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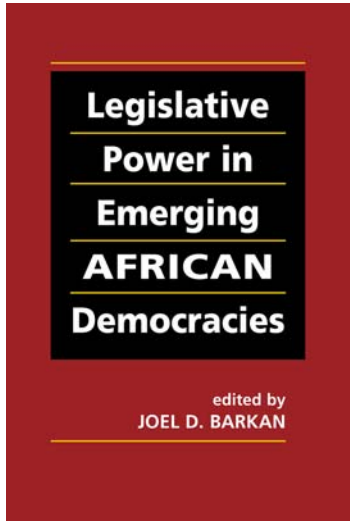
Legislative Power in Emerging African Democracies

edited by
Joel D. Barkan



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Contents

Acknowledgments ix

1 African Legislatures and the "Third Wave" of Democratization
Joel D. Barkan 1

2 Kenya's Tortuous Path to Successful Legislative Development
Joel D. Barkan and Fred Matiangi 33

3 The Rise and Ebb of Uganda's No-Party Parliament
Nelson Kasfir and Stephen Hippo Twebaze 73

4 Benin: Legislative Development in Africa's First Democratizer
Ladipo Adamolekun and Mouftaou Laleye 109

5 Co-optation Despite Democratization in Ghana
Staffan I. Lindberg with Yongmei Zhou 147

6 Rules and Rents in Nigeria's National Assembly
Peter M. Lewis 177

7 South Africa: Emerging Legislature or Rubber Stamp?
Joel D. Barkan 205

8 Conclusion
Joel D. Barkan 231

Bibliography 251
The Contributors 261
Index 263
About the Book 277

1

African Legislatures and the "Third Wave" of Democratization

Joel D. Barkan

Nearly two decades after the resumption of multiparty politics across Africa, the legislature is emerging as an institution to be reckoned with in some countries. Once the rubber stamp of the executive, or nonexistent during periods of military rule, these bodies have begun to assert their independence as players in the policymaking process, as watchdogs of the executive, and as organizations that respond to demands by civil society. Put simply, they are becoming institutions "that matter" in the politics of African countries—still weak, but increasingly significant.

Legislatures matter in the context of multiparty politics and democratization, because they are mechanisms for achieving both vertical and horizontal accountability of the rulers to the ruled. As the one institution explicitly established to represent society's diverse interests in government, legislatures promote vertical downward accountability of the state to the public at large, particularly to organized interests or civil society. As an emerging state institution, legislatures also promote "horizontal" accountability across and between other state and quasi-state institutions by scrutinizing the operations of the executive, including the civil service, as well as the operations of the judiciary, the military, independent agencies, and state-owned enterprises.

It is precisely because legislatures are both representative bodies and instruments for horizontal and vertical accountability that an institutionalized legislature is a defining attribute of *all* established democracies, and why they contribute to the overall process of democratization. While the development of the legislature into an autonomous and powerful branch of government will not occur without the holding of "free and fair" competitive elections, the emergence of civil society, and the emergence of a free press, the expansion of legislative power is also a driver of democratization. As such, the development of the legislature is both a dependent and an independent variable in relation

to democratization. It is a dependent variable in the context of a typical emerging democracy, because the legislature rarely matters as an institution until *after* the second or third multiparty election, and thus after the transition from authoritarian to democratic rule has been under way for an extended period. It is an independent variable, because democratic consolidation—the highest stage of democratization—cannot be achieved without a developed and powerful legislature. As Steven Fish concluded from his examination of emerging legislatures in Eastern Europe: "stronger legislatures, stronger democracies" (Fish 2006; Fish and Kroenig 2009).

Legislatures in Africa

In terms of raw power, most African legislatures, like legislatures worldwide, remain weak in relation to the executive. Although more than half of Africa's forty-four legislatures have existed continuously or intermittently since the end of the colonial period, they are at best emerging institutions in terms of their capacity to foster horizontal and vertical accountability. A small number, probably no more than a dozen, have become real players in the policymaking process and thus institutions of countervailing power vis-à-vis the executive. Most have not. Yet African legislatures are arguably more powerful and autonomous today than at any time since independence a half century ago. That power is also likely to increase as several of these legislatures develop the capacity to expand their authority.

The extent of legislative capacity and power varies greatly from country to country. In some countries, the legislature remains very weak despite the return to multiparty politics, the holding of presidential and legislative elections at regular intervals, and even the alternation of power between rival political parties. In other countries, the legislature has asserted itself more forcefully, both as a check on the executive branch and as a contributor to the policymaking process and/or as a monitor of policy implementation. In still others, the reality lies somewhere in between—the legislature remains weak, but aspires to, and to a limited extent has achieved, a larger role.

Where the legislature has begun to emerge as an independent branch of government, as it has in Kenya, and to a lesser extent in Nigeria, Uganda, and South Africa, its impact on the governmental process can be profound. In the first, the legislature has asserted its independence from the executive and forced the executive to accept changes to its proposed legislation and budget that would have been unthinkable a decade ago. The Kenyan legislature has also exposed corrupt practices within the executive, and in some instances forced the executive to shut down these schemes. In South Africa, the legislature has refined legislation proposed by the executive and enabled the executive to achieve policy objectives that it would not have been able to achieve as effectively on its own.

Where, by contrast, the legislature has remained relatively weak, as in Benin and Ghana, its impact on the policymaking process and the operations of the state has been small.

These contrasting records of legislative performance raise the question of why the legislatures in some emerging democracies have enhanced their capacity and power while those in others have not. It is the main puzzle to which this book is addressed. Three subsidiary sets of questions guide this inquiry: (1) If democratization is not the prime determinant of legislative development and authority, what other factors shape this process? Put differently, if the development of the legislature is not the dependent variable in relation to those aspects of democratization such as elections that occur early in that process, what other variables drive the development of this critical institution? (2) What has been the varying impact of the legislature on the political process in a selected group of new and fragile African democracies? Does a strong and competent legislature contribute to or undermine the process of democratization? How has the legislature shaped the content of public policy and the nature of governmental operations? Put simply, does the legislature "make a difference," and if so, how and why? (3) Is it possible to answer these questions in terms of several meaningful generalizations and hypotheses that apply to the entire genre of emerging legislatures in emerging democracies—in Africa and more broadly across the developing world? Or, are the answers gleaned from this study sui generis to the legislative experiences of the individual countries considered in this volume? We explore these questions in the chapters that follow through an examination and comparison of the legislative experience in six African countries: Benin, Ghana, Kenya, Nigeria, South Africa, and Uganda. The studies reported from these countries are based mainly on original field research, a description of which is provided later in this chapter.

Democratic Studies and Comparative Legislative Studies

Although an institutionalized legislature is a defining attribute of all established democracies, the vast literature on the "Third Wave" of democratization has paid scant attention to the legislative process or to the development of this institution. Neither has the literature of comparative legislative studies devoted much attention to the development of the legislature in the context of emerging democracies, nor to its impact on democratization. Indeed, with few exceptions, this literature has focused overwhelmingly on the legislature in established democracies, particularly the United States (Gamm and Huber 2002), or tested theories derived from the study of the US experience in other political systems (Shepsle 2007; Loewenberg 2007). The result is not only a void in the literature, but also a regrettable disconnect between students of democracy and democratization and students of the legislative process—two communities

of scholars within comparative political science that rarely address each other's concerns, and which largely ignore each other's work. This volume is also addressed to bridging the void between these two groups and the literature each produces.

Most contemporary students of democratization focus on the group of approximately eighty countries that have attempted transitions from authoritarian to democratic rule during the period that began in the mid-1970s and lasted for nearly three decades. Labeled by Huntington (1991) as "the Third Wave" of democratization, these countries and the historical period within which they attempted their transitions are distinguished from those countries that became democracies prior to World War I and those that attempted but largely failed to become democracies after the end of colonial rule. The beginning of the Third Wave is usually marked by the end of the António de Oliveira Salazar and Marcelo Caetano regime in Portugal and its transition to an elected government in 1974. There is less consensus about the end of this cycle, but most observers agree that the number of countries evolving from authoritarian rule to democratic regimes peaked during the mid- to late 1990s (Diamond 1996; Joseph 1998) and certainly by the early to mid-2000s. Democratic transitions in Africa, however, are confined to the second half of this thirty-year period. The first such transition occurred in Benin in 1990, followed by the end of one-party rule and democratic elections in Zambia the following year. The most recent occurred in Sierra Leone and Liberia following the end of civil wars in those countries in 2005 and 2006. For the purpose of this study, we shall therefore date the end of the Third Wave in Africa as occurring in 2006. During this period of only sixteen years, all but three of the forty-eight states that compose sub-Saharan Africa attempted *nominal* transitions by holding multiparty elections for the first time in twenty or more years.

A review of the literature during the second half of this period illustrates the extent to which students of democracy and democratization and students of legislatures pursued separate agendas of inquiry. From their inaugural issues in 1989 and 1993 through 2005, neither the *Journal of Democracy* nor *Democratization,* the two leading journals explicitly devoted to publishing work on democracy and democratization, published a single article whose principal subject was the legislature! This omission did not reflect an editorial aversion to work on legislatures as much as the failure by students of democratization and the legislative process to submit manuscripts that considered the relationship between the two. Yet one does wonder why no article addressing this relationship appeared in either journal until the publication of Fish's discussion of democratization and legislative development in Eastern Europe in the *Journal of Democracy* in 2006 (Fish 2006). My own article, "Legislatures on the Rise?" published in the *Journal of Democracy* two years later (Barkan 2008), was only the second. From 2006 through 2008, *Democratization* also

published its first two articles that considered the legislature or its members (Ahmed 2006 and Sater 2007).

A review of the leading journals of political science as well as the more specialized journals on the legislative process presents the other side of the same coin. Gerald Gamm and John Huber reported in their 2002 review of the state of legislative studies that 85 percent of the 110 articles on legislatures that appeared in the *American Political Science Review* between 1993 and 2001 and in the *American Journal of Political Science* and the *Journal of Politics* between 1996 and 2001 were limited to the US experience (Gamm and Huber 2002). The pattern has moderated somewhat. Of the 100 articles published on legislatures by the same journals from 2002 through 2008, 60 percent were limited to the US experience but only seven considered the legislative process in the context of Third Wave democratizers. A similar pattern is found in the two leading journals on legislative research. Between 1995 and 2008, 75 percent of the 302 articles published by *Legislative Studies Quarterly (LSQ)* were concerned solely with the legislative process within the United States, while only 5 percent focused on legislatures in emerging democracies. By contrast, the *Journal of Legislative Studies (JLS),* a journal edited by a member of the British House of Lords and less encumbered by the methodologies of legislative inquiry developed in the United States, has published a modest number of articles on the legislative experience in emerging democracies. However, like *LSQ,* its primary focus has been the legislative process in the context of established democracies, albeit with a European twist. Of the 400 articles published by the *Journal of Legislative Studies* from its inception in 1995 through 2008, 52 percent have considered some aspect of the legislative process in Western Europe, including the European Parliament, while 8 percent have considered the US experience. In addition, 68 articles or 17 percent have dealt with the new legislatures in Third Wave democratizers, but most of these have considered the legislative experience in Eastern and Southern Europe. Only three have dealt with the legislature in an African country (Burnell 2001; Nijzink, Mozaffar, and Azevedo 2006; and Schrire 2008). Another distinguishing feature of the literature on legislative studies is that very little of it, probably no more than 5 percent, is genuinely comparative in scope and approach.

This book seeks to bridge these two subfields of political science. It is also, to the best of our knowledge, the first comparative study of legislative development in Africa. Although there have been a smattering of case studies that have examined the legislature in the African context (Alderfer 1997; Barkan 1979; Burnell 2001; Djerekpo, Laleye and Tevoedjre 1998; Krafchik and Wehner 1998; Maforikan 1999; Tamale 1999; Murray and Nijzink 2002; Olum 2002; Hughes 2005; February 2005; Kazoora 2005; Thomas and Sissokho 2005) and two multicountry monographs (Salih 2005; Bauer and Britton 2006), this is the first comparative effort at theorizing about the process of

legislative development on the continent based on a series of original and complementary field research studies.

African Democratizers

This volume also addresses a third subfield of comparative political studies—the politics of developing areas—because roughly 80 percent of Third Wave democratizers are developing countries that share five characteristics that shape their politics and distinguish them from most middle- and high-income countries. This is particularly true of African democratizers, where the majority of their populations are poor, live in the rural areas, and derive their livelihood from agriculture or related activities, although this is no longer the dominant pattern in Nigeria and South Africa. All but two of these countries are also former colonial states whose state structures, including the legislature, were established by the former colonial regime.

Nearly all are also plural societies populated by the members of two or more ethnic, linguistic, and/or religious groups that reside in different geographic regions of their countries. These regions often vary in their respective levels of economic development. This in turn means that different ethnic groups residing in different regions perceive themselves as relative "haves" and "have nots" in the context of the broader political system. This pattern of uneven economic development intertwined with ethnicity is particularly pronounced in sub-Saharan Africa. It is a pattern present in all of the countries considered in this study except South Africa.

This configuration of variables leads both politicians and citizens to define their political interests in terms of their ethnic and/or regional identities rather than in terms of different positions on issues that are shared by peoples of different regions and ethnic groups. Put differently, in plural and agrarian societies where most people are tied to the land and their local community, one's place of residence and the cultural and linguistic affinities one shares with one's neighbors often defines one's perspective of politics. This is especially true when political leaders and aspiring leaders mobilize the population on the basis of these identities during the run-up to an election or for other political objectives (Mozaffar, Scarritt, and Galaich 2003; Posner 2004, 2005). It is also a configuration of factors that encourages the formation of patron-client political organizations and retards the development and performance of the legislature.

The Four Core Functions of Modern Legislatures

Legislatures are unique institutions and contribute to the realization of vertical and horizontal accountability that are the hallmark of democratic political

systems, because they perform four core functions.[1] First, legislatures are the institutional mechanism through which societies realize representative governance on a day-to-day basis. Regardless of the type of electoral system by which the members of the legislature gain their seats, the main purpose of individual legislators and the body to which they belong is to *represent,* that is to say, to *re*-present or mimic the varied and conflicting interests extant in society as a whole. The legislature is the institutional arena where representatives of competing interests articulate and strive to advance their respective objectives in the policymaking process. While the president in a democratic presidential system is also expected to "represent the people," she or he is not expected to articulate the diverse and competing interests of particularistic constituencies on a continuous basis. Rather, presidents, as heads of state, are expected to synthesize, balance, and aggregate interests into "the national interest." As heads of the executive branch of government, presidents are also expected to implement a single national public policy on an evenhanded basis vis-à-vis society's diverse constituent groups.

Second, legislatures obviously *legislate*—but at two levels. At a minimum, they pass laws, but such activity may merely rubber-stamp legislation handed down by the executive. More significantly, legislatures contribute to the making of public policy by crafting legislation in partnership with or independent of the executive and with input from civil society, and then pass such legislation into law. In the pages that follow, we shall refer to this level of legislating as *legislating in the broad sense.*

Third, legislatures exercise *oversight* of the executive branch to ensure that policies agreed upon at the time they are passed into law are in fact implemented by the state. Oversight is an essential function for any democratic legislature because it ensures both vertical accountability of the rulers to the ruled and horizontal accountability of all other agencies of government to the one branch whose primary function is representation. For the same reason, effective oversight requires a significant measure of transparency about the substance of governmental operations.

Fourth, legislatures, or more accurately, legislators acting individually, rather than as members of a corporate organization that engages in collective decisionmaking, perform the function of *constituency service.* In countries where members of the legislature (MPs)[2] are elected from single or small multimember districts, and especially in Africa where most countries remain agrarian societies despite continuous rural-urban migration, constituency service takes one of two forms: (1) regular visits by MPs to their districts to meet their constituents and assist some with their individual needs, or (2) involvement in small- to medium-scale development projects that provide various forms of public goods to the residents of their district, including roads, water supply systems, schools, health clinics, and meeting halls. In countries where MPs are elected by proportional representation (PR), constituency service is less

important because members do not represent citizens on the basis of a shared place of residence.[3]

Although the performance of *all* four of these functions define the legislature and distinguish it from other institutions, it is important to appreciate two aspects of these functions that also distinguish the legislature from other political institutions. First, representation, legislating in the broad sense, and oversight, especially the latter two, are activities that occur *within* the legislature and require acts of *collective* action on the part of all MPs albeit those in leadership positions obviously play more prominent roles than others. Because these functions are performed collectively, they also require intense bargaining, compromise, and cooperation between rival claimants for government action (or inaction). By contrast, indeed in stark contrast, constituency service is performed by members on an *individual* basis back in their districts or by lobbying central government officials on their constituents' behalf.

Second, the four core functions that define the legislature exist in tension with each other.[4] There is tension between representation and legislating, because representation requires members to advocate the particular concerns of their respective constituencies, while legislating requires bargaining and compromise across these and other interests. Similarly, there is the tension between legislating and constituency service, because the first seeks to arrive at decisions that serve the entire nation, while constituency service is, by definition, addressed to a smaller subcommunity of society. Oversight may or may not exist in tension with representation, legislating, and constituency service depending on whose interests are at stake.

The tensions between the four core functions become even more apparent in respect to how individual legislators (and by extension the entire legislature) allocate their time. MPs elected from single and small multimember districts—especially in agrarian societies where political interests are often defined in local geographic and communal terms—are under constant pressure from their constituents to service their districts. This in turn leads MPs to spend far more time on constituency service than on legislating in the broad sense or on oversight, the two functions that legislators perform on a collective basis. But when members do not perform these functions and focus overwhelmingly on constituency service, the legislature exists in name only—a conglomerate of elected representatives from separate constituencies that rarely acts as a whole.

Given these realities, a fundamental challenge to the development of legislatures in emerging African democracies is how to restructure the incentives facing MPs so that they devote more time and effort to the functions of legislating in the broad sense, and to oversight, while ensuring that their reputations for constituency service are not compromised. This also means changing the way African legislatures do business from the practices established prior to the beginning of the democratic opening in the early 1990s.

African Legislatures in Historical Context

Legislatures in Africa, particularly Anglophone Africa, are not new. Indeed, their origins across most of the continent precede the end of the colonial period, and in many cases date to the early twentieth century or earlier. Although their structure and purpose has changed over time, some African legislatures, most notably in Kenya and South Africa, have been in existence in one form or another for more than a century.

The Colonial Legacy

A hallmark of British colonial practice was the establishment of the Legislative Council, or LEGCO. Initially appointed by the governor of each colony, its purpose was not to promulgate legislation but to provide a feedback mechanism for the colonial administration regarding how its policies were being received by local elites and the general public. Early appointments were limited to members of the colonial civil service and leading British notables in the colony (e.g., prominent businessmen, clergy, educators, etc.). The Legislative Council was established in Kenya as early as 1906, but the first Kenyan African was not appointed to serve in the body until 1944. LEGCOs were first appointed in Ghana (then the Gold Coast) in 1850, and they were partially elected in Nigeria and Sierra Leone as far back as 1924 and in Ghana in 1925 (Wight 1947).

Following World War II and especially during the 1950s after Britain determined that it must soon dismantle its colonial empire, the LEGCO was viewed as the basis for elected democratic government in the postcolonial era. Power would be transferred gradually and hopefully smoothly by increasing the size of the LEGCO through a series of direct (and in some instances indirect) elections of some members of the council. The number and thus the proportion of the LEGCO's elected members would rise over time by holding a series of elections until 80 to 90 percent or more of the seats were held by directly elected members. At that point, the colonial governor would invite the leader of the majority party, or majority coalition, to form a government to run the internal affairs of the colony. After a modest period, usually no longer than six months, total power was transferred to the new government and the colony became an independent state.

Although all former British colonies in Africa later adopted a presidential system of government, all became independent states as parliamentary systems in the Westminster tradition. Most members were elected from single-member districts as in Britain. The presiding officer was the Speaker, and the chief administrative officer the Clerk. Parliamentary rules of procedure were set forth in the Standing Orders as in Britain. Sessions of the legislature were thus opened

with the laying of the ceremonial mace on the table before the Speaker, who wore a wig identical to his counterpart in London. In some colonies, Uganda for example, the British constructed a parliamentary chamber similar to that at Westminster as a lasting parting gift. The establishment of "Parliament" was viewed as the linchpin for both the transition to independence and the establishment of democratic governance. The notion of institutional transfer as the key to democracy weighed heavily in British thinking (Apter 1955).

British policy as the colonial era drew to a close also replicated five aspects of Westminster that were to have a long-term impact on the way legislatures evolved in Anglophone Africa. First, parliament was established primarily as a deliberative body rather than as an institution for the making of public policy, that is, legislating in the broad sense. Second, while the Standing Orders provided for a small number of "housekeeping" committees, there was no provision for permanent committees concerned with different areas of public policy to enable legislators to oversee governmental operations ministry by ministry. As Britain's African colonies transitioned to independence, the new parliaments were not provided with a well-defined and well-resourced system of portfolio committees to facilitate a division of labor among MPs, which was essential if they were to perform the core functions of the legislature. Although India revamped its committee system soon after independence (Morris-Jones 1957), it would be more than four decades before African legislatures began to strengthen this key component of modern legislative practice.

Third, members of the "government," that is, cabinet ministers, were drawn entirely from the ranks of the legislature. Although this practice is usually not an issue in legislatures where there is a clear division between governing and opposition parties, it became a problem in the African context as multiparty politics gave way to one-party rule, and then to neopatrimonial rule during the 1970s and 1980s. As one-party regimes proliferated across the continent, African presidents appointed more and more MPs, often a third or more of all members of the legislatures, to ministerial positions or to positions as deputy ministers to maintain their political support and that of their respective clients.

Fourth, the role of the legislature in the budgetary process was kept to a minimum—to briefly deliberate and then pass the annual budget drawn up entirely by the executive, particularly by the Ministry of Finance. Indeed, the constitutions that Britain bequeathed to its colonies typically forbade the legislature from passing any legislation that would raise the level of government expenditures. In marked contrast to the US Congress, the legislature was not to initiate money bills of any kind. Nor was the legislature permitted to reallocate expenditures proposed by the Treasury for the next fiscal year. Parliament could only accept or reject the budget in its entirety, and it was expected to do the former. Not surprisingly, MPs developed little or no understanding of the budget or the budgetary process. Economic illiteracy among African MPs was the norm and continued to be the norm through the 1990s.

Fifth, as Britain transformed the LEGCO from an appointed to an elected body, it did so through elections that were also based on the British practice of electing MPs from single-member districts on the basis of "first past the post." As the number of elected seats in the legislature increased, the average size of all constituencies became smaller and reinforced the tendency on the part of politicians and citizens to define their political interests in geographic and/or ethnic terms. In this context, the election of the legislature from single-member districts likewise raised the expectation for constituency service. Taken together, these five legacies of colonial practice probably retarded the development of the legislature after independence in most former British colonies—the exact opposite of what was intended at the time.

The colonial legacies in Francophone and Lusophone Africa were not any more supportive of the development of a legislature that could perform the four core functions. If anything, they were worse. Whereas Britain established quasi-legislative institutions in their colonies early in the colonial period and thus established the norm that the legislature was a basic component of government, France, consistent with its tradition as a centralized state, concentrated all decisionmaking in Paris. Colonial governors in what were to become the independent states of French West Africa and French Equatorial Africa took orders from the governor-générals in Dakar and Brazzaville, who in turn took their orders from Paris. There was no equivalent of the British LEGCO, and the election of Africans to territorial legislatures did not begin until 1946. France's colonies did, however, elect a small number of representatives to the French National Assembly in Paris. Some such as Léopold Senghor of Senegal and Félix Houphouet-Boigny of the Ivory Coast served in the cabinets of French governments. The assumption was that the inhabitants of the "overseas territories" would ultimately realize their full political rights and citizenship within a "greater" France. However, with the breakup of the French empire in 1960, a series of nascent legislative bodies were quickly set up, and a single round of elections was held to determine their membership before independence. This provided little time to get these bodies up and running or to lay the groundwork for their institutional development.

As in the former British colonies, the French drew on their own experience when establishing these bodies. Legislative procedures were set forth in the Règlement Intérieur, the equivalent of the Standing Orders, which were patterned on the procedures for the French National Assembly. The chief presiding officer was the president of the assembly. Perhaps most important, limits were placed on the proportion of cabinet ministers who could be appointed from members in the assembly—usually no more than half. Whether this subsequently limited the ability of the presidents of the former French colonies to use such appointments as patronage for the purpose of regime maintenance is difficult to assess. As in the former British colonies, the power of the legislature to participate in the budgetary process was limited. Members of the legislatures in most former French colonies are also elected from single-member

districts. Where no candidate obtains a majority of the vote, a second-round runoff election is held to determine the winner of the seat. As in the former British colonies, MPs in Francophone Africa report that they are under intense public pressure to service their constituencies, and that much less emphasis is placed on performing the other core functions of the legislature (Thomas and Sissokho 2005).

Legislative practice in the former Belgian Congo and the Portuguese colonies of Cape Verde, Angola, and Mozambique was, for all practical purposes, nonexistent before independence. In the Congo, parliamentary elections were held for the first time just prior to independence in 1960. Little effort was made to establish the national legislature, and it soon collapsed, a victim of the political turmoil that followed in that country. The same was true in Lusophone Africa where Portugal hung onto its colonies until 1975, and where independence was followed by one-party rule and/or civil war. Only in Mozambique, where a transition to multiparty politics was part of the settlement to that country's civil war in the mid-1990s, has the legislature begun to emerge as an autonomous institution.

In summary, where the colonial experience with legislative practice was both the longest and deepest, for example, in the former British colonies, its significance for the emergence of the legislature as an autonomous branch of government was limited. However, the idea that "there should be a legislature" and the symbolism of legislative procedure were firmly planted and carry through to the present era. Conversely, where that colonial experience with legislative practice was limited or nonexistent—such as in Francophone and Lusophone Africa—only the formal structures continue in the present era. For all practical purposes, the legislatures in these countries did not begin to build their capacity for performing the core functions of the legislature until well after the transition to democracy in the early and mid-1990s. Compared to the legislatures in Anglophone Africa, they started "from scratch." It is therefore not surprising that the most-developed legislatures in Africa today appear to be concentrated in Anglophone Africa.

The Era of Neopatrimonial Rule

For a quarter century, from the second half of the 1960s through the late 1980s, Africa was not a hospitable place for democracy or legislatures. The nascent legislatures that emerged at independence were weak and soon swept aside or made weaker by the broader currents of African politics. This period became known as the era of neopatrimonial rule (Bratton and van de Walle 1997),[5] because nearly all African countries became ruled by a single leader who relied heavily on the distribution of patronage in the form of appointments to government positions and the distribution of rents to maintain themselves in office. Neopatrimonial leaders, or "big men" as they were popularly known, distributed

patronage liberally to loyal subordinates, who in turn passed on a portion of their privileges to ensure the continued loyalty of their own clients and their clients' clients down the line. The opportunity "to eat" became the common description of the practice in what Jean-François Bayart called the "politics of the belly" (Bayart 1993) and Richard Joseph described as "prebendal rule" (Joseph 1987). A hierarchical web of patron-client relationships was the defining structure of these systems, as was the use of repression to remove those who would not play by neopatrimonial rules.

Neopatrimonial systems manifest themselves in both military (e.g., Idi Amin in Uganda, Sani Abacha in Nigeria) and civilian forms (e.g., Daniel arap Moi in Kenya, Paul Biya in Cameroon) or in combinations of the two (e.g., Mobutu in the former Zaire). Beginning in the mid-1960s, a spate of military coups pushed civilian governments aside and with them the legislatures in approximately half of the countries in sub-Saharan Africa. Although some countries such as Ghana made periodic efforts to return to civilian rule, the military ruled throughout most of this period. In the case of Nigeria, the country remained under military rule from 1966 until 1999 except for a brief interlude of four years in the 1970s when civilian rule including the legislature was restored.

The pattern in the remaining half of the continent was different and left a mixed legacy—ever weaker legislatures, but a continuity of legislative practice. For example, despite the onset of one-party rule in Kenya, Tanzania, and Zambia, the National Assembly continued to function in all three countries without interruption. Parliamentary elections for seats in the assembly were held at regular intervals every five years, and there was a modicum of competition similar to that in US primary elections—that is, there was a genuine contest between two or more candidates albeit only from the ruling party. These elections often resulted in a turnover of as many as half or more of all MPs, but never in the defeat of the regime.

The focus of these elections was purposely local. Leaders of the one-party states, including Jomo Kenyatta in Kenya and, to a lesser extent, Julius Nyerere in Tanzania, wanted to divert attention away from the national government yet use elections as a mechanism for legitimizing their regime. They urged MPs to focus their attention on the development of their constituencies rather than to deliberate or amend legislation proposed by the executive branch, or to propose legislation on their own. They likewise urged the public to evaluate their representative's performance in the same terms. In this setting, voters needed little encouragement to focus first on whether their MP regularly visited his/her district and brought home "pork-barrel" projects from the center (Barkan 1979).

The result was that parliamentary elections became effective mechanisms for holding MPs accountable for a narrow set of tasks, but did not hold regimes accountable for their overall performance. Elections became referendums on incumbents' ability to service their districts, but distorted the basis on which the legislature, as an institution, was held accountable for the performance of

its four core functions. Time spent on constituency service meant less or little time spent on legislating and oversight.

A final but important incentive that oriented MPs to emphasize constituency service at the expense of legislating and oversight was the fact that they were poorly paid. Salaries for legislators were never high, with the result that MPs who were not appointed to positions in the cabinet or as deputy ministers, that is, "backbenchers," had a very difficult time paying for their living expenses in the capital city while the legislature was in session. More important, they had a difficult time paying for the cost of visiting their constituencies on weekends. Such visits were costly not only in terms of the required travel, but mainly because MPs were expected to provide favors and cash assistance to individual constituents while back home. MPs were typically "greeted" by long lines of constituents outside their homes hours after their return seeking help to pay their children's school fees, hospital bills, and so on.

Without such visits back to one's district, however, the prospects for reelection amongst backbenchers were low. Sixty-five to 80 percent of backbenchers were typically defeated in their bids for reelection (Barkan 1984). Poor pay thus meant that many backbenchers became heavily dependent on the presidential handouts or on other benefactors for their political survival. For example, in Kenya, during the presidency of Daniel arap Moi, MPs were encouraged to stop by the office of the president on Friday afternoons or make contact with an emissary of Moi to pick up a paper bag filled with cash so that they could travel back to their districts over the weekend. Such handouts in combination with poor pay made MPs increasingly compliant vis-à-vis Moi, and both practices were continued for that purpose. MPs were reluctant to criticize the president, or to oppose or amend legislation he or senior members of his government introduced in the National Assembly, or to exercise oversight of the executive branch. Others sang his praises in the hope that they would be appointed a minister or deputy minister in the next cabinet reshuffle and gain access to the perks of office.

This dual system of patronage—of appointing up to a third or more of all MPs to become ministers and deputy ministers, and keeping backbenchers compliant through the combination of poor pay and cash handouts—became the hallmark of neopatrimonial rule across Africa. The result was a vicious cycle of legislative dependence on the executive that few legislators could challenge. That said, the dual system of patronage ultimately unraveled, because the costs for maintaining it escalated while the resources available for doing so declined. By the end of the 1980s, neopatrimonial leaders came under increasing pressure to bring ever-larger numbers of MPs into the executive with the attendant costs that this entailed. In the period immediately after independence, the number of ministerial departments in a typical African government was no more than in a typical Western democracy—between a dozen and a

dozen and a half. By the end of the 1980s, it had climbed to the low to mid-twenties, and by the end of the 1990s, it had risen still higher. Every time the number of ministries was increased, the pressure to do so again increased by those left out of the spoils. The official "sticker" costs of these positions—for example, the published salaries and benefits for individual ministers and deputy ministers, housing, and other specified allowances—were not the problem. Rather, it was the informal license to loot as granted by the head of state that posed the real cost: government ministries became riddled with corruption, because ministers and their deputies were encouraged to take whatever was necessary to maintain their respective clienteles.

The license to loot gave rise to a series of neopatrimonial "kleptocracies" of which Moi's Kenya and Mobutu's Zaire are the best-known examples—systems of governance based on patronage and theft that undermined the capacity of most African states to perform their basic functions, including the management of the economy, the collection of revenues, the delivery of social services, and the maintenance of law and order and defense. In the process, the economies of most African countries collapsed. By the end of the 1980s, per capita income in many countries actually declined as the dual system of patronage had become a system of "inflationary patronage" that bankrupted the state and necessitated the printing of money. As their resources dwindled, neopatrimonial rulers like Moi and Mobutu resorted increasingly to repression in addition to patronage to maintain their regimes.

In the process, African legislatures suffered by becoming little more than agglomerations of individuals whose principal activity was constituency service and the search for political survival. They existed in name only, unable to perform any of the core functions, particularly *legislating in the broad sense* and *oversight* that required collective action on the part of its members. As the economy declined, MPs and backbenchers in particular also became increasingly unable to engage in constituency service, because they could no longer serve as conduits for the extraction of government resources and/or services back to their districts. The high turnover of MPs from one election to the next further eroded the capacity of the legislature to perform its core functions.

The Return of Multiparty and Competitive Politics

The return of multiparty politics in the early 1990s stopped the downward spiral of conditions that had undermined African legislatures for a quarter century. It did not, however, result in an immediate rebirth of the legislature in most countries. Although the "Third Wave" of democratization swept across most of Africa at the beginning of the decade, the extent of the process was highly varied and remains so today. As Michael Bratton and Nicolas van de Walle documented in detail in their comparative study of democratic transitions in

Africa, the Third Wave was triggered by widespread public dissatisfaction with declining economic conditions and the mode of governance that produced that decline (Bratton and van de Walle 1997). This dissatisfaction manifested itself primarily through protests by selected elements of civil society that were no longer cowed by the threat of repression by authoritarian leaders determined to retain power. Civil society leaders demanded a transition to democratic rule beginning with the relegalization of multiparty politics, free and fair competitive elections, and accountable government that they hoped would result in the improvement of the economy. Authoritarian incumbents, by contrast, sought to maintain the status quo, and the battle—in many instances a protracted struggle—was joined. Not surprisingly, they resisted any effort to expand the legislative authority.

The result, by the mid-1990s, was a swift return to multiparty politics and the holding of multiparty elections in all but a handful of countries. Beginning with Benin in 1990 and Zambia in 1991, one African country after another amended their constitutions to permit the registration of opposition parties and the return of multiparty politics. Elections followed within a few months, but after the historic elections in Benin and Zambia where the incumbent authoritarian regime was forced out of office, the outcomes were decidedly mixed. By the end of the first round of multiparty elections in 1994, neopatrimonial leaders retained power in roughly half of the countries where multiparty elections had been held. In some countries, such as Ethiopia, Uganda, Rwanda, and the Democratic Republic of Congo, the process was limited. In these countries the authoritarian regime was displaced by a guerrilla insurgency, which later attempted to legitimize itself through multiparty elections, or, in the case of Uganda, competitive elections within the framework of a "no-party" system. In all of these latter cases, the progress toward democracy was more limited.

These mixed results continued through the end of the second round of multiparty elections held in the middle to late 1990s (Bratton 1998). Some additional advances in the levels of democratization occurred as a result of the third and fourth rounds of elections (Lindberg 2006), when a number of African presidents who had hung on to office in the first and second rounds of elections, including Jerry Rawlings in Ghana and Moi in Kenya, were forced to retire because of constitutional limits on the number of terms they could serve.[6] Some, such as Frederick Chiluba in Zambia, Bakili Muluzi in Malawi, and Olusegun Obasanjo in Nigeria tried but failed to overturn these bans. Others, including Yoweri Museveni in Uganda and Sam Nujoma in Namibia, succeeded and were reelected to a third or fourth term.

The impact of the return of multiparty politics on democratization and on the development of the legislature was thus decidedly ambiguous for the first ten years. As noted earlier, the extent of democratization varied greatly across the continent and remains so today. Whereas African regimes were relatively homogeneous from the mid-1960s to the end of the 1980s, the return of multiparty politics and the holding of multiparty elections in the early 1990s gave

rise to a broad range of regimes from semiauthoritarian states to liberal democracies. Similarly, the return of multiparty politics gave rise to a broad range of legislative types. Whereas the legislature had been a rubber stamp or ceased to exist, some of these bodies remained very weak, while others began to build their capacity to perform the core functions that define this institution after the return of multipartyism.

But as the case studies in this volume make clear, legislative development where it has occurred, and like democratization itself, has been a slow and tortuous process. Legislative development does not occur at the earliest stages of democratization, but later—five to ten years into the process. This delay is entirely logical and one would be naïve to expect faster development given the ambiguous results of the first round of African multiparty elections. More fundamentally, democratization, and especially the consolidation of democracy, depends on the establishment of an array of institutions of countervailing power that force horizontal and downward accountability upon the executive, of which the legislature is but one. Having discussed the demographic and historical contexts within which the process of legislative development takes place, we turn now to an examination of the process itself.

The Argument and Hypothesis

The argument presented in this volume is that although the legislature cannot emerge as a politically important institution in the absence of some minimum level of democratization, other variables explain its development into an institution that can perform all four of its defining functions, particularly those performed collectively and within the legislature. More fundamentally, the emergence of the legislature is the result of changing the structure of incentives faced by individual legislators and is best understood from this perspective. As discussed earlier in this chapter, the demographic features of African society combined with the constitutional legacy of the colonial period created a structure of incentives that encouraged the rise of patron-client politics culminating in neopatrimonial regimes. The legislature was extremely weak in these regimes, because the structure of incentives (and disincentives) forced MPs to devote a disproportionate amount of their time to constituency service. These included very low salaries for MPs and insufficient professional staff to sustain modern legislative practice, especially a system of portfolio committees.

Of these three sets of factors, the first two, that is, the demographic and the constitutional, are the most difficult to change, though it is possible to rewrite the rules that have retarded the development of the legislature. It is also possible to change the terms of service for members. These possibilities, however, beg the question of how and under what conditions the structure of incentives facing MPs can be changed. The answer, for want of a better label, is when *a coalition for change* emerges within the legislature that is intent on changing

these incentives. But this answer in turn begs the answer to a second question: What does a "coalition of change" consist of and what explains its emergence?

Coalitions for change are usually informal groups of legislators who are dissatisfied with the status quo, though not all members of these coalitions agree on all aspects of what needs to be changed to enhance legislative authority. These coalitions consist of both "reformers" and "opportunists." The two groups are distinguished from each other by the extent to which they support, oppose, or remain neutral on the goal of transforming the legislature into an institution that performs all four of its core functions well. "Reformers" are exactly what the name implies—members of the legislature who are intent on transforming their institution from a weak rubber stamp of the executive into a modern autonomous legislature. By contrast, "opportunists" are members who are primarily interested in improving their own terms of service, especially a raise in salary and other perks that sustain their political careers. They are less interested, though not opposed to, improving the institutional performance of the legislature, but the changes they do support are often essential for improved performance. In a typical "coalition for change," reformers are usually outnumbered by "opportunists" for obvious reasons: The latter represent the lowest common denominator for changes that buttress reform.

Opportunists' participation in coalitions for change, however, is crucial to the passage of major reforms. For example, because improvements in legislators' salaries, travel allowances, and other perks are often resisted by the executive branch, such changes are dependent on the passage of a constitutional amendment and/or other enabling legislation to formally delink the legislature from the executive branch. Once that is accomplished, as it was in Kenya in 2000, the legislature can set its own annual budget and recruit and deploy its own staff. Such legislation is also necessary before the legislature can expand and professionalize its staff to the point that it can effectively support and sustain a modern system of portfolio committees.

Both "reformers" and "opportunists" might therefore join in a coalition to pass the required enabling legislation, though their respective motivations for doing so are not the same. The same is true with respect to changing the internal procedures of the legislature, for example, its Standing Orders or Règlement Intérieur. Reformers view such changes, including the enactment of provisions to establish a system of departmental committees, as the key to reform, while opportunists support them more out of self-interest.

Finally, as the discussions in the chapters that follow reveal, the presence in the legislature of even a small group of reformers, as few as 5 to 10 percent of all MPs, is usually sufficient to bring in a much larger group of opportunists to support (but rarely initiate) a broader reform agenda. The experiences of the six legislatures considered in this volume suggest that (1) the size of these coalitions and the balance of their membership between reformers and opportunists vary greatly from one legislature to the next. The extent to which these legislatures

have developed their capacity to perform the core functions is a direct function of the presence, power, and composition of these coalitions. (2) The size and composition of these coalitions within any given legislature where they have achieved reforms also varies over time. The coalitions are largest, and enjoy the greatest participation by opportunists, during the early stages of reform and during the second and third terms of these legislatures when the struggle for reform gets under way.

Because opportunists join coalitions for change to enhance their terms of service, and because improvements in the terms of service for members is necessary if they are to engage collectively in activities beyond constituency service, reformers and opportunists need each other at the outset of the reform process. However, as time passes and the reform agenda shifts toward more ambitious and complicated goals such as the establishment of a viable system of departmental committees or the revision of the internal rules of procedure, opportunists drop away. The coalition for change is gradually reduced to a hard core of committed reformers, many of whom lose their seats in the next election because they have a tendency to neglect the demands for constituency service in their districts. Reformers are also targeted for political extinction by executives who rightly regard reformers as legislators who are seeking to contain or reduce the authority of the executive. Presidents and senior strategists for ruling parties often seek to defeat reformers in the next election by denying them the party's nomination for reelection, or by liberally financing their opponents if they are members of opposition parties.

The Third Wave of democratization that swept the continent from the early to mid-1990s changed the opportunities for parliamentarians seeking to reform the legislatures to which they were elected. Multiparty elections accelerated the turnover of members and brought in new members willing to challenge the executive for the first time. The arrival of a new, younger and more professionally trained generation of political activists reinforced this willingness to challenge the executive. This was particularly true in countries where civil society is large and robust, as in Kenya, a condition that was itself a function of that country's high level of urbanization and the commercialization of selected rural areas.

Following the second and third rounds of multiparty elections in the late 1990s, civil society also began to expect more from parliament as a mechanism for holding the executive accountable to the public. In some countries, civil society organizations organized workshops and other events that brought civil society and parliamentarians together for the first time. The purpose of these workshops was to inform MPs about diverse issues, including the national budget, the concerns of women, HIV/AIDS, commercial farmers, and other interests, and to encourage parliamentarians to make greater efforts to strengthen their institution. In some instances, nongovernmental organizations (NGOs) offered to assist MPs in capacity-building initiatives. Members who participated

in these sessions often formed the nucleus of what later became the coalition for change in their legislature.

The emergence of coalitions for change within a parliament may or may not be affected by the relative size of the ruling and opposition parties. Where the ruling party holds a very large majority, as in South Africa, the prospects for legislative reform are more limited than where the ruling party and opposition approach parity in terms of the number of seats each holds in the legislature. Parity alone, however, may or may not contribute to the emergence of a coalition for change. In some instances such as Kenya, it does. In others, such as Ghana, it has not. Perhaps more important are the changes in party cohesion. Where there is a decline of cohesion among members of the ruling party coupled with rising cohesion among the opposition, cross-party alliances are likely to emerge to strengthen the legislature. Coalitions for change were frequently coalitions of backbenchers from both the ruling and opposition parties. This was the pattern in Kenya during the last term of the Moi presidency (1997–2002). A variation of this pattern also occurred in Uganda, where MPs who were both supporters and opponents of President Museveni, albeit within the National Revolutionary Movement, joined together to strengthen the National Assembly before the return to multiparty politics in that country.

Where these conditions were present, members sought first to improve their own terms of service, including significant increases in salary and support for constituency service. Where improvements in salaries and support for constituency service were obtained, the coalitions for change sometimes increased in size. Most important, the members of these coalitions eventually turned their attention to "capacity building" within the legislature, particularly the development of the committee system, the cornerstone of the modern legislature and essential for performing the core functions of the legislature.

Other efforts included the transformation of the role of the chief presiding officer (e.g., the Speaker), a pivotal actor who was usually an agent of the executive during the era of neopatrimonial rule and often continued in this role during the first decade following the return of multiparty politics. Rather than leading the effort to rejuvenate the legislature, the Speakers in some legislatures including Kenya and Tanzania sought to limit the pace of reform. In Uganda and Ghana, as discussed in Chapters 3 and 5, different Speakers advanced and retarded the development of the legislature. In these cases, and in South Africa, the Speaker periodically shielded the executive from legislative scrutiny (February 2005).

Still other efforts included the professionalization of the legislature's staff, especially the strengthening of committee and research staff and the establishment of a parliamentary budget office. Coalitions for change also passed constitutional amendments and other enabling legislation (including changes in the legislature's internal rules of procedure) to shift power from the executive to the legislature. To summarize, while the specific package of reforms advocated by

coalitions for change varied from one country to the next, the overall thrust of these efforts was clear—to increase the power and autonomy of the legislature, generally and especially vis-à-vis the executive branch, and to build the capacity of the legislature to the point where it could perform all four of its core functions, especially those performed on a collective basis.

Although the contributors to this volume argue that the extent and presence of a coalition for change is what explains the level of development in the six legislatures considered in this study, it should be acknowledged that this argument was arrived at post hoc. It was *not* the starting hypothesis that guided our inquiries in the field for the simple reason that the initial round of in-country research was an open-ended exploration to determine what African legislatures looked like a decade after the return to multiparty politics (or, in the case of Uganda, nonpartisan competitive politics). In the absence of a significant literature on African legislatures, save for a small handful of isolated studies noted above, there was little knowledge about how African legislatures were performing in the multiparty era prior to the research for this study. Put simply, the contributors to this volume started nearly "from scratch." This hypothesis, however, and especially the role played by "reformers," was considered more systematically in follow-up research in Ghana and Kenya and during the research in Nigeria, South Africa, and Uganda. The principal argument nevertheless remains a hypothesis that requires further testing through additional research in more countries.

One limitation of this inquiry is its case study approach. Although the "thick descriptions" of legislative practice in the six countries have provided a level of understanding unmatched by previous explorations of the subject, our main argument, and the evidence on which it is based, rests on more variables than cases. This is the classic dilemma inherent in the comparative case study method. While it yields a rich narrative of the dependent variable—the development of African legislatures after the return of multiparty politics—it does not permit a rigorous multivariate analysis of the independent variables identified in the narrative. Such an exercise, including quantitative measures of the dependent and independent variables, was beyond the scope and resources of the studies reported in this volume. The formulation of an appropriate research design for such a study, however, is impossible without a prior descriptive understanding of what the phenomenon to be researched and explained entails. The research reported in the chapters that follow should be viewed as laying the necessary groundwork for more ambitious efforts, a discussion of which concludes this volume.

The Countries Considered in This Volume

Of the six countries considered in this volume, four—Benin, Ghana, Kenya, and South Africa—are usually viewed as among those that have advanced the

farthest with respect to democratization in Africa. All four have experienced a change of government via elections regarded by international and domestic observers as "free and fair," though in the case of South Africa, this did not involve a change of the party in power. Three of the four, Benin, Ghana, and South Africa, regularly receive high marks from Freedom House, which annually assesses the level of democracy in all countries by assigning them scores on two indexes—one for political rights and the other for civil liberties. The three have consistently been coded 1 or 2 on both scales, while the fourth, Kenya, has received 3s.[7] However, the extent to which the legislatures in the four countries perform the core functions that define modern legislatures varies greatly. As discussed in Chapter 2, the Kenya National Assembly is arguably the most developed and powerful of the group with respect to the performance of these functions, while the national legislatures in Ghana and particularly Benin are comparatively weak.

The performance of the legislature has also been much better than expected in two countries included in this study that have made less progress toward democratization. Nigeria has struggled to maintain democratic rule, and its 2007 elections were deeply flawed. Elections in Uganda in 2001 and 2006 were also flawed, and President Museveni's mode of governance increasingly resembles Africa's neopatrimonial regimes of the 1980s. For these reasons, Nigeria and Uganda regularly score below Benin, Ghana, Kenya, and South Africa on the Freedom House scales. From 2003 through 2007, Nigeria received 4s on both scales, while Uganda received 5s on the political rights scale and 4s on the civil liberties scale. Both countries are classified as only "partly free."

Notwithstanding these assessments, the legislatures in both countries have asserted themselves, although at different points following the resumption of competitive politics and the end of military rule. In Uganda, the members of the legislature achieved some notable successes in transforming their institution into a semiautonomous basis of political authority, though that authority has declined in recent years. In Nigeria, the Senate asserted itself late in its term in 2006 by blocking former president Olusegun Obasanjo's attempt to amend the Nigerian constitution to permit him to run for a third term. Since then, both houses of the legislature have become increasingly engaged in their oversight of the executive branch.

As noted at the beginning of this introductory chapter, the relationship between the extent of democratization and the capacity and power of the legislature in the six countries is modest at best.[8] While the development of the legislature would be impossible without the return of elected government on the basis of multiparty politics or competitive politics on a nonpartisan basis, these developments alone do not explain the emergence of the legislature in African democracies.[9]

That said, the six countries included in our study range from those labeled as "semiauthoritarian" (Ottaway 2003) or "competitive authoritarian" (Levitsky

and Way 2002; Schedler 2006) to those considered to be "liberal democracies" or on the cusp of democratic consolidation. Their Freedom House scores run from a low of 5 on the political rights scale and 4 on the civil liberties scale to highs of 1s and 2s. As a group, the six reflect the significant variation in the levels of democratization present in thirty-four of Africa's forty-eight countries—all except those that are either failed states or states mired in despotic rule, those scoring 6 and 7 on the Freedom House scales and classified as "not free." The full array of African regimes including our sample of six is presented in Table 1.1. No claim is made that our sample is randomly drawn. Indeed, four of the cases investigated for this study were purposely drawn from the most democratic states on the continent.[10] However, our inquiry to address the research questions posed earlier in this chapter considers the legislative experience across the full range of African polities within which the emergence of the legislature is likely to occur.

Method and Approach

Given the paucity of literature, it was determined that the best method of inquiry was to conduct a series of intensive interviews with key informants, both inside and outside the legislature. Two to three dozen members of the national legislature were therefore interviewed in each country, except Nigeria. While efforts were made to interview a representative sample of all members in respect to party affiliation, region, ethnicity, and gender, the sample always included the presiding officer, the chair of the finance committee (if there was one), as well as the chairs and members of at least three committees concerned with the delivery of social services (e.g., education and health) or agriculture. Members of the key oversight committees, such as the Public Accounts Committee or its equivalent, were also included in the sample. Interviews with members were supplemented by interviews with senior legislative staff including the Clerk or equivalent, and with the leaders of prominent civil society organizations and interest groups concerned with parliament. The organizations selected were usually those active in democracy promotion or in lobbying the legislature and the executive to further their agendas.

The interviews obtained for this study were structured yet "open-ended" conversations that covered a list of specified topics but did not involve the use of a questionnaire with a long series of "closed-ended" questions with precoded response categories. The choice of a qualitative and narrative approach was dictated by the exploratory nature of the study as well as past experience interviewing political elites across Africa. Most interviews took between an hour and an hour and a half to complete.

The interviews in each country were conducted mainly by the contributors to this volume, supplemented in some cases by interviews conducted by

Table 1.1 Classification of African Regimes, 2008

Liberal Democracy	Aspiring Democracy	Ambiguous	Competitive Authoritarian	Electoral Authoritarian	Politically Closed
Benin (2,2)	Kenya (4,3)	Comoros (4,4)	Burkina Faso (5,3)	Angola (6,5)	Chad (7,6)
Botswana (2,2)	Lesotho (2,3)	Guinea-Bissau (4,4)	Burundi (4,5)	Cameroon (6,6)	Equatorial Guinea (7,7)
Cape Verde (1,1)	Liberia (3,4)	Malawi (4,4)	Central African Republic (5,5)	Congo, Democratic Republic (6,6)	Eritrea (7,6)
Ghana (1,2)	Madagascar (4,3)	Nigeria (5,4)	Djibouti (5,5)	Congo, People's Republic (6,5)	Somalia (7,7)
Mauritius (1,2)	Mali (2,3)		Ethiopia (5,5)	Côte d'Ivoire (6,5)	Sudan (7,7)
Namibia (2,2)	Mozambique (3.3)		Gabon (6,4)	Guinea (7,5)	Zimbabwe (7,6)
São Tomé and Príncipe (2,2)	Niger (3,4)		Gambia (5,4)	Mauritania (6,4)	
South Africa (2,2)	Senegal (3,3) Seychelles (3,3) Sierra Leone (3,3) Tanzania (4,3) Zambia (3,3)		Togo (5,5) Uganda (5,4)	Rwanda (6,5) Swaziland (7,5)	

Source: Freedom House, *Freedom in the World 2009.* This table updates one originally constructed by Larry Diamond in 2005.

Note: The numbers within parentheses are the political rights (PR) score and the civil liberties (CL) score for each country. The first number is the country's PR score; the second is its CL score. Scales run from 7 to 1, where countries scored as 1 are the most democratic, and countries scored as 7 are the least democratic.

knowledgeable local research associates engaged for this purpose, including three of the coauthors. The interviews were supplemented by the collection of a variety of relevant documents. These included the constitutions of the countries included in the study, the Standing Orders or equivalent rules of procedure specifying the internal organization and operations of the legislature, plus other legislation that facilitated or impacted the development of the institution. This included special enabling legislation to enhance the power and capacity of the legislature, for example, the establishment of a parliamentary service commission or parliamentary budget office. Field research in each country usually took between two and four months to complete.

While the interviews conducted in each country were with members of the current legislature at the time the interviews took place, each case study embraces the entire period beginning with the return of multiparty politics, or, in the case of Uganda, since the return of competitive politics to the present—from the early 1990s through 2007. During this period, each of the six countries elected a succession of between two and four distinct "parliaments" to serve terms of four or five years each. MPs and other knowledgeable actors interviewed for each case study were therefore asked several questions about the evolution of the legislature in their country since the beginning of this period, and asked to compare the practice of the current parliament of which they were members to its predecessors. Thus, while the legislatures in each country are the unit of analysis for this inquiry, that unit is discussed in terms of the succession of several discrete "legislatures" that functioned differently because of the high turnover of members, and the changing politics in the six countries.

The need to discuss the development of each legislature over a succession of legislative terms, however, posed a problem of nomenclature. While we are interested in explaining the distinctions between the first and most recently elected legislature, not all of the countries included in this study officially numbered its legislature from the return of multiparty politics onward. Benin, Ghana, and Nigeria adopted this practice, but Kenya and Uganda continue to number their legislatures from independence in the 1960s. We therefore refer to each cohort of legislators who were elected at the same time by the official name of the legislature in their country followed by dates of that legislative term (e.g., Kenya's Ninth Parliament, 2003–2007). To help the reader understand the equivalent order of each of these legislatures across all six countries, we have listed the terms for each parliament in Table 1.2.

A second terminological issue is that of finding a set of equivalent names for the different types of committees that comprise the committee systems in the legislatures considered in this volume, because the names vary from one legislature to the next. We therefore use the term *standing, housekeeping,* or *procedural* to refer to those committees whose principal function is to facilitate the day-to-day business of the legislature. These would include committees that have a direct impact on the proceedings such as the House Business

Table 1.2 Nomenclature of Parliamentary Terms by Country

Sequence of Legislatures After Relegalization of Multiparty and/or Competitive Politics	Official Constitutional Name of Legislative Term					
	Benin	Ghana	Kenya	Nigeria	South Africa	Uganda
1st	First Legislature (1991–1995)	First Parliament (1993–1996)	Seventh Parliament (1993–1997)	First Assembly (1999–2003)	First Parliament (1994–1999)	Sixth Parliament (1996–2001)
2nd	Second Legislature (1995–1999)	Second Parliament (1997–2000)	Eighth Parliament (1998–2002)	Second Assembly (2003–2007)	Second Parliament (1999–2004)	Seventh Parliament (2001–2006)
3rd	Third Legislature (1999–2003)	Third Parliament (2001–2004)	Ninth Parliament (2003–2007)	Third Assembly (2007–2011)	Third Parliament (2004–2009)	Eighth Parliament (2006–2011)
4th	Fourth Legislature (2003–2007)	Fourth Parliament (2005–2008)	Tenth Parliament (2008–2012)			

Committee, or the Committee on Standing Orders, or the Committee on Committees. These would also include committees that have an indirect impact on proceedings, such as the catering committee, library committee, and so on. The distinctive feature of these committees is that the specific issues with which they deal affect all members of the legislature.

By contrast, *departmental* or *portfolio* committees are those committees whose work is restricted to some set of substantively defined issues, and which are also expected to shadow the corresponding ministry or department in the executive branch. Departmental and portfolio committees facilitate a division of labor amongst members and are essential if the legislature is to perform its core functions well. A third type of committee is the *oversight* committee, which deals explicitly with scrutinizing the operations of the executive branch, for example, the Public Accounts Committee in former British colonies. Oversight committees are specifically charged with the task of determining whether funds allocated for a particular purpose were spent as intended. Departmental or portfolio committees also engage in oversight periodically, but do so mainly for the purpose of crafting new legislation or amending existing laws.

Cutting across the varying functions different types of committees perform is the distinction of whether a committee is a *permanent, sessional,* or *select* committee. Permanent committees are exactly what the name implies: they are appointed at the beginning of the parliamentary term, and last over a period of years until a new legislature is elected at the next election. Permanent committees are also reappointed when the legislature is reorganized at the beginning of a new legislative term. By contrast, sessional committees are committees whose members serve for only one session of the legislature, usually for one year, after which the committee is reappointed with a new membership. Select committees are committees that are created for some special purpose, usually to investigate a single issue, and which continue to function for a limited time until the committee tenders its report on how the issue in question might be resolved. Select committees may function for part of or more than one session of the legislature.

The contributors to this volume were asked to address a common set of topics and questions when writing their chapters, recognizing from the outset that not all of the six cases are alike. We therefore explore the political and constitutional context within which each legislature has evolved, beginning in the period immediately before the return of multiparty politics in the early 1990s, or, in the case of Uganda, in the period prior to the return of competitive politics. We then discuss the internal operations of the legislature, to assess the extent to which each one performs the four core functions that define the legislative process, particularly those functions that are performed on a collective basis, and how and why individual MPs devote varying effort to each. The varying pressures on MPs to devote time to constituency service and how they respond to these pressures is also discussed.

Because the establishment of a system of departmental and oversight committees supported by competent staff is essential if the legislature is to perform its core functions, each chapter devotes some space to this important aspect of capacity building and seeks to explain why the process unfolded as it did. The consideration of important legislation by some committees is also examined where it illustrates a broader point about the legislative process. The structure and impact of political parties is considered, though it should be noted that none of our contributors was able to conduct roll-call analyses to assess the extent of party cohesion, because few records, if any, are kept on the vote of members from different parties on proposed legislation. Finally, we assess the nature and agenda of a "coalition for change" or relevant group of "reformers," where such exists, and explain how and why the group came into being.

Because only two of the six countries, Nigeria and South Africa, have a bicameral legislature, the analyses presented in this volume are limited mainly to a discussion of the national assembly or to the lower house. The exception to this rule is Nigeria, where both chambers, the House of Representatives and the Senate, wield equal power and have sought to expand their authority in recent years. Beyond these broad guidelines, each contributor was free to pursue his or her case study as he or she deemed appropriate. No standardized template was imposed.

The Order of Analysis

Because the Kenya National Assembly is arguably the most developed legislature of the six considered in this volume, Joel D. Barkan and Fred Matiangi begin the discussion with a consideration of the Kenya case. Their examination chronicles the tortuous process of legislative development in that country, starting with how former president Daniel arap Moi tried to block the emergence of parliament during the first years of multiparty politics, but lost control over the process seven years later. The Kenyan case illustrates how and under what conditions a well-led and motivated coalition for change can emerge to alter the balance of power between the executive and legislative branch and jump-start the development of the latter.

Chapter 3, coauthored by Nelson Kasfir and Stephen Hippo Twebaze, considers the unique yet highly informative experience of Uganda. The literature on the development of legislatures in the West typically argues that legislative development is a function of the emergence of well-defined and disciplined issue-based political parties (e.g., Loewenberg and Patterson 1979, 125–140; Olson 1994, chapter 3). Kasfir and Twebaze challenge this conventional wisdom by demonstrating that the Uganda National Assembly developed the most during the period when Uganda was constitutionally a no-party state than when it became a multiparty system. Indeed, they argue that the absence of parties

was an important factor in the success of the coalition for change in the Ugandan parliament. The pace of legislative development "ebbed" once the country formally relegalized multiparty politics and the boundaries between government and opposition were more firmly drawn.

Chapters 4 on Benin coauthored by Ladipo Ademolekun and Mouftaou Laleye and Chapter 5 on Ghana coauthored by Staffan I. Lindberg and Yongmei Zhou consider two cases, one Francophone and one Anglophone, where the pace and extent of legislative development has lagged behind the extent of democratization overall. Although both countries have experienced a double alternation of power through the ballot box, and although the balance of power between government and opposition has at times been nearly equal, neither has given rise to a robust coalition for change within its respective legislature. The reasons for this appear to be starkly different in the two countries. In Benin, the failure of the National Assembly to incubate a coalition for change appears to be a function of the fact that the party system in that country is highly fragmented and weak—the opposite of the Ugandan experience. In Ghana, the near parity in the number of seats held by the governing party and the opposition in the legislature resulted in President John Kufuor resisting any meaningful attempt to cede power to the legislature or encourage its development. In a manner similar to Museveni in Uganda, Kufuor fell back on the use of patronage to thwart the development of the legislature as the lines between government and opposition became more sharply drawn.

Chapter 6 authored by Peter M. Lewis considers an important but nonetheless relative latecomer among African legislatures—the Nigerian House of Representatives and the Senate. In a country still dominated by neopatrimonial politics and the scramble for rents financed by oil, Nigeria's record at democratization is arguably the weakest—together with Uganda—of our group of six countries. Similarly, its legislature, like those of its counterparts, made little effort to build capacity during the first four-year term of democratic rule, nor during the early period of its second elected term following the restoration of democracy between 2003 and 2007. That situation changed, however, when the Senate blocked former president Olusegun Obasanjo's bid for a third term. Since then, and especially after the 2007 elections, the pattern of legislative development found in Kenya, and to a lesser extent in Uganda, appears to be taking hold in Nigeria. A group of reformers serious about transforming the legislature supplemented by opportunists out for their own gain has begun to emerge in that country.

Our series of case studies closes with Joel D. Barkan's discussion in Chapter 7 of South Africa, which is a unique case, yet one that illustrates many of the patterns found elsewhere on the continent. The South African National Assembly is the best resourced legislature in Africa, yet its development is retarded by a combination of three factors—the overwhelming dominance of the legislature by the African National Congress (ANC), which held 72 percent of the

seats in the Third Parliament; the political culture of the ANC, which has given rise to a party that is arguably more disciplined than any other in Africa; and the fact that the legislature is elected by party-list PR. A small but significant group of reformers seeks to strengthen the National Assembly vis-à-vis the executive, but until at least one of these three factors is changed, it is doubtful that they will succeed.

As readers consider these six cases, they should keep in mind the theme and variations suggested in this introductory discussion: that the development of African legislatures and their ability to perform the core functions of all legislatures turns on the structure of incentives facing the individual members of these bodies. These incentives can be altered when a group of reformers supplemented by others emerges to change their terms of service and engagement. Whether or not such a coalition for change emerges in any given legislature and how successful it is in pursuing its mission is a function of local conditions, including the formal and informal rules that structure the political process, the response by the executive, the quality of leadership within the legislature, the nature of the party system, and other factors. We shall revisit this theme and variations at the end of this volume to extract what generalizations we can as well as lessons learned from the cases that follow. We shall at that point shift gears and assess what our findings suggest for practitioners seeking to raise the performance of African legislatures and legislatures in emerging democracies generally.

Notes

1. Different analysts of the legislative process describe the core functions common to all legislatures in somewhat different but overlapping ways. For example, Gerhard Loewenberg and Samuel Patterson identify the core functions of the legislature as "linkage," "recruitment" of legislative and executive leaders, and "conflict management" (Loewenberg and Patterson 1979, 43–67), but their discussion of linkage includes representation and constituency service, while their discussion of conflict management includes lawmaking and legislating in the broad sense. Strangely, oversight of the executive is omitted from their three principal functions but is then discussed at length later in their book. Similarly, David Olson, in his discussion of the attributes of legislatures (Olson 1994, chapter 1), lists "policy-making" and "representativeness," that legislatures are collectivities of many members with equal powers, who must balance constituency service against considerations of policy.

2. Following colloquial practice, we shall, throughout this volume, refer to members of the legislature as "members" or "MPs" whether or not their formal title is member of Parliament, member of the National Assembly, deputy, representative, or senator, and so on.

3. There is an informal expectation in African countries that use PR (e.g., Mozambique, Namibia, and South Africa) that MPs must devote some attention to interests that are defined by shared geographical residence. Indeed, as discussed in Chapter 7, South African MPs are provided with an official stipend to regularly visit a geographically

defined "district" in addition to representing that segment of the electorate that voted for the political party on whose list they were elected to the National Assembly.

4. I am indebted to Shaheen Mozaffar for this insight.

5. Michael Bratton and Nicolas van de Walle used the prefix "neo" to extend Max Weber's ideal type of patrimonial rule to late-twentieth-century Africa (Bratton and van de Walle 1997).

6. When amending their constitutions to relegalize multiparty politics in the early 1990s, three-fifths of all African countries enacted amendments limiting the number of presidential terms any one individual could serve to two. Incumbent authoritarian rulers including Daniel arap Moi in Kenya and Jerry Rawlings in Ghana used such amendments to hang onto power for two additional terms in the multiparty era, because the amendments did not come into force until the holding of the first multiparty election. A similar clause was written into the 1995 Constitution in Uganda where elections were held on a nonpartisan basis, but it did not come into force until after President Yoweri Museveni had been in office for nine years. In other countries, including Zambia, Tanzania, and Nigeria, term limits were first applied to presidents who were elected in the first and subsequent rounds of multiparty elections held in their countries.

7. The Freedom House scales run from 7 to 1, where countries scored as 1 are the most democratic, and countries scored as 7 are the least democratic. This counterintuitive scoring system means that the lower the score, the higher the level of democracy in the country so ranked.

8. Because our study is limited to only six countries it is impossible to conduct a statistically valid correlation between the level of democratization and the capacity and power of the legislature. Such a test would also require the development of a valid quantitative measure of legislative power, the components for which are suggested by this study.

9. It is also important to remember that the early development of legislatures historically, especially in Europe, was not a function of democratization, but rather the result of monarchs needing to accommodate nobles on whom they depended for revenues and defense.

10. The initial field investigations for this study were limited to countries that scored high on the Freedom House scales on the hypothesis that there was a direct relationship between a country's level of democratization and the extent to which its legislature had developed into an autonomous institution of countervailing power. Once that hypothesis proved false, the extension of the study was altered to include countries where the record at democratization was low, but not so low as to include states scoring 6 and 7 on the Freedom House scales.