan discussions and working in the committee system, was still small, representing no more than 20 percent of the House. The capacity of the committees' legislative staff remained limited, as were committee budgets.

The transformation of the committee system was paralleled by the enactment of two important pieces of legislation to strengthen the House. In 1999, the National Assembly passed the Constitution of Kenya Amendment Act No. 3, which provided for the establishment of a Parliamentary Service Commission (PSC) to run the National Assembly and which effectively delinked the House from the Office of the President and thus the executive branch. The Amendment Act was followed by the Parliamentary Service Act of 2000, which provided the enabling legislation for the PSC. Parliament now has total authority and independence from the executive to control its internal operations, to determine its own rules and budget, to recruit and assign its own staff, and to set levels of compensation for its members and staff.

In 2002 the reformers sought to establish a Parliamentary

Budget Office to strengthen the House and thus its role in the budgetary process. The proposal was defeated, but has been proposed again by reformers following the convening of the current parliament. Although the creation of the budget office is opposed by the minister of finance, just as it was opposed by the executive under Moi, it is likely that the bill will eventually be passed. This would greatly enhance the capacity of the House to participate knowledgeably in the budgetary process, an area that the executive has long reserved for itself.

The Speaker and the other members of the Parliamentary Service Commission, and the Clerk of the National Assembly all want to build on these developments. During the last week of July 2002, MPs moved into new offices in the refurbished Continental House, just across the road from the parliament building. Six stories high, it has individual offices for all 222 MPs, meeting rooms for parliamentary committees, a library, a restaurant, and a gym. Several international donors have facilitated these developments: the European Union and U.S. Agency for International Development have provided resources to strengthen the legislature, improving its capacity to monitor the budgetary process and the new ministerial committees; and the World Bank and other donors have mounted various training forums for MPs. But most notably, the Kenyans have budgeted their own funds to provide for their own physical infrastructure.

Parliamentary Salaries, the *Harambee* Movement, and the Decline of Presidential Patronage

Notwithstanding the changes in the formal organization of the House and its relationship to the executive, the greatest change that occurred during the 1998–2002 parliament was the significant increase in the salaries for MPs. MPs now earn approximately \$5,000 per month in basic salary and allowances, an increase of more than seven-fold over their previous salaries. This change alone, which has attracted much criticism in the Kenyan press, greatly decreased the ability of former president Moi and his inner circle to buy the loyalty of backbenchers and will similarly limit the ability of his successors to control MPs.

MPs have historically been under great pressure to visit their constituencies at least twice a month and to provide financial support for small-scale community development projects, known as *harambees*, as well as to provide personal handouts for school fees and hospital bills. Indeed, parliamentary elections in Kenya are to a great extent referendums on the record of incumbents and the prospective records of challengers to provide such constituency service.

On a typical visit to their constituencies, MPs contribute

40,000 to 50,000 Kenyan shillings (approximately \$500 to \$625) to one or two *harambee* projects. During the one-party era and throughout the 1990s until their salaries were raised, many MPs visited State House on Friday afternoons to receive handouts prior to traveling back to their constituencies. The salary increase has enabled them to break free of such dependence on presidential largesse. Many MPs regard the rise in pay as instrumental in transforming their roles into those of modern legislators. Not only are they no longer dependent on the president for cash to service their constituencies, they are also able to take a more independent and proactive approach in committee work and oversight of the executive. The significance of the rise in MP salaries cannot be overstated. Despite additional criticism in the press, members of the newly elected parliament recently raised their monthly salaries to 485,000 Kenyan shillings (\$6,063). MPs have also established, and now seek to expand, a constituency fund for the financing of local roads as a new source of development money. Put differently, the old system of “crude patronage” and presidential handouts that marked the Moi era is being restructured and curbed. In its place, the resources MPs covet for constituency services are in some instances, becoming line items in the budget. Old-style *harambee* meetings are in decline, and some reformers are in fact calling for a ban on MP contributions to *harambee*. Only older MPs remain wedded to the system, created by former president Kenyatta back in the late 1960s and early 1970s. Younger politicians want to institutionalize and regularize the flow of revenue to locally sponsored development schemes and to break the patronage influence of State House. Doing so will also reduce a major incentive for corruption.

The Maturation of Civil Society

During the 1980s, civil society in Kenya was almost totally suppressed or under the control of the ruling-party KANU, with the notable exception of the main Protestant churches, organized in the National Council of Churches of Kenya (NCCCK), and the Roman Catholic Episcopal Conference. Reemerging during the closing stages of the struggle against single-party rule in the early 1990s, civil society was preoccupied with improving Kenya’s human rights record, expanding political freedoms, and achieving basic democratization (i.e., multiparty elections and legitimate elected government).

The international community was quick to jump in with support, but civil society was dominated by urban-based professions, mainly lawyers (for example, Paul Muite, James Orengo, and Gibson Kamau Kuria) who reactivated the Law Society of Kenya and helped form or rebuild the Kenya

Human Rights Commission, the Kenyan chapters of the International Commission of Jurists, the Federation of Women Lawyers (FIDA), and similar politically assertive organizations. These bodies eventually came together to monitor the 1992 general election by forming the National Election Monitoring Unit (NEMU), which under the leadership of the late Grace Githu, a former head of FIDA, deployed from 4,000 to 5,000 Kenyan observers at the 1992 election. These organizations were all urban based and had little rural reach.

By the time of the 1997 general election, the situation had not fundamentally changed, although Kenyan NGOs were better organized and more institutionally established. The Institute for Education and Democracy (NEMU’s successor) joined with the NCCCK, and the Catholic Justice and Peace Committee to deploy 27,000 domestic observers to monitor the country’s 12,700 polling lines, covering more than 85 percent of all polling stations. By joining with the churches, urban civil society began to mobilize the countryside.

Since 1998, civil society in Kenya has changed dramatically, becoming much more robust and pluralistic and spreading beyond the main towns to put down roots in the rural areas. Even more significant, civil society has increasingly reshaped itself around economic rather than human rights and governance issues by seeking to mobilize Kenyans around economic interests. In agriculture, the Center for Governance and Development was the first to organize workshops for MPs on selected areas of agricultural policy. Subsequently it began work with Action Aid in western Kenya, organizing workshops for farmers in the sugar industry and assisting investigations of the sugar industry by the agricultural committee of the National Assembly. The Kenya National Union of Teachers has also flexed its muscles by lobbying parliament to insist that the government fulfill its promise of a 20 percent salary increase for teachers.

Established organizations such as the Kenya Association of Manufacturers (KAM) and the East African Institute of Certified Public Accountants have also become more involved in the policy process. KAM has lobbied both the government and parliament for the introduction of barriers against the importation of second-hand clothing so that Kenya might more easily expand its garment industry and take advantage of the opportunities offered by the U.S. African Growth and Opportunity Act (AGOA). It now has much better access to parliament and is working closely with a number of departmental committees. Frank Holmquist, professor of political science at Hampshire College who has been researching the business community, also reports that the KAM now has much closer relations with both the

executive and legislative branches than ever before. Business groups now recognize that they need to influence government policies and for the first time have established close relations with parliament—beginning to believe that “parliament matters.” These trends are now likely to accelerate, since many representatives of civil society and business hold positions in the new NARC government.

Business leaders in downtown Nairobi are also actively working with the Nairobi City Council and local shopkeepers to improve conditions through the recently formed Central Business District Group, which brings together big business and small shopkeepers. In collaboration with the city council and the police, they have demarcated the downtown area into a series of four-block policing zones, each of which is equipped with a small police post and holding cell, in order to improve order in the commercial center. Garbage is being collected and flower beds planted. Reports indicate that crime has fallen some 20 percent. By contrast, the Karen-Langata Association in Nairobi’s southern suburbs has adopted a confrontational stance towards the city council with its members refusing to pay city taxes. Despite their different strategies, all these groups now lobby the executive, their MPs, and the city council.

Kenya’s press and electronic media have also thrived during the last decade. Both *The Nation* and the *East African Standard*, the two main English-language newspapers, are highly professional, willing to criticize the regime and highlight corruption. There are a number of serious and sensational weekly or monthly magazines, although the two most established—*The Weekly Review* and *The Economic Review*—ceased publication after the 1997 elections. Perhaps even more significant, the state monopoly over the electronic media, which was still absolute at the time of the 1997 elections, has collapsed. There are now 17 FM radio stations and rival television stations to the Kenya Broadcasting Corporation. Most of the FM radio stations started by broadcasting only music, but many have now established talk shows, covering a number of issues, including politics, corruption, and the role of parliament.

These new developments in parliament, civil society, the press, and business are increasingly driven by the new and younger age cohort of leaders discussed above. Thus, even before the election of the NARC government, Kenyan politics was far more free and open than it was 10 years ago, or even 3 to 4 years ago. There is a real prospect that a more accountable government, answerable to its citizens, will be established. No longer can presidential power be exercised as it was during the single-party era or the first half of the 1990s. President Kabaki and his successors will be forced to

bargain with these new elements to an extent that his predecessors never dreamed.

Conclusion

These structural changes are likely to shape Kenyan politics for years to come and auger well for the consolidation of democracy. Kenya’s economy, however, remains very sluggish, and the new government is in a race against time to reduce corruption, strengthen the rule of law and rebuild Kenya’s once vaunted civil service. The emergence of a more vibrant civil society and legislature, together with a new age cohort of younger leaders, are likely to contribute to this process, but the results are not guaranteed. Indeed, these same forces could contribute to the paralysis of the new government if it cannot maintain its political coalition intact. The NARC government is a fragile coalition of convenience composed of both reformers and patronage seekers of the old era. Keeping the coalition together will require compromises between the two groups. The New Young Turks both within and outside of government and parliament will need to act adroitly if they are to move their agenda forward. As demonstrated by the recent elections, clientelist politics based on ethnicity remains alive and well in Kenya. But for the first time they are being challenged by generational and institutional forces that seek to reshape the system. Whether they will succeed, of course, remains to be seen.

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