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ON WHOSE BEHALF?

Legislative Representation and the Environment in Africa

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FOREWORD

In recent decades, many governments in Africa have ushered in sweeping political reforms. Africans have come to recognize that democracies deliver development and are pressing for more changes. Governments, once focused on consolidating and holding on to power, have begun to relinquish some control. Donor agencies supportive of representative democracy have decided that more progress is not only possible but necessary—and worth funding.

Despite these positive changes, however, public policies in Africa often fail to reflect the priority concerns of the electoral majority—those who live in rural areas. This disconnect highlights the need for government to be more representative and responsive to its citizenry. With meaningful authority over issues important to the rural poor still lying principally with central government, the quality of representation at the national level must be enhanced to improve the well-being of rural populations.

The role of the legislature in the democratization process and in ensuring good governance is getting more attention in Africa. As “the people’s house,” the legislature is the branch of government in which citizens’ interests are, in principle, transformed into law. This report—*On Whose Behalf?*—examines representation in Africa and presents the findings of new research on the performance of legislators. It highlights challenges that lawmakers face when representing their constituents and presents options for improving representation.

The authors look, in particular, at representation on environmental issues. In rural Africa, the environment—land, natural resources, ecosystem services—is an important source of household livelihoods and a vital constituent interest. As a result, nature provides a useful lens for understanding representation, and constitutes a potentially powerful lever for engaging citizens in government matters and strengthening democracy.

Rural livelihoods can be improved when legislators effectively represent the local environmental concerns of their constituents. With few exceptions, however, legislators in Africa do not consistently champion the interests of their constituents. On the occasions when lawmakers do make the effort, they are rarely effective. This report highlights several reasons for these failures. Legislators are not downwardly accountable to their electors, they are not sufficiently autonomous from political bosses, and they are not empowered with the authority needed to effectively address their constituents’ concerns.

On Whose Behalf? argues that realigning authority and changing the dynamics of power in three relationships—between the legislature and executive branch, between legislators and various political and economic elites, and between legislators and their constituents—will make representation effective. Donor assistance, however, has tended to focus on the technical capabilities of legislatures and the education of lawmakers. While important, strengthening legislatures by internal mechanisms alone will not improve representation, and can undermine democracy by legitimizing legislators who rubber-stamp executive branch decisions.

Increasingly, environmentalists and development professionals invest in democracy to advance their objectives. It’s now time for democracy proponents to recognize the instrumental utility of the environment to promote good governance. With the world focused on spreading democracy and reducing poverty, the time is right for all to come together in pursuit of common goals of good governance and sustainable development.



JONATHAN LASH

PRESIDENT
WORLD RESOURCES INSTITUTE



This report is dedicated to the memory of Vincent Shauri, who served as Executive Director of the Lawyers' Environmental Action Team (LEAT) in Dar es Salaam, Tanzania, from September 2003 until his untimely passing on 9 February 2006. In 1994, Vincent co-founded LEAT, Tanzania's first and only public interest environmental law organization. He was an outspoken advocate of environmental rights and

social justice in Tanzania and across Africa. For more than a decade, Vincent also worked with and supported many of the authors of this report. These individual relationships helped forge strong institutional partnerships which endure today. Vincent was also a good family man and a close personal friend and will be sorely missed. He was laid to rest at his birthplace in the foothills of Mt. Kilimanjaro on 13 February 2006.

EXECUTIVE SUMMARY

INTRODUCTION

In much of Africa, public policies and government actions do not always, and in some cases rarely, reflect the high priority concerns of rural people, who comprise about 65 percent of the continent's population. The common positions of the poor, rural majority and the specific needs of marginalized minorities are not systematically recognized or structurally incorporated into government decisions and public policy. Government policies and practices often favor the interests of small, powerful groups of political and economic elite.

This disconnect between national policies and majority interests highlights the need for government decision-making processes that are responsive and accountable to citizen views, and that make participation, representation, and other forms of inclusion common practice and effective. In much of Africa, communication and other links between the state and society are weak. Citizen and non-governmental organization (NGO) participation often has limited effect on public policies, and elected government officials frequently under- or mis-represent local needs. Despite sweeping political reforms in many African nations over the last two decades, meaningful authority over issues that matter most to poor, rural populations still lies with national governments, especially the president and cabinet. Across Africa, reforms to separate and decentralize powers have been weak and largely ineffective. As a result, the quality of representation at the national level bears directly on the social and economic wellbeing of rural constituents.

The legislature, as “the people’s house,” is the branch of government in which citizens’ interests are, in principle, brought into national decision-making processes and transformed into law. It is the point at which ordinary citizens most closely engage their national leaders. In

well-structured and functioning democratic systems, legislators are among the most important channels for bringing citizen concerns into national decision making. In this regard, the legislature is arguably the most promising of central government branches to advance the goal of effective representation and to ensure government is responsive to its citizenry.

Under new or reformed constitutions, many countries in Africa now have popularly elected national legislators who sit in newly empowered legislatures—national supreme lawmaking bodies. Constitutional arrangements and political circumstances vary widely across the continent, but representation is arguably the most basic function of legislators. Through its lawmaking and oversight authorities, the legislature is the central government’s main venue for articulating popular will in national decisions, and a principal bridge between citizens and national government. While a few African countries have a presidential political system, most have a parliamentary political system, but with a strong president and a weak or absent prime minister. In most nations the legislature is a single chamber—a parliament that consists of a National Assembly made up of elected representatives. Moreover, most countries are unitarian states; only a few nations are federal states with legislatures at the national and state level.

This report presents the findings of research on critical incentives and disincentives to legislative representation in Africa and provides a number of policy and program recommendations. Four critical aspects of representation are discussed in detail: *accountability* of legislators to their constituents, *autonomy* from political bosses and politics, *authority* and capacity to perform representation roles, and personal *attributes* of legislators. Legislative representation is examined from an environmental perspective. In

rural Africa, the environment—land, natural resources, ecosystem services—is an important source of household livelihoods and a vital constituent interest. As such, the environment provides a useful optic for observation and understanding governance, and a potentially powerful lever for engaging citizens in government matters, promoting systemic governance reforms, and strengthening democracy.

FINDINGS

Four principal findings emerge from this research.

Finding 1. Institutionalized incentives discourage legislators from performing their fundamental representation responsibilities. The laws, regulations, procedures, norms, and customs that establish the enabling environment and incentive structure for legislative representation vary across Africa, but their cumulative effects on legislators are similar. Strong incentives to advance executive branch and political party interests coupled with few inducements to pursue local matters, discourage lawmakers from performing their fundamental representation roles. Legislators are not downwardly accountable to their electors, sufficiently autonomous from political bosses and institutions, or empowered with the authorities and capacities needed to effectively address their constituents' concerns. Moreover, many do not possess the personal attributes, convictions, or motivations consistent with legislative representation in general and environmental representation in particular.

Many of the incentives that contradict representation are codified in law, institutionalized, and engrained in the culture of decision making. The result is that legislators do not routinely represent their constituents' concerns in parliament or in other important policy fora. They rarely use their lawmaking and oversight authorities to support their electorate, and when they do, their efforts are often ineffective at resolving local matters. In particular, legislators do not represent constituency matters that contradict the interests of the executive branch, their political party, or powerful local notables.

Finding 2. Local environmental issues are important livelihood matters for poor rural people, but for many legislators, the environment is a secondary concern. The rural poor in Africa have common environmental needs in support of basic subsistence and local livelihoods. Rural residents communicate with their legislators—either directly or indirectly through community-based

associations or national NGOs—when their access to land and critical natural resources is threatened or their means of translating environmental goods into wealth are jeopardized. Many lawmakers also hail from and maintain a home in their constituency, and have a general understanding of their voters' important needs. Still, few legislators consistently represent their constituents' pressing environmental issues.

Advocacy on local environmental issues can be problematic for lawmakers for many reasons. Some environmental matters are considered secondary concerns by many legislators, overshadowed by health, education, employment, infrastructure, and other more pressing needs. Many senior officials in the executive branch also consider such environmental matters to be moral luxuries, not policy priorities. Legislators who address these issues risk being marginalized by their peers in the legislature and the executive branch. Other environmental issues, such as security of land and access to natural resources can be politically charged and divisive. Legislators who address contentious environmental matters risk antagonizing their political bosses or other powerful elites with vested interests in the status quo.

Finding 3. Legislators can support the livelihoods of rural people by effectively representing local environmental matters. The links between representation, poverty, and the environment are complex. This research supports the theoretical basis of representation, the experiences of many development professionals, and the findings of other studies that local livelihood and wellbeing can be improved when legislators effectively represent the environmental concerns of their constituents. When lawmakers reform land laws to strengthen private property rights, poor people benefit from greater security in the land that supports their livelihoods. When legislators decentralize the management of natural resources, rural people can exercise more control over local resources. When lawmakers strengthen environmental impact assessment regulations, local people can better protect their land from potentially damaging government and corporate actions.

Securing the nature-based sources of livelihoods and other support to household economic activities can improve local wellbeing and reduce poverty. Giving rural people greater control over their land and natural resources can translate into new investments, higher incomes, and local development. As a result, effective environmental representation can support the conditions

for economic growth, new livelihood opportunities, improved wellbeing for rural families, and sound environmental management. Effective representation of local livelihoods can also support government policies and development initiatives designed to meet national objectives of poverty reduction and sustainable development.

Finding 4. Legislative representation of local environmental matters can nurture citizen involvement in political processes and strengthen democracy. This research supports the experiences from other parts of the world that environmental issues can provide a powerful impetus to mobilize rural people and engage citizens in government matters. Threats to local livelihoods and new opportunities to improve wellbeing can bring out a degree of political activism in community members. In this way, legislative representation around environmental themes can promote political reforms and strengthen democracy more broadly. Legislative representation around the environment can also invoke new rights, authorities, and procedures that prompt more systemic governance reforms and strengthen the institutions and proceedings of democracy.

Democratic reforms are most likely to succeed when they engage citizens and deliver on issues that matter to local people. The environment can provide a strong material and cultural motive for citizens to demand responsive government, and an important entry point for engaging with local and national interests. As sources of livelihood and wealth, and as objects of multiple overlapping claims, natural resources are the substance of social and political struggles. Environmental decision making are critical points of cooperation and conflict among various actors—citizens, NGOs, the private sector, and all branches and levels of government. The environment can provide a platform for citizens to organize around, a catalyst for the development of civil society, and an impetus for grassroots participation. As a result, environmental activism can be a powerful lever for promoting political reforms and can support the foundations of a vibrant democracy.

RECOMMENDATIONS

New investments are needed to transform Africa's legislatures into strong representative bodies. Realigning authority and changing the dynamics of power—especially between the legislature and executive branch, between legislators and their political party, between legislators and various political and economic elite, and between

legislators and their constituents—are central to making legislative representation common practice and effective. Improving the responsiveness of legislators to their constituents is not possible without addressing the exercise and limits of power that impinge on the constitutional accountabilities and authorities of the parliament. Investments that discount the influence of the broader political context in which parliaments are embedded and that treat legislatures as self-contained entities are unlikely to have much effect on the deeper incentive patterns, informal rules, and power principles that guide political life. Strengthening legislatures by internal mechanisms alone will not make legislative representation common or effective, and can undermine democracy by legitimizing parliaments' current roles in rubber-stamping executive branch decisions.

A mix of policy reforms, institutional support, and technical assistance is needed to strengthen legislative representation. Transferring authorities and reshaping power structures require fundamental changes in political systems and state institutions. Investments in actions that encourage and press governments to undertake these reforms can support and accelerate change. Two sets of recommendations—on policies and programs—are presented. Each set is organized into issues of accountability, autonomy, authority, and attributes.

Policy Recommendations. The policy recommendations are designed to overcome obstacles and create incentives for legislators to better represent their constituents' environmental interests. Most recommendations call for systemic governance changes and require constitutional or other legislative reforms.

Accountability

- Institutionalize electoral systems that establish strong links between legislators and their constituents
- Establish term lengths for legislators that provide voters with regular opportunities to hold lawmakers accountable through elections
- Provide citizens with recall and other authorities to enable them to hold legislators accountable for their decisions and actions between elections
- Repeal national security laws that restrict state-society communication and enact freedom of information acts that are consistent with open, transparent government

- Broaden political freedoms, civil liberties, and procedural rights to facilitate the participation of citizens and NGOs in government and legislative affairs

Autonomy

- Restrict the president's authority to appoint legislators to the parliament and ensure appropriate separation of powers between branches of central government
- Regulate and oversee the use of state and public resources, including revenues to limit their use for patronage purposes
- Formalize the process of presidential appointments and require that all appointees be confirmed by the parliament
- Allow independent candidates to compete for and hold office to limit the influence of political parties over their member legislators
- Repeal "anti-defection" laws in majoritarian electoral systems and enact new regulations that allow sitting lawmakers to switch political parties in mid-term
- Establish democratic decentralizations that make elected local leaders downwardly accountable to their voters and limit the influence of local notables over legislators
- Limit the formal public roles of traditional leaders—indigenous authorities interested in public service should be required to stand for election as individuals
- Regulate private funding of political parties, legislators, and campaigns to limit the influence of the private sector and special interests over legislators

Authority

- Limit executive branch and political party influence in the selection of legislative leaders (*e.g.*, speaker and committee leaders) to strengthen legislators' control over parliament
- Strengthen standing committees and other parliamentary institutions to enable them to effectively shadow line ministries and perform their functions
- Repeal laws that vest legislative powers in the president (except in genuine emergencies) and place all lawmaking authorities in the legislature, including over budget and financial matters
- Remove unnecessary restrictions on the use of private members' bills (PMBs) by legislators to enable lawmakers to draft PMBs in support of local matters

- Provide the legislature with the full force of the courts to call government officials to testify before parliament and to access government documents
- Empower legislatures with the authority to impose sanctions on government officials and institutions for poor performance, such as abuse of office and incompetence

Attributes

- Establish minimum standards and qualifications of legislators to ensure lawmakers have the experience and expertise to perform their functions
- Establish codes of conduct, disclosure laws, and other ethics regulations and rules to guide the behavior and discipline the authority of legislators

Program Recommendations. Some program recommendations address obstacles that hinder legislative representation in general; others are designed to promote environmental representation specifically. Most do not involve systemic governance changes or require new legislation, and can be achieved through changes in rules and regulations, such as parliament standing orders or new administrative procedures and practices. Many recommendations are independent of government actions and can be undertaken by voters and NGOs.

Accountability. To promote accountability, legislatures in Africa must become more open and transparent in their proceedings. Most modern constitutions in Africa call for open government and many include a Bill of Rights that grants citizens the rights of access to information, participation, and justice. Representation is facilitated when: (1) legislative sessions and environmental committee meetings are open to the public and broadcast live on radio, television, and over the Internet; (2) *hansards* are published and made available in a timely manner; (3) legislative votes on motions and bills are recorded and available to the public; and (4) reports from parliamentary inquiries are released to the public. In most cases, such actions will require revising the standing orders or rules of procedures in parliament.

Rural people in Africa must also become more engaged in government matters and be more vigilant in monitoring the decisions of their legislators in parliament and in sanctioning poor performance. NGOs and the popular media can help rural people by: (1) educating the public on the constitutional roles and authorities of the parliament and legislators; (2) collecting information on

the decisions and actions of legislators in parliament; (3) providing independent assessments of the performance of lawmakers; and (4) consolidating performance data into easily understood formats, such as “environmental scorecards” or a “green index.”

Autonomy. Given their influence over legislators, political parties can promote environmental representation in a number of ways. They can: (1) establish positions on local environmental matters; (2) develop election-year platforms that recognize local concerns; (3) help candidates incorporate environmental commitments into their manifestos; and (4) convene candidates’ debates on local issues. Most parties and legislators in the research countries do not have formal, documented positions on local environmental matters. Ensuring that political parties have positions on the environment, and holding them and their member legislators accountable to those positions can promote environmental representation.

The priority environmental needs of rural people are rarely major campaign issues or national concerns, reflecting the ineffectiveness of citizens and their associations to advocate local matters. NGOs and the popular media can help make the environment a prominent party and campaign issue by organizing voters to demand government attention and by advocating the environmental concerns of rural people. Some NGOs are pressing political parties to take environmental stands, helping them to develop, document, and distribute their positions, and organizing election-year debates involving leading candidates.

Authority. Legislatures in Africa with strong standing committees on the environment fix permanent attention on natural resources and provide a venue for discussing local environmental matters. Committees must have in-house expertise to critically assess the potential environmental effects of pending bills and proposed developments, evaluate government-sponsored bills, and draft private members’ bills (PMBs). They must be able to shadow line ministries and sectoral departments, monitor government decisions and actions, and provide legislators with an entry point for bringing local environmental issues to the attention of the parliament. Several steps can be taken to ensure that environment committees have the capacity to effectively exercise their authorities. These include: (1) recruiting and retaining knowledgeable staff; (2) securing constituency offices and equipment; and (3) engaging powerful parliamentary leaders so that committee recommendations carry weight in the full house.

Policy-focused NGOs can help by engaging not only with the executive branch, but also with the legislature and individual lawmakers. NGOs can support their parliamentary environment committee by: (1) monitoring government performance and assessing the environmental impacts of government actions; (2) providing independent reviews of government-sponsored bills; (3) contributing legal skills to help draft PMBs; and (4) conducting regular performance audits that compare environmental committee roles with actual work and accomplishments. Such support can help ensure that public policies reflect majority needs and that government actions are consistent with the constitution and enabling legislation.

Attributes. To better champion local environmental needs, legislators—especially environment committee members and their staff—should have, at minimum, a basic understanding of environmental and natural resource management issues. In many cases, this will require training legislators in the fundamentals of ecology and the principles of sustainable development. Such knowledge can help legislators better relate to their constituents’ environmental needs and better evaluate the potential environmental consequences of their decisions in parliament. Further, legislators should consider: (1) hiring staff with environmental expertise; (2) stocking the parliament’s library with environmental literature; (3) participating in conferences on environmental matters; (4) soliciting information from NGOs and the academic community; and (5) organizing public hearings on critical natural resource management issues.

National and international networks of legislators offer opportunities for lawmakers to interact with their colleagues in parliament and to cooperate with their peers in other countries on environmental matters of mutual concern. At the national level, legislators can organize discussion groups or more formal caucuses to address common issues confronting their constituents. Through exchanges, study tours, and other forms of networking, legislators can meet at regional and international levels (*e.g.*, Global Legislators for a Balanced Environment/ GLOBE) to address local environmental matters.

CONCLUSION

Africa's political reforms to democratize—the continent's "second liberation"—provide a unique opportunity to strengthen legislative representation and to promote poverty reduction and sound environmental management. Reformers in the executive branch and legislature must step forward and champion changes in the laws, procedures, and in the underlying political culture of Africa's parliaments that hinder the performance of legislators. Presidents, political party leaders, legislative leaders, and other power brokers who hold sway over

lawmakers must not resist moves to transfer power to and build the capacity of Africa's legislatures. Civil society and the international community can contribute to the needed changes in significant ways by lending their financial, technical, and political support. Only through such reforms can the legislative process be opened and effective representation achieved. With international attention focused on promoting democracy and reducing poverty, the time is right for democracy proponents, environmentalists, and development professionals to join hands in pursuit of common goals of good governance and sustainable development.

INTRODUCTION

This is not the time to be represented by those who love party beyond their people, those who are fearful of what the President will do to them, and those who accept little crumbs of bribes from the largesse of wealth taken from the Niger Delta.

— OPEN LETTER FROM THE NIGER DELTA CONGRESS TO LOCAL GOVERNMENTS AND AREA LEGISLATORS¹

There are some MPs here who think they have some personal opinions that are very dear to them. Let me now tell you this: as a KANU MP, you have no ideas or opinions of your own. Your opinions are those of the party. Those who think they have ideas of their own are free to quit the party.

— PRESIDENT DANIEL ARAP MOI ADDRESSING A PARLIAMENTARY GROUP MEETING OF THE KENYA AFRICAN NATIONAL UNION, THE RULING PARTY²

In much of Africa, public policies and government actions do not always, and in some cases rarely, reflect the high priority concerns of rural people, who comprise about 65 percent of the continent's population. The common positions of the poor, rural majority and the specific needs of marginalized minorities are not systematically recognized or structurally incorporated into government decisions and public policy. Government policies and practices often favor the interests of small, powerful groups of political and economic elite, including the capture of disproportionate shares of public goods and services.³

This disconnect between national policies and majority interests highlights the need for government decision-making processes that are responsive and accountable to citizen views, and that make participation, representation, and other forms of inclusion common practice and effective. In much of Africa, communication and other links between the state and society are weak. Citizen and non-governmental organization (NGO) participation often has limited effect on public policies, and elected government officials frequently under- or mis-represent local needs. Across Africa, decision-making processes concerning critical local matters are centralized in the executive branch of government and closed—to the public and to other branches and levels of government—on the justification of political expediency and in the name of national interests. By excluding rural people and their representatives, policy makers underestimate or undervalue the capacity of rural citizens for development

and ignore their most basic constitutional rights. In the absence of effective participation, representation, and other forms of inclusion, government is less likely to be responsive to citizens' needs.

This disconnect between national policies and majority interests highlights the need for government decision-making processes that are responsive and accountable to citizen views.

Investments in democracy and environmental governance have focused on promoting public participation in policy and projects. While participation can improve development outcomes, most political systems in Africa are based on the principle of representation. Representing the concerns and needs of constituents in government matters is a fundamental responsibility of many elected—and appointed—officials at the local and national level. Despite sweeping political reforms in many African nations over the last two decades, meaningful authority over issues that matter most to poor, rural populations still lies with national governments, especially the president and cabinet. Across Africa, reforms to separate and decentralize powers have been weak and largely ineffective.⁴ As a result, the quality of representation at the national level

bears directly on the social and economic wellbeing of rural constituents.

The legislature, as “the people’s house,” is the branch of government in which citizens’ interests are, in principle, transformed into law. It is the point at which ordinary citizens most closely engage their national leaders. In well-structured and functioning democratic systems, legislators are among the most important channels for bringing citizen concerns into national decision making. In this regard, the legislature is arguably the most promising of central government branches to advance the goal of effective representation and to ensure government is responsive to its citizenry.⁵ New research is also documenting the important role effective legislatures have in democratization processes.⁶

This report examines legislative representation in Africa and presents key findings and recommendations of new research on the performance of legislators, and the institutional and infrastructural issues affecting performance. These issues are examined from an environmental perspective. In rural Africa, the environment—land, natural resources, ecosystem services—is an important source of household livelihoods and a vital constituent interest.⁷ As such, the environment provides a useful optic for observation and understanding governance, and a potentially powerful lever for engaging citizens in government matters, promoting systemic governance reforms, and strengthening democracy.

Following an introduction to legislative representation and local environmental concerns, this report discusses critical incentives and disincentives to legislative representation and their implications for addressing constituency matters. The discussion is organized around four critical aspects of representation: *accountability* of legislators to their constituents, *autonomy* from political bosses and politics, *authority* and capacity to perform representation roles, and personal *attributes* of legislators. The paper closes with a presentation of key findings and a number of policy and program options to strengthen legislative representation in general, and environmental representation in particular.

This report is the product of five years of research and outreach from 2001-2006. The data and information provided are derived from four principal sources: (1) the development literature; (2) the findings of new research led by the authors; (3) three Africa-wide workshops and numerous local and national forums on legislative

representation and the environment; and (4) several commissioned position papers and other materials prepared for the policy forums. Case study reports were prepared from nine countries: Cameroon, Kenya, Liberia, Malawi, Mozambique, Tanzania, Uganda, Zambia, and Zimbabwe. Three background papers were also developed: two country reports on South Africa and the Democratic Republic of Congo, and a comparative analysis of Burkina Faso, Mali, and Senegal (see Annexes A and B). Unless otherwise cited, country experiences highlighted in the report come from the case studies and background papers.

In September 2002, case study researchers, environmental advocates, legal scholars, and legislators met in Jinja, Uganda, to discuss the research topics and agree on common research methods. In October 2003, a larger group of researchers, scholars, and legislators met in Victoria Falls, Zimbabwe, to discuss the preliminary findings and develop policy options for strengthening legislative environmental representation. In December 2006, case study researchers convened in Yaoundé, Cameroon, to identify lessons learned and best practices, and to present the principal findings and recommendations at a regional meeting of legislators from Central African countries. From 2004 to 2006, a number of national conferences and sub-regional workshops were organized to present the findings of the country research and to discuss policy options with lawmakers and government officials. In addition, several NGOs involved in the case study exercises have conducted new research on related issues (*i.e.*, special seats for marginalized groups in parliament and political parties manifestos) and implemented key recommendations (*i.e.*, monitoring the performance of legislators and helping political parties to establish environmental positions).

This report is directed to African governments (including the legislature and the executive branch); civil society organizations; and donor agencies concerned with rural development, democracy, and the environment. It is also intended for researchers and policy analysts who seek to better understand the links between democracy and development, and, more specifically, between legislative representation and local environmental outcomes. The authors of this report hope the findings and recommendations will encourage governments and the development assistance community to invest more time and new resources in strengthening legislative representation and in supporting lawmakers who are intent on representing the environmental concerns of their constituents.

PARTICIPATION, REPRESENTATION, AND THE ENVIRONMENT

In democratic systems, government decisions often reflect majority views and public interests while recognizing minority needs. Democracies are characterized by transparent decision making and open, inclusive policy-reform processes. They provide for strong state-society links—the essence of democracy—at all tiers of government, and multiple communication channels between government leaders and citizens, affording opportunities for people to share their concerns with officials and to influence government decisions and actions. In well-functioning democracies, government officials and representatives solicit citizen input on policy matters by releasing documents, holding public hearings, and other means. Citizens participate directly in government actions by voting for and meeting with their elected leaders. Local people, community associations, and other civil society organizations (CSOs) can also influence policies by: proactively providing government with new information and ideas; submitting petitions to policy makers; tabling plebiscites, referenda, and other ballot box initiatives; and staging boycotts and demonstrations. The availability and use of multiple forms of inclusion help ensure that citizen voices reach decision makers and are acted on by government. These channels help citizens realize their rights and support the institutionalization of fundamental democratic principles such as transparency, responsiveness, and accountability.

A. PARTICIPATION

To strengthen government-citizen links, improve decision making, and support policy implementation, some African governments and development assistance agencies have invested in building democratic

institutions and institutionalizing democratic principles. These efforts have helped reform central and local government institutions—legislature, judiciary, executive branch—and promote the rule of law, separation of powers, representation, transparency, accountability, and other democratic principles. Donor agencies—concerned about the inefficiency and corruption that plague many African governments—have focused their attention on promoting public participation and strengthening CSOs. Environmentalists and development professionals in other sectors (*i.e.*, health and education) have also supported participatory processes and helped to build the capacity of citizen associations and NGOs to engage the government.⁸

Popular participation as a form of inclusion has advantages and shortcomings. Participation provides citizens with opportunities to directly engage in government matters, promotes the will of the people, gives voice to minorities, and reinforces majority positions. But participation can be time-consuming and expensive; is susceptible to rushed, uninformed decision making; and often favors the most organized and powerful independent groups in society. In participatory processes, history and experience show that citizens often promote narrow private interests, NGOs peddle special interests, and populist movements rarely result in broad-based inclusive decision making or actions that benefit or promote justice for all citizens. Moreover, scaling-up popular participation—direct democracy (political systems in which citizens personally participate in making policy and law, without going through intermediaries or representatives)—is impractical and inefficient.⁹

Investments in popular participation have achieved important outcomes. They have given voice to some marginalized peoples and minority positions and, where participation is the only available form of inclusion, they have improved certain decision-making processes and public policies. But participation investments have not led governments in Africa to institutionalize open and transparent decision-making processes or to take actions that systematically recognize and consistently address majority needs or common societal concerns. Moreover, when citizens invest their scarce time and resources to participate in decision-making processes only to have decisions and policies consistently fail to reflect their views and concerns, people can become disenfranchised with government. After exhausting available legal means to participate and effect change, some people turn to civil unrest and disobedience, violence, and other non-democratic means—“weapons of the weak”¹⁰—to make their opinions known.¹¹ Such actions by the disenfranchised and disenfranchised threaten not only peace and security, but democracy, development, and the environment.

Investments in participation have not led governments in Africa to institutionalize open and transparent decision-making processes or to take actions that systematically recognize and consistently address majority needs or common societal concerns.

B. REPRESENTATION

In recognition of the limitations of participation, most governments around the world are based on the principle of representation. Representation, an institutionalized form of participation, is the most effective means of bringing citizen input into policy processes in all but the smallest of societies.¹² In representative democracies, voters elect leaders and delegate to them the authority to govern on their behalf. Such delegation addresses the intellectual, motivational, and time-related barriers to direct participation that most citizens experience. Through representation, policy making becomes a political process in which professional policy makers balance competing and sometimes contradictory interests. Representatives

reconcile the many positions within their constituencies, and exercise their discretionary powers to integrate and balance local views and national interests, including meeting international interests and obligations. Unlike direct democracy, which can lead to fragmented and inefficient policy, representative democracy relies on deliberation, negotiation, and compromise to resolve conflicts and balance clashing interests, and to develop flexible policies that meet shifting circumstances.¹³

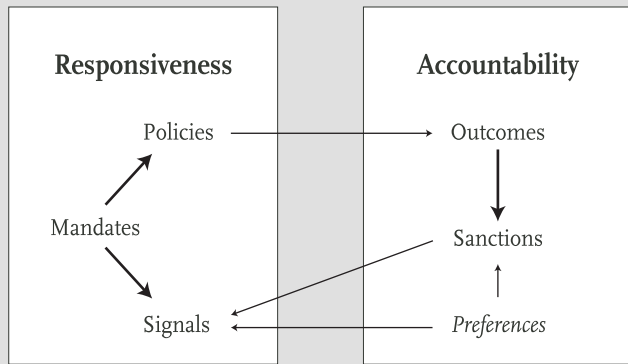
Representation, an institutionalized form of participation, is the most effective means of bringing citizen input into policy processes in all but the smallest of societies.

Representation is the heart of a positive cyclical policy process linking citizens to government. In representative democracies, good governance is a virtuous relation between active citizens and strong government based on the representation of people’s needs and aspirations in policy-making and implementation processes.¹⁴ Accountability and responsiveness are the building blocks of representation from which good government and good governance follow. “A government is ‘responsive’ if it adopts policies that are signaled as preferred by citizens... [g]overnments are ‘accountable’ if citizens can sanction them appropriately.”¹⁵

In the policy process, preferences expressed through voice and various signals (regarding citizen views, perspectives, interests, needs) become mandates, and are translated by government officials into policies and then outcomes that generate a new set of citizen preferences (see Box 1). Accountability is the relationship between outcomes and sanctions. It is manifested in the ability of citizens to monitor and sanction decisions deemed undesirable—the exercise of counter-power to balance arbitrary action.¹⁶ Voice and sanction—the means of accountability—guide and discipline strong, capable, and responsive government. Responsiveness is the relation between signals and policies, and reflects the degree to which government actions conform to popular preferences.¹⁷ Responsiveness requires powers and abilities that enable authorities to respond and translate signals into policies.

BOX 1

ACCOUNTABILITY AND RESPONSIVENESS ARE THE BUILDING BLOCKS OF REPRESENTATION



Source: Ribot 2006.

In democratic societies, citizens are accorded effective representation in all branches and at all levels of government, including in inter-governmental regional and global institutions. Government officials must effectively perform their fundamental representation roles for citizen voices to reach policy-making processes and affect decisions. Two government institutions with representation responsibilities of particular importance to addressing local concerns in Africa are local governments and legislatures.

Local Governments. In democratic decentralization, institutional arrangements are established that grant discretionary powers over public resources to local authorities who are downwardly accountable to their constituents. Many scholars and practitioners argue that decisions made by such local authorities are more likely to be representative and responsive to citizen needs, and will lead to more efficient and equitable outcomes than decisions taken by either central government leaders or local leaders beholden to central government.¹⁸ Local authorities preside over smaller jurisdictions and fewer people than national leaders, allowing for close relations and frequent interactions with constituents, and providing citizens with the opportunity to directly share views with their representatives and to monitor their actions. Local leaders who are accountable to their constituents are well positioned to listen to and address the needs of the people they represent.

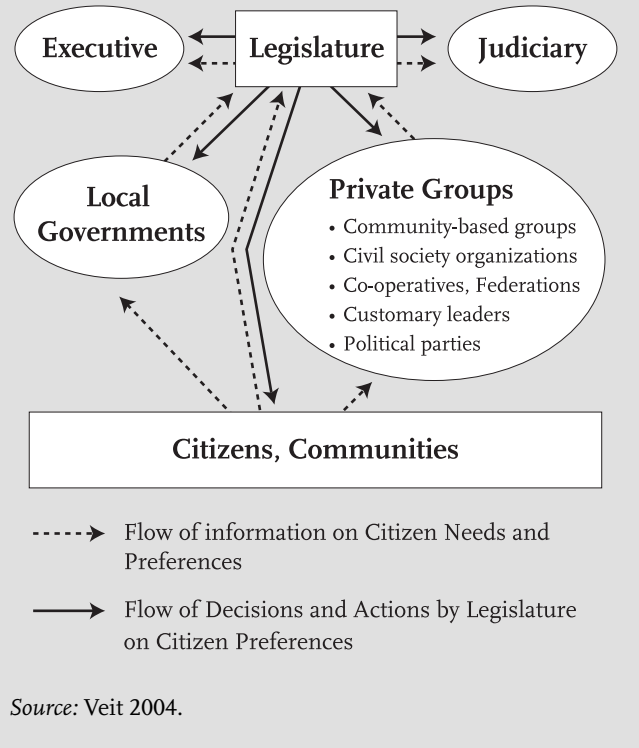
Across Africa, governments have initiated wide-ranging political and administrative reforms, and undertaken some form of decentralization. Evidence shows, however, that in many countries the necessary institutional arrangements of democratic decentralization have not been established. Many local officials do not have sufficient discretionary power or capacity to effectively respond to their electors' needs. In many countries, meaningful authority remains in the capital city far removed from the countryside, and local authorities are more accountable to central government administrators than to their constituents.¹⁹ Most reforms result in deconcentration (the transfer of government agents into local arenas or the devolution of responsibilities to local actors without corresponding authority), or privatization (the transfer of power over public resources to private bodies—including for-profit and non-profit organizations) rather than democratic decentralization. Such forms of decentralization rarely lead to positive development outcomes. Evidence suggests that upwardly accountable local governments do not establish pro-poor policies without well-implemented central government mandates and regulations.²⁰

Legislatures. Under new or reformed constitutions, many countries in Africa now have popularly elected national legislators who sit in newly empowered legislatures—national supreme lawmaking bodies (a legislature in a modern state is a forum constituting the legislative arm of government and made up of citizen representatives²¹). Constitutional arrangements and political circumstances vary widely across the continent, but representation is arguably the most basic function of legislators. Through its lawmaking and oversight authorities, the legislature is the central government's main venue for articulating popular will in national decisions, and a principal bridge between citizens and national government (see Box 2).

Constitutional arrangements and political circumstances vary widely across the continent, but representation is arguably the most basic function of legislators.

In most African nations the legislature is a parliament and consists of a National Assembly made up of elected representatives. In Kenya and other countries, the parliament also includes one or more members of the

BOX 2 | DIAGRAM OF LEGISLATIVE REPRESENTATION



executive branch, such as the president or attorney general. The majority of African legislators are men, although in Mozambique, Rwanda, South Africa, Tanzania, and Uganda the number of female legislators is above the United Nations target of 30 percent; Rwanda has the world's highest percentage of women in its lower house with 48 percent²² (countries that have proportional representation electoral systems tend to have higher women's representation in parliament than countries with majority or plurality systems²³). Although based on a parliamentary system, the political system in most Africa countries provides for a strong president. There are exceptions—Liberia, for example, has a presidential political system with a legislature made up of a House of Representatives and a Senate. Ethiopia, Liberia, Namibia, Nigeria, Rwanda, Senegal, South Africa, Zimbabwe, and a few other African countries have legislatures consisting of two chambers; each chamber is made up of elected representatives with lawmaking and oversight authorities.

Africa also has legislatures at the sub-national and regional levels. Ethiopia, Nigeria, and South Africa are

federal states and have legislatures at the national and state levels. Most African countries, however, are unitarian states with local governments that—depending on the form and degree of decentralization—are entrusted with both executive and legislative branch roles and authorities (*i.e.*, limited separation of powers). At the regional and continental levels, several bodies, including the African Union (AU), East African Community (EAC), and Economic Community of West African States have established regional legislatures with elected legislators, albeit with limited or no lawmaking authority. The AU and EAC aspire to become political federations. Over time, it is expected that these two regional assemblies will be accorded more lawmaking and oversight authorities.

C. ECONOMIC GROWTH AND THE ENVIRONMENT

Africa is a continent of many contradictions: rich in natural resources, yet underdeveloped with large populations of poor people. Many African countries are generously endowed with productive land and valuable natural resources, including renewable (*i.e.*, timber, wildlife, and fisheries) and nonrenewable resources (*i.e.*, minerals, natural gas, and oil). The Congo Basin includes the world's second largest tract of contiguous high-canopy forest; the Gulf of Guinea holds vast reserves of oil and natural gas. Africa's waterways are immense and, if harnessed, can generate considerable hydropower (the Nile is the world's longest river); gold and diamonds are found in abundance in all corners of the continent; four of the world's nine major ocean upwellings—important for fisheries—are found off Africa's coasts; and the continent contains several globally significant biodiversity "hot spots." In some locations, the natural resources and ecosystems are being overexploited, and the environment is being degraded. Much of Africa's resource base, however, is underutilized and, if brought under sustainable management for long-term productivity, holds promise for development.²⁴ With the projected slow growth in manufacturing and services, Africa's economies will likely continue to rely on nature for decades to come.

Despite its natural wealth, Africa is the only region of the world in which poverty is increasing. In some countries, strong economic growth has helped to reduce poverty and improve living conditions. But progress is slow for the continent. From 1981 to 2001, the percentage of people living on less than US \$1 a day increased from 41.4 to 46.2 percent. Today, more than 400 million Africans live in poverty.²⁵ The 25 least developed countries

in the world (and 39 of the bottom 50) are in Africa.²⁶ Africa also includes 22 of the 25 poorest countries (and 33 of the poorest 50) as measured by gross national income.²⁷ Moreover, the gap between the rich and poor is widening with South Africa and Namibia among the world's most inequitable nations.²⁸

Natural resources are the basis of income and subsistence for many populations, and a source of public revenues and national wealth for most African governments. Small-scale agriculture is the largest single source of income for most rural families in Africa, but many households also engage in animal husbandry, logging, charcoal production, mining, fishing, hunting, gathering, and other nature-based economic activities. On average, over 60 percent of total family income for rural residents comes from nature.²⁹ Wage labor, income from home industries, and remittances from family members are important, but they are not the dominant factor in most rural homes.³⁰ While all Africans depend on natural resources, rural households are generally more dependent on nature than are urban families, and the poor are more resource dependent than are the wealthy (although resource use per capita tends to rise with income).³¹

Natural resources are the basis of income and subsistence for many populations, and a source of public revenues and national wealth for most African governments.

Africa's rural poor have common environmental concerns and priorities. They need access to productive land and valuable natural resources; to information and technologies for effective management; and to credit, markets, infrastructure, and other factors for generating income and wealth from nature. Rural people need the means to safeguard their environmental assets, ensure sustainable use, and protect critical ecosystem services from degradation and loss. They also need protection from the social and economic repercussions of environmental damages, and from local elite and external actors intent on alienating them from the land and appropriating their valuable resources.

For rural Africans, access to and use of natural resources can be matters of life-and-death. The poor are particularly vulnerable since they have few livelihood options that

do not depend on nature. Loss of access to resources, lack of opportunities to market natural products, and environmental degradation can create hardships and dim economic prospects for the poor, threatening rural livelihoods and increasing poverty. The risk to rural incomes is especially pronounced when common pool resources—fisheries, forests, and grazing areas—degrade. These areas are critical sources of environmental income for the poor, particularly during lean seasons, such as after the agricultural harvest has been consumed or during droughts. A decline in the condition of common pastures can reduce livestock numbers, while the degradation of community forests can result in fuelwood scarcity, forcing more households to purchase fuel.³²

Central government in Africa plays an important and, at times, dominant role in determining land use, accessing natural resources, and in other factors critical to earning a living in the countryside. Public policies that recognize local environmental needs are more likely to support the rural poor and lead to sustainable use (as opposed to conservation or preservation) than those that ignore such concerns.³³ For example, improvements in environmental security and sustainability can support local livelihoods and boost rural wellbeing. There is a fundamental relationship between the rights that rural families hold over land and local natural resources, and their ability to use these resources as a stable and significant source of income. As rural residents gain greater control over their environments, household incomes may grow, while loss of livelihood sources frequently results in hardships, increased poverty, and declines in welfare. More secure tenure often brings higher investments, land values, and household incomes.³⁴

In Africa, the environment also supports national economies, corporate profits, and, for a few individuals, great personal wealth. Commercial agriculture, tourism, logging, fishing, mining, and other nature-based industries—by smallholder farmers, domestic and transnational corporations, state, and parastatal (semi-autonomous government bodies) enterprises—drive the economies of most African states. In some countries, the rural sector accounts for more than 85 percent of national employment and income. Natural capital constitutes 26 percent of total wealth in the world's low-income countries (nearly 70 percent is cropland and pastureland), greater than the share of produced capital.³⁵ In many of the poorest countries, the share of natural capital is considerably higher—in Congo, Gabon, Niger, Nigeria, and other nations, the share is more than 50 percent.

Botswana, Sierra Leone, and Zambia are among the world's most mineral-dependent countries (measured as percentage of Gross Domestic Product), while Angola, Equatorial Guinea, and Nigeria are among the world's most oil-dependent nations.³⁶ Natural resources generate revenues and, when exported, bring the state scarce foreign exchange to pay for health, education, and other public services; purchase essential imports; and service rising debt.

The sweeping structural and economic reforms of the last two decades, designed to replace state-controlled economies with free markets, have brought many changes to Africa's economies. State and parastatal enterprises have been privatized; the business community has grown; private capital investment (domestic and foreign) has increased; new goods, including natural commodities, have entered the marketplace; and the role of the private sector in economic growth has expanded. Many private industries, similar to the former state operations, extract natural resources or practice land-extensive production. As large-scale corporate production replaces household and small-scale operations, the pace of natural resource use and extraction is increasing, threatening the livelihoods and wellbeing of many rural residents.³⁷

With rising domestic and global demand, and increasing production, Africa's environmental goods have gained value, competition over natural resources has increased, and decisions over access and control of benefits have become more contentious and politically charged. Resource wealth has been linked to violent conflicts and civil wars in Angola, Democratic Republic of Congo (formerly Zaire), Liberia, Nigeria, Sierra Leone, and Sudan, some involving secessionist movements. In many cases, the resource conflicts are financed by the sale of those same resources. The "blood diamonds" in Sierra Leone and Angola; conflict timber in Liberia; mineral wars in the Democratic Republic of Congo; oil conflicts in Nigeria and Sudan; and other resource disputes are well known,³⁸ yet local conflicts and civil unrest over land, water, wildlife, and forests are far more common. In many places, these matters overwhelm rural courts and traditional mediation platforms.³⁹

D. LEGISLATIVE REPRESENTATION AND THE ENVIRONMENT

As African governments dismantle their state-controlled economies and usher in market-based systems, more resources are being extracted and more nature-based

wealth is being generated. In some countries, this wealth is being translated into development—infrastructure, social services, and welfare programs—as measured by national statistics such as growth in Gross Domestic Product (GDP) and in Gross National Product (GNP) per capita. But growth in measures of national development masks the reality for the majority of Africans. For many rural populations, the economic reforms have resulted in loss of land and livelihoods, and have brought new hardships.

The links between nature, wealth, and power are complex, but many elite—often with government support—capture a disproportionate share of natural resources and benefits, while the social, environmental, and other costs of exploitation are passed to the poor and disadvantaged.⁴⁰ Supported by favorable investment arrangements (*i.e.*, low royalties and taxes promoted by international financial institutions), few environmental regulations, and weak labor laws, domestic and international corporations capture large market shares and reap huge profits. Some sectors in Africa, such as mining, offer high returns and significant profit margins despite the risks associated with political turmoil, economic upheaval, and civil unrest.⁴¹ The growth of the private sector has generated a new group of African economic elite. These elite, like many African political leaders, have made private fortunes from exploiting public resources.

Close ties between the political and economic elite often prove beneficial for both parties. When power is centralized and hierarchical, patron-client relations often function to enrich political leaders and maintain personal rule, amounting to a *de facto* privatization of the state. Such personalized rule, organized through networks of patronage, loyalty, and coercion, necessitates a tight grip over valuable resources, including natural resources. Access to state and public resources for private gain is a common justification for seeking office, a prerequisite for attaining office, and a patronage resource for stifling rivals and maintaining power. In essence, such rule turns political competition into a zero-sum struggle for control of the state and of public resources.

History and experience show that when natural resources become valuable, the elite find ways to gain control over them and to capture their benefits. For Africa's economic elite, nature-based wealth generates power, which can be translated into political influence. This wealth, power, and influence are invested to tighten

their hold on resources and capture more benefits. In many African nations, economic elite influence political leaders who control important decisions over high-value natural resources. Such decision-making processes are often closed to citizen and NGO participation, to public scrutiny, and to recourse or redress in courts of law. The resulting decisions usually provide for few winners (the political and economic elite) and many losers (the rural majority and disenfranchised minorities who may suffer significant, sometimes life-threatening setbacks).

History and experience show that when natural resources become valuable, the elite find ways to gain control over them and to capture their benefits.

With most Africans living in rural settings and dependent on nature for their livelihoods, effective representation of local environmental needs is central to their development. With few exceptions (see Box 3), most legislators in Africa do not commonly, accurately, or effectively represent their constituents' interests in the parliament or other national policy-making forums.⁴² Few lawmakers routinely use their constitutional lawmaking and oversight authorities to shape public policies or government actions to reflect the interests of their constituents—in this report, such actions are considered *political representation*. On the occasion when lawmakers do make the effort, they are rarely effective. More often, legislators satisfy the demands of the executive branch, their political party, powerful interest groups, and their own personal needs over the concerns of their electors. In the absence of effective legislative representation,

BOX 3 | BLOCKING A FOREST EXCISION IN KENYA

In Kenya, especially during President Daniel arap Moi's regime (1978-2002), public property, including land in protected forest reserves, was a common patronage resource used by government officials and political party leaders to service patron-client relations, garner votes, and achieve other short-term political gains.¹ Between 1962 and 2002, at least 200,000 illegal titles were issued—many for land in protected areas and most on orders of the president or other senior public officials. Almost 98 percent of these illegal titles were issued between 1986 and 2002, during the latter years of the Moi regime.²

In early 2001, the government announced another forest excision plan to remove 167,000 hectares (644 square miles) of land from several gazetted forest reserves around the country. In a rare show of bipartisanship, legislators from the ruling and opposition parties argued that the government was systematically destroying Kenya's forests and demanded action to curb the alarming rate of forest loss. One legislator accused the government of being the country's biggest culprit in environmental degradation, calling the decision "criminal." Another lawmaker whose constituency was targeted for some of the excisions put forth a motion in parliament to require the government to prepare a forest master plan within six months. A supporting colleague stated that, "(b)y passing this motion and giving the government a time frame, Parliament is reclaiming its position of leadership in forest conservation."³

The Minister of Environment argued that the forest excisions were necessary to resettle landless people, but most legislators believed that the forest land would be appropriated to political and economic elite, as had happened in the past. One legislator claimed that one of President Moi's sons was to be a beneficiary and appealed to Kenyan Muslims to declare a *fatwa* (an Islamic decree) against destroying forests. Subsequently, local newspapers published the names of several senior government officials who were to receive some of the excised land.⁴

In their efforts, the legislators were supported by some reformers in government, including one cabinet minister, many local and international environmental organizations, and several businesses affected by power outages (the loss of forests from earlier excisions had led to shortages of water for generating electricity from hydropower dams). Environmentalists and local advocates took the matter to court and secured an injunction against the proposed excisions. After the ruling party lost the 2002 presidential and parliamentary elections, the newly elected government scrapped the plans to remove this land from the protected forest reserves.

Notes

1. Southall 2005; GoK 2004; Wangari Maathai, personal communication, 2003; Klopp 2001
2. GoK 2004; Klopp 2001
3. Wangari Maathai, personal communication, 2003; Otani 2000
4. Wangari Maathai, personal communication, 2003; Otani 2000

government officials can promulgate policies that contradict the needs of the rural majority.

While lawmakers rarely perform their *political representation* responsibilities, many are responsive to their constituents' needs in other ways. Legislators work hard to attract development initiatives and investments to their home districts and to address the specific private needs of key constituents or constituency groups—often local elite and powerful community-based groups. In this report, such actions constitute *constituency servicing*. *Constituency servicing* must be distinguished from *political representation*. *Constituency servicing* is usually conducted outside parliament and does not involve engaging formal parliamentary procedures or exercising lawmaking and oversight authorities.

Many rural people consider *constituency servicing*—not *political representation*—the most important function of legislators. They encourage their representatives to provide such services and reward the best performers with their vote. As a result, many legislators focus their professional

attention on courting development agencies—public and private, domestic and international—to provide assistance directly to their electors and to addressing the private needs of key constituents (*i.e.*, paying school fees, attending funerals, and securing employment). In some cases, the executive branch has encouraged legislators to emphasize *constituency servicing*, partly to steer their attention away from performing their lawmaking and oversight responsibilities (see Box 4).

Many rural people consider constituency servicing—not political representation—the most important function of legislators.

While legislators do not adequately represent local environmental concerns in parliament, many lawmakers pay attention to national environmental matters. In many countries, lawmakers have passed national environment

BOX 4 | LEGISLATIVE REPRESENTATION IN KENYA: AN HISTORICAL PERSPECTIVE

Like many of his peers in other African nations, Kenya's first president, Jomo Kenyatta, established a one-party authoritarian state soon after independence. But unlike other leaders who centralized authority, Kenyatta's government had multiple secondary centers of power, each linked to the regime by strong patron-client networks. This system allowed Kenyatta's government to be relatively open and more tolerant than other post-colonial regimes in Africa.

Kenyatta employed various means to secure the support of legislators on important policy and legislative matters. He encouraged community-based self-help groups to seek assistance from their elected parliamentarians and allocated state resources to legislators who were loyal to his regime. By allowing legislators to build a political base through *constituency servicing*, most politicians paid more attention to serving the immediate needs of their electorate than to shaping central government policy—*political representation*. Parliamentary elections, which were generally open and fair—and hence accountable at the local levels—were essentially local referenda on the ability of incumbents to secure state resources for their home areas. Those who were elected wielded legitimate, albeit limited, authority and in turn legitimized the regime.¹ The state resources provided to loyal

legislators were not sufficient to lift rural people out of poverty, but they were enough to convince many rural residents that Kenyatta was concerned about their wellbeing and to garner their support of the government.

In addition to the provisioning of state resources, Kenyatta promoted incumbents into the executive branch to further encourage legislators to service their constituents. Legislators who had been reelected once were likely to be named assistant ministers, while those who had been reelected two or more times could expect cabinet appointments. During Kenyatta's rule, fully one-third of the legislators had appointed positions in the executive branch.² With a secure regime, Kenyatta encouraged parliamentary debate, established fairly strong local governments, tolerated some NGO lobbying, accepted a relatively free press, and even established an independent judiciary. The combination of *constituency servicing* and an open society helped ensure a content, politically inactive, and hence non-threatening countryside.

Notes

1. Barkan 1992; 1979; 1976; Barkan and Okumu 1984; 1978
2. Barkan 1992

management bills and other legislation to establish apex national environmental protection agencies, respond to natural disasters, create protected areas to safeguard biodiversity, curb high-profile nature-based corruption, and authorize loans to undertake environmental projects. In Cameroon, almost 20 percent of the bills passed by parliament from 1992 to 2002 were concerned with mining, water, energy, forest, and the environment. In Malawi, 11 of the 57 bills (19 percent) brought to parliament from 2004 to 2006 were related to the environment. In some cases, environmental actions in parliament are in response to international criticism or to satisfy donor agency conditions placed on foreign assistance.

Parliamentary actions to meet national policy objectives and international commitments on the environment can support local natural resource matters. National environmental laws and apex environmental protection agencies are needed to ensure effective resource management, but they rarely address the urgent needs or specific concerns of rural people. In some cases, national interests contradict local needs. When governments acquire private landed-property to establish protected areas for biodiversity conservation purposes, they can undermine the livelihoods and wellbeing of affected rural people. Rural people may lose their customary lands and be forced to relocate, and those who live near the new parks may have their rights to critical natural resources restricted or curtailed. In the absence of fair and prompt compensation, many of these people will fall deeper into poverty.⁴³

3

INCENTIVES AND DISINCENTIVES TO LEGISLATIVE REPRESENTATION

Legislators face difficult decisions in determining how to best carry out their representation responsibilities. They must reconcile different views and perspectives within their constituencies and balance local needs with national interests and global obligations. Legislators who focus exclusively on supporting their constituents risk abdicating their national roles, while those who emphasize national matters (*i.e.*, nationalists) may neglect the needs of their electors and risk losing their vote. Lawmakers are bound by legislation, administrative procedures, and institutions; shaped by tradition, customs, and norms; and influenced by powerful interests, personal convictions, and private motivations.

The research conducted for this report hypothesized that legislators are most likely to represent the interests of their constituents when they: (1) are downwardly *accountable* to their voters; (2) have sufficient *autonomy* from the president and their political party; (3) have the *authority* and capacity needed to act; and (4) have the personal *attributes* and private motivations to champion their constituents' causes. Each of these factors is addressed in more detail below.

A. ACCOUNTABILITY

Legislators are most likely to represent their constituents' interests when electors hold them accountable for their formal roles and responsibilities, campaign promises and commitments, and their decisions and actions while in office. Many legislators know their electorate: who votes; who is politically active; who is powerful; who is potentially influential with the voters; who is a supporter;

and who is a detractor. When voters are organized and have identified common environment concerns, when they press lawmakers for action on priority needs, and when they monitor the decisions of their representatives and sanction poor performance, legislators cannot easily ignore their requests (see Box 5). Downward accountability requires strong links between legislators and voters, information for voters to evaluate performance, and power for citizens to guide and discipline the behavior of their legislators.

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Legislator-Constituency Relations. In all political systems, legislators must satisfy their “base” to stay in power. For elected officials, that base includes their electorate—those who vote them into office. Consequently, elections can be a powerful accountability mechanism. Through elections, constituents can vote for candidates they believe are most capable of performing their functions. They can re-elect those who met their responsibilities and delivered on their promises, and prune away those who fell short of their obligations and commitments. Short terms of office provide regular opportunities for voters to express their wishes and serve as strong incentives for incumbents seeking re-election to satisfy their electors. During their final term of office, however, legislators may be less

BOX 5 | UGANDA'S BUTAMIRA FOREST RESERVE

In July 1998, the government of Uganda, in an effort to reduce sugar imports and promote economic growth, issued a general-purpose use permit over the nearly 13 square-kilometer Butamira Forest Reserve to the Kakira Sugar Works (KSW).¹ Shortly thereafter, KSW began clearing the forest to establish a sugar cane plantation. Butamira, situated in Kagoma constituency, is the largest protected Forest Reserve in Jinja District. In Uganda, a Forest Reserve is not managed as a strict nature preserve, but rather for the sustainable use of natural resources and ecosystems. KSW, a locally registered company, is owned by Ugandans of Indian descent; the family is the largest private landholder in the country.

Kagoma residents were opposed to the scheme and organized themselves into the Butamira Pressure Group (BPG) to galvanize their positions and coordinate efforts. Among other activities, the BPG members approached their legislator and solicited his help. The legislator argued in parliament that there were irregularities in the issuing of the permit and convinced the legislature to launch a probe to investigate the matter. The investigation concluded that the permit to KSW was issued fraudulently and in disregard of the law, and recommended that it be cancelled. The Forestry Department cancelled the permit without the full parliament ever debating or adopting the report. In its place, the department allocated permits to 148 community groups and 30 individual farmers to develop tree seedling nurseries and establish fuelwood lots, principally of eucalyptus trees, in the Reserve.

KSW continued its efforts to secure the forestland for sugar production, and in 2001 the government announced its intention to degazette the Butamira Reserve. In addition to the farmers and community groups that would lose revenue from the sale of fuelwood, many households grew cane on

their family plots and sold the sugar to KSW, an important commercial effort that they believed was threatened by the proposed plantation in the Reserve. The BPG remobilized itself to protect the permits of its members and the group's efforts were again aided by the same legislator as well as several national NGOs. Working closely with the BPG, the NGOs conducted relevant policy research, organized public debates, alerted the popular media, and threatened to stage demonstrations. Several motions were also filed in court and an injunction was issued restraining KSW from taking over the forest until the matter was resolved.

The legislator, armed with information from the BPG and NGOs, argued that the nurseries and fuelwood lots provided a livelihood for many of his constituents and served critical ecological functions. He was supported by a few other lawmakers, including the vice-chairperson of the Parliamentary Committee on Natural Resources, an outspoken environmental advocate. In November 2001, the legislator presented a petition to parliament on behalf of BPG and two NGOs calling for the protection of the Butamira Reserve and the existing tree-farming permits.² The matter was referred to the Natural Resource Committee, which conducted a series of hearings with stakeholders and other people with knowledge of the matter. In the process, several legal, procedural, ecological, and socioeconomic concerns were raised regarding the proposed degazette. When it became clear that degazetting the Reserve would be difficult if not impossible, the government switched tactics and pushed for revoking or buying out the tree-farming permits and issuing a single permit to KSW. The Butamira tree farmers claimed that during this period they were harassed by the government as it began

accountable to their constituents and less responsive to their needs.

The electoral system influences the links between legislators and their constituents, and the nature of their relationship.⁴⁴ In Kenya, Malawi, Tanzania, Uganda, Zambia, Zimbabwe, and other African countries, legislators are elected to office with plurality-majoritarian electoral systems, such as First Past the Post (FPTP) systems. In majoritarian systems, candidates vie for a specific office, voters cast their ballot for individual candidates, and the candidate with the most votes wins

the seat. Most majoritarian systems involve single-member districts, whereby one legislator is responsible for representing all people in the voting district or circle. Majoritarian electoral systems establish a direct link between voter and representative, and promote downward accountability.

Alternatively, in Proportional Representation (PR) and other party-list electoral systems, voters choose among political parties and do not vote directly for candidates. In PR systems, the number of legislators from each party is proportional to the percentage of votes received. The

to assess the value of the nurseries and woodlots for future compensation purposes.

In March 2003, the Natural Resource Committee completed its work and issued its report. The report argued that the government could not change land use in the Butamira Reserve without an Environmental Impact Assessment (EIA), a public hearing, and other measures as required by the 1995 National Environment Statute. It also recommended that the government not move forward with its plan to revoke the tree-farming permits. At the request of the Minister of Water, Lands and Environment, the planned parliamentary debate on the government's request was postponed by three weeks. The day before the full house debate, the chairperson of the Committee called an extra-ordinary Committee meeting and presented an *addendum* to the main report which sought to overturn its principal recommendations (opposing views are traditionally captured in minority reports annexed to the main report). The next day, the Minister assured parliament that the government would not degazette the Reserve and requested that the legislature pass a motion allowing the government to revoke the tree-farming permits and issue a 49-year permit to KSW to grow sugarcane. The debate in the full house was heated, involving more than 30 members, but in the end the motion was passed. Shortly thereafter, the Natural Resource Committee chairperson and vice-chairperson were removed from their leadership positions by the parliament leaders—a move some pundits believe was orchestrated by the ruling party to regain control of the committee.

The government paid compensation to some residents who held tree-farming permits, although many argued that the amount they received was not fair and in some cases was less than the value established by the government assessors.

Many permit holders have still not been paid. An EIA was not conducted, yet the government issued a permit to KSW, and KSW cleared the woodlots and planted sugar cane. The concerned legislator, who has a long history of challenging the government on various local matters and has been called an “economic saboteur” by Uganda’s President Yoweri Museveni,³ referred the matter to the Inspectorate of Government. He also asked the government to set a time frame for the conditions of the KSW permit to be fulfilled, which include the planting of another forest of similar acreage, the protection of mature trees in the Reserve, and the protection of all vegetation lining Reserve waterways.

In parallel to the legislator’s efforts, the BPG and NGOs demanded that the government closely monitor the activities of KSW to ensure compliance and filed another case regarding the legality of the land use change in the Butamira Reserve. In late 2005, the High Court ruled that the government breached the doctrine of public trust and that it failed to meet its duties, including not conducting an EIA as required by law. The court, however, did not order the government to revoke the permit to KSW and reinstate the tree-planting permits to the local people.⁴ To date, the government has not conducted an EIA and KSW has not met all of its permit conditions. The NGOs are now considering filing a contempt of court case against the government and KSW.

Notes

1. Tumushabe at al. 2001
2. GoU 2006
3. Oweyegha-Afunaduula 2005
4. Godber Tumushabe, personal communication, 2005; GoU 2004

political parties then select legislators from their lists of candidates. PR systems usually involve multi-member districts in which several legislators are seated for each electoral circle and each district legislator is responsible for representing all people in the constituency. Party-list electoral systems are used in Benin, Burkina Faso, Cameroon, Mozambique, Namibia, and South Africa.

PR systems promote party pluralism and the representation of small parties in the legislature. As a result, they can help reconcile societal divisions, such as in post-conflict circumstances and are often institutionalized

in diverse societies to allay differences. In Liberia, the first post-war legislative elections held in 1997 used a PR system, but in 2005, all 30 Senators and 64 lawmakers in the House of Representatives were elected in a majoritarian system.⁴⁵

But PR and other party-list electoral systems also distance lawmakers from their electorate, making it difficult for voters to hold their legislator accountable. Since a party’s leaders usually determine how its lists are prepared, who is on it, and who is selected, PR systems can make legislators more accountable to their party

than to their constituents. Unless the party leadership values constituency needs over party interests, legislators have few incentives to address local needs or make themselves accessible to their constituents. Some parties operating in PR systems, such as the ruling African National Congress (ANC) in South Africa, engage their registered members in developing their lists. The leaders, constitutions, and manifestos of most parties, however, emphasize party interests, focus on the need to maintain party discipline, and pay relatively little attention to promoting representation (see Autonomy section). Although PR voting districts are in general larger, in size and population, than a typical single-member district under a majoritarian system, each citizen in a PR electoral circle is represented by several legislators. Some parties, such as the Cameroon Peoples Democratic Party, Social Democratic Front of Cameroon, and ANC in South Africa, assign each of its member legislators a specific region in the voting district on which to focus attention and establish legislator-constituent links.

Information and Communication. Open communication and free exchange of information between legislators and constituents facilitate accountability. For legislators to perform their representation roles effectively, they must know of their constituents' needs and priorities, and for voters to assess the performance of their representatives, they must know of their legislator's responsibilities, promises, and actions. Many legislators hail from the districts they represent; in Ghana and other countries, they are required to do so. Most lawmakers maintain links with their constituents and have a good, although not necessarily detailed, understanding of their voters' specific views and needs. Legislators learn of local concerns from past experiences, visits to their districts, attendance at local functions, and other interactions with their constituents. Rural residents share their views with their legislator directly or through local associations and other civil society organizations (CSOs). Some lawmakers establish one or more offices in their constituency to collect local views and perspectives, and a few—usually parliamentary leaders—have staff members responsible for conducting policy research, including on local matters. Few African legislatures or legislators (or independent organizations, such as the media) conduct opinion polls.

Voters collect information on their legislators from various sources, including from the lawmaker's visits to the district and from discussions with their neighbors. Rural people are generally well aware of the *constituency servicing* efforts of their legislator, but few voters know

much about his *political representation* work—whether he accurately represents them in parliament and whether he exercises his lawmaking and oversight authorities in support of local needs. This is partly a function of the inability of voters to access such information—few government documents are distributed in the rural regions, few voter education sessions are organized, and few media outlets focus on educating the public on such matters. Moreover, lawmakers generally do not share information with their constituents about their actions in parliament, especially information on decisions that contradict local interests.

Open communication and free exchange of information between legislators and constituents facilitate accountability.

Citizens routinely press their lawmaker to bring development projects to their district and to assist them with personal matters. In response, many legislators work hard to find development resources to build local schools, dispensaries, wells, roads, and other infrastructure. In Kenya, Cameroon, and other countries, the parliament provides each lawmaker with funds to develop his constituency (for many constituencies in Kenya, the Constituency Development Fund is the largest inter-governmental transfer and a major funding source for local development). Many voters also press their legislators to support private matters, such as attending social events (*e.g.*, weddings and funerals), and contributing to personal needs (*e.g.*, paying school fees, covering medical expenses, and finding employment).

Through *constituency servicing*, legislators are *de facto* development agents and personal providers. While such services provide important support to constituents, attention on local development can come at the expense of legislators effectively representing their constituents in parliament, and discharging their lawmaking and oversight responsibilities. When voters pay little attention to *political representation*, lawmakers can be influenced by the executive branch, political parties, or other powerful actors whose interests may diverge from rural voters' needs. In Kenya and other countries, the executive branch has encouraged voters and legislators to focus on *constituency servicing* (see Box 4).

Voter attention on local development may reflect the many hardships faced by rural people. With immediate needs to attend to, poor people have little time or patience to concern themselves with national policy and legislative matters in distant capital cities. It may also reflect a lack of knowledge of the fundamental roles and constitutional authorities of lawmakers, and of how parliament operates and government decisions are made. Further, rural people may discount the local effects of public policy and national decisions.⁴⁶ While few poor people press their lawmakers to proactively engage in policy matters, when enforcement or implementation of national decisions directly threatens local livelihoods, experience shows that rural people will engage and involve their legislator.

In Africa, legislator-voter communication is hampered by weak or restrictive information laws. Only a few countries, including South Africa and Uganda, have a Freedom of Information Act. In Tanzania and other countries, information is regulated by a National Security Act that allows the government to classify any information as secret and to control the issuance of security clearances. Such laws typically do not mandate that government departments share information with the public. In some cases, legislation that governs and regulates high-value resources, such as oil, natural gas, and minerals, explicitly states that information is not to be shared with the public.⁴⁷

Across Africa there is also a general lack of transparency in the legislature. In most African nations, votes by legislators on bills or motions are not recorded and parliamentary sessions are not broadcast live on the popular media (press, radio, television, and Internet). In 2005, the parliament in Uganda began recording votes, but only on certain bills and motions. In many countries, parliamentary committee meetings are closed to the public, reports of parliamentary inquiries and special commission investigations are not released to the public, and *hansards*—the official published reports of debates in the parliament—are not available in a timely manner or translated into local dialects. Moreover, the popular media does not adequately cover the legislature, often focusing on personalities and scandals rather than policy matters.

Authority to Impose Sanctions. Downward accountability requires that constituents have the power to impose sanctions on their legislators for poor performance and that they are protected from any retaliation by the targeted lawmakers or political parties. In addition to periodic elections, various formal and informal mechanisms

enable voters to hold their legislators accountable between elections. In Uganda, voters have the authority to recall a legislator who has become physically or mentally incapacitated; engages in misconduct and misbehavior likely to bring “ridicule, contempt, or disrepute to the office;” or shows “persistent deserting of the electorate without reasonable cause.”⁴⁸ Voters rarely exercise their recall authority, but the threat of recall can be a powerful incentive for legislators to conduct their business and carry out their responsibilities. On achieving independence, the constitutions of most African countries gave voters the authority to recall their lawmakers. However, many have since been amended or reformed to eliminate this authority. In Kenya, the 2001 draft constitution included recall authority, but the relevant provisions were later removed because legislators expressed concern over the difficulty of protecting this power from politics.

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Citizens can also hold their legislators accountable by other formal and informal means.⁴⁹ They can submit formal requests to have the president, parliament, or political party sanction (*e.g.*, by censure and vote of no confidence) or remove the legislator from office. In Botswana, legislators are called by their electors before a traditional *kgotla*, or village meeting, which provides an opportunity for voters to air their grievances and for legislators to explain their actions.⁵⁰ Voters also use the popular media to highlight poor performance and to request specific actions from their legislators.⁵¹ In Nigeria’s Niger Delta, citizens publish open letters to their legislators in local and international newspapers or post them on the Internet.⁵² In Zimbabwe in 2002, constituents of a legislator from the opposition Movement for Democratic Change (MDC) party demanded his resignation, charging him with working against party principles and supporting the efforts of the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) party to appropriate the land of white Zimbabwean farmers. The legislator refused to

leave office, but his party eventually expelled him and the Speaker declared the lawmaker's seat vacant (in Zimbabwe, a legislator who switches his party affiliation in mid-term loses his seat; see Autonomy section).⁵³

B. AUTONOMY

Effective political systems are often characterized by strong links and good working relations between the various branches and levels of government. Yet legislators must also have a degree of independence from powerful government actors, corporations, NGOs, and special interest groups to perform their representation responsibilities. Legislative representation is a political process, but legislators inappropriately influenced by or beholden to political bosses are not likely to put their rural constituents' interests first. In Africa, appropriate levels of autonomy from the executive branch, political parties, and local elites are essential to encourage legislative representation (see Box 6).

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Executive Branch. The power of the executive branch and in particular, the president and cabinet ministers to influence the actions of the legislature and the decisions of individual lawmakers varies across Africa.⁵⁴ Parliamentary political systems inherently feature closer ties between the executive branch and the legislature than presidential systems. Most parliamentary systems in Africa also have a strong president and a weak or absent prime minister. As a result, the executive branch has extensive powers over the parliament and a long history of influencing legislators. In Kenya, Senegal, Tanzania, and Zambia, the president has the authority to dissolve the legislature and prorogue (suspend) parliamentary sessions. In 2003, the president of São Tomé and

BOX 6 | TANZANIA'S SERENGETI NATIONAL PARK

In northern Tanzania, long-standing conflicts exist between local people and the government institutions responsible for managing wildlife and protected areas. The issues range from the displacement of local people from their customary land and the loss of access to critical natural resources to wildlife-related deaths and damage to crops and other property. Many affected rural people are vocal about their concerns and share their views with government officials and their legislators.

Since independence, some legislators have worked hard—often jointly with other sympathetic lawmakers—to represent the wildlife concerns of their constituencies, although usually with limited effect. They have argued for a halt to the expansion of the protected estate and for the granting of access rights to park land and resources to their constituents. But today, entrance into most protected areas without the requisite permit from government is prohibited, and all hunting and collecting practices in national parks are banned. Still, many local people use resources in parks, as they and their ancestors have done for centuries, especially during the dry season and in times of hunger. As a result, they have been harassed, fined, and arrested, and some hunters have been killed. The Legal and Human Rights Centre (LHRC), a local NGO, reports that between 1983 and 1998, Tanzania National Parks Authority (TANAPA)

game rangers killed at least 57 local people in the Serengeti National Park (SNP), the nation's largest national park.¹

In one incident in July 1997, TANAPA rangers captured several local men hunting in the SNP. A few escaped, but the remaining hunters were allegedly driven deep into the park and shot by the rangers. The exact number of victims is in dispute, but LHRC reports that eight men died and one survived his wounds. The legislator who represented these men—from a constituency in Tarime District that borders the SNP—raised this matter in parliament and in other local and national policy fora. He detailed how the alleged victims were lined up and executed, and showed photographs of the bodies of the victims (taken by a photographer who reportedly accompanied the rangers). The legislator noted that the Tanzanian Constitution prohibits executions and argued that the killings were motivated by the Minister of Tourism and Natural Resources, who had been quoted in the popular media as instructing TANAPA rangers to shoot and kill any person found in the SNP without a permit. The legislator demanded that legal action be taken against those who participated in the alleged killings. Shortly thereafter, six of the seven implicated rangers were transferred to other national parks, and the Minister of Tourism and Natural Resources was replaced. LHRC also reports that the bodies of

Principe “sacked” the parliament for threatening to curb his power over critical oil decisions, including the authority to negotiate concession agreements with private companies.⁵⁵

Over the last two decades, the constitution in several African countries has been reformed to curb the president’s authority to appoint some members of parliament, but in a few countries, he retains this power. In Zimbabwe, 12 of the National Assembly’s 150 members of parliament (lower house) are appointed by the president and eight members are provincial governors who are also presidential appointees (another 10 members are traditional chiefs chosen by their peers; see Local Notables section). In Tanzania, 59 of the National Assembly’s 295 members are appointed by the president (another five are allocated to members of the Zanzibar House of Representatives). In Kenya, the president selects 12 out of 224 members from a larger group of candidates nominated by political parties on a proportional representation basis, plus two *ex-officio* members,

including the attorney general. Such presidential appointments can serve at least three purposes for the executive branch.

- Since cabinet members in parliamentary systems must be sitting legislators, the appointment of legislators is a means for the president to bring individuals into the cabinet who were not elected to a seat in parliament.
- By appointing lawmakers from the ruling political party, it may be possible for the president’s party to gain a majority in the legislature, control the parliamentary leadership positions, and dominate policy debates and decision-making processes.
- Since appointed legislators do not face re-election by voters, they can focus almost exclusively on state matters and issues of interest to the president, cabinet, and ruling political party.

In a few African countries, the constitution reserves some parliamentary seats for representatives of groups deemed to be marginalized, disenfranchised, under-

BOX 6 | *continued*

those killed were thrown into a nearby river and the area set on fire.²

The legislator from neighboring Serengeti constituency in Serengeti District, which is also adversely affected by wildlife policies and the SNP, supported his colleague’s demand that those responsible be brought to justice (almost 76 percent of Serengeti District land is in the protected estate, most in the SNP). He asked the government to protect his constituents from illegal ministerial orders and called for the formation of an independent commission led by a High Court judge to investigate the alleged killings. The legislator, a member of the ruling Chama Cha Mapinduzi (CCM) political party, used the occasion to also argue for a more significant local government role in collecting gate receipts, a larger share of the park revenues for his constituency, and more government support for infrastructure to facilitate tourism, such as better roads and additional park entrances.

The new Minister of Tourism and Natural Resources argued that the police had investigated the matter, but had not found any evidence that the alleged killings took place. Under mounting pressure from local residents and the Serengeti constituency legislator, however, the government created its own commission. This commission was not an independent body as had been requested by the Serengeti lawmaker,

and investigated the matter in considerable secrecy. Shortly thereafter, in 1998, the Serengeti constituency legislator was appointed to the position of Deputy Minister and, once in the executive branch, became notably silent on the alleged killings.

In 1999, the government commission completed its work and the prime minister presented the findings to parliament stating that there was no credible evidence to substantiate the allegations. The commission’s report was not made public and all requests by LHRC and other local NGOs for a copy have been denied. As a result, it is not known who the commission members were, which issues were investigated, who was interviewed, and what evidence was collected. Local residents did, however, report improvements in their relations with the SNP park rangers and in TANAPA performance. There was also an increase in government support to the affected constituencies, including tax rebates, the construction of water reservoirs and schools, and occasional provisions of bushmeat. In 2000, at the end of his second term in office, the Serengeti legislator was abandoned by the CCM and did not win his bid for re-election.

Notes

1. LHRC 2003a; 2003b
2. LHRC 2003a; 2003b

represented, or in need of special attention. In Rwanda and other countries, the president appoints lawmakers to these seats. In other countries, members of these select groups elect their legislators, sometimes through an electoral college of such members from each district. In Uganda, 91 members of the 305-person National Assembly are nominated by select groups, including women, youth, labor, the disabled, and the army (but not ethnic minorities, such as the indigenous Batwa or Benet peoples). The president has some influence over these groups, and many of the nominated legislators are from the ruling party and are loyal to the president. As a result, these lawmakers often use their position and powers to advance the president's or ruling party's agenda, not the needs of the group they officially represent.⁵⁶

In addition to presidential appointments, the executive branch in many African countries has influence over key election-related institutions, further extending its influence over the legislature. These institutions include the Registrar General which screens candidates, and the electoral commission which establishes new voting districts and is in charge of redistricting, voter registration, elections supervision, and approval of all referenda. In Kenya, gerrymandering (a form of redistricting in which electoral district or constituency boundaries are manipulated for electoral advantage) helped turn the 1992 and 1997 parliamentary elections in favor of the ruling Kenya African National Union (KANU) party. In the 1997 elections, the average number of voters in districts won by KANU was 36,350, while the average for districts won by the opposition was 53,387. KANU received 41 percent of the total votes cast, but took 51 percent of the seats in parliament. The systematic over-representation of KANU voters gave the ruling party at least four extra seats in parliament.⁵⁷ Moreover, the government delayed or denied registration to some political parties and established puppet parties to divide the opposition. It also blocked opposition candidates from campaigning in certain districts, denied opposition parties rally permits, disrupted their campaign meetings, and limited their coverage on state-controlled media.⁵⁸

Once elected to office, the president and cabinet can control legislators through a mixture of intimidation and clientelism. Typical forms of intimidation include threats to withhold or deny office perks; government resources for *constituency servicing*; support for field offices or vehicles; access to state and party infrastructure; and requests for meetings with senior government officials. In addition, tax, audit, and other laws can be selectively enforced

against legislators who break ranks. Intimidation can also take the form of threats to physical harassment and harm, including arrest, beatings, torture, and death. Fearing for their lives, several Liberian legislators—including some who fought to protect the rights of their constituents over local forests from logging companies—sought political asylum and went to live in exile during President Charles Taylor's rule.

Once elected to office, the president and cabinet can control legislators through a mixture of intimidation and clientelism.

In much of Africa, clientelism between the executive branch and legislators involves providing legislators with opportunities for career advancement and private gains in exchange for their loyalty and political support. Patron-client relations are facilitated by low salaries for lawmakers and small operating budgets, weak government management and accounting practices, and the absence of codes of conduct. Clientelism can include appointment of sitting legislators to key parliamentary committees and to senior positions in the executive branch—cabinet positions, ambassadorial posts, and local government positions—and in other institutions, such as state enterprises and parastatals. Such appointments are used to reward loyal lawmakers and win the support of political opponents. To maintain and extend their power, presidents have historically ensured that they have large numbers of presidential appointments available. In Uganda, the cabinet includes 21 ministers, 45 ministers of state, and seven presidential advisors and commissioners.⁵⁹ At least a few positions are always vacant to entice legislators. Somalia's government includes a 102-member cabinet.⁶⁰

Clientelism can also involve granting rights over state or public resources to legislators, including land titles and mineral, forest, or fishing concessions. Nature-based corruption is widespread in Africa. In Kenya, public forestland (e.g., in Forest Reserves or National Parks) has been used as a patronage resource to buy votes and pay for political favors (see Box 3);⁶¹ in Liberia and Cameroon, timber concessions have been handed out to pay political debts;⁶² and in Gabon, oil revenues have been used to create a welfare state designed to quell dissent, silence opposition, and limit democratic reforms.⁶³

Preferential access to public goods and services, including development and relief assistance, is also used as a political tool to bring legislators in line with the executive branch. In Zimbabwe, with more than half of the citizens at risk of starvation, the ruling Zimbabwe African National Union Patriotic Front (ZANU-PF) party has used food to reward allies, punish opponents, and attract new supporters.⁶⁴ Legislators and voters understand that affiliation with the ruling party facilitates access to state resources. As a result, some opposition legislators have defected to ZANU-PF and many citizens have shied away from voting for opposition candidates.⁶⁵ In Kenya, opposition legislators make it clear to their constituents that defecting to the ruling party is in the voters' best interests, enabling them to get a share of the national "pie." Under such circumstances, opposition lawmakers and their constituents have little appetite for being the "loyal opposition."⁶⁶

Political Parties. Democratic governance systems do not work well on a large scale without competition among political parties over policy ideas.⁶⁷ Strong democracies require healthy political parties; dysfunctional parties usually mean weak legislatures. At their best, parties respond to citizens' ideas and preferences and to their members' common positions. They also focus legislators on matters of national concern and public interest. Political parties that emphasize constituency concerns and legislator-voter relations, and that encourage their member lawmakers to actively engage at the local level provide an important representation function.

When parties are too strong, they can restrict legislators in their decision making; stifle innovation, discretion, and independence; undermine democratic principles; limit opportunities for political reforms; and hamper representation. When one powerful party dominates politics it can limit the effectiveness of opposition parties and diminish party pluralism in the parliament. Alternately, when parties are too weak to maintain discipline, the lack of leadership and parochialism can make it impossible to hold the legislature together, especially a parliament which often requires parties and their members to work together to appoint leaders, pass bills, and perform other functions. While legislative committees play important roles in building consensus in presidential political systems, parliamentary systems give greater prominence to committees and caucuses within political parties or party coalitions.⁶⁸

Across Africa, political parties are highly regulated by the state in their external actions, but—despite their important public roles and functions—they are generally unrestrained by government in how they run their internal affairs. Most parties are hierarchical in structure and practice centralized decision making; few have institutionalized even the most fundamental of democratic principles. Most operate more like private businesses or social clubs than membership-based bodies serving the public interest.⁶⁹ The founders and principal financiers of parties are often their leaders and control most of the assets. They wield considerable power within their organizations and over the party members. These leaders establish party positions, control decision-making processes, and set internal procedures to ensure party discipline.

Most parties operate more like private businesses or social clubs than membership-based bodies serving the public interest.

Party leaders, whips, and other senior officials pressure their member legislators to maintain party unity and discourage individual actions, especially the representation of constituent interests that contradict party positions. They make and change rules, and reward and punish legislators as they deem appropriate. Political party constitutions emphasize party discipline, and party manifestos reflect the views and interests of the leaders, not necessarily those of the party members or of society at large.⁷⁰ The constitutions of many African parties are void of references to constituency representation or environmental management. Most African parties do not have established positions on local environmental matters and party platforms do not recognize the environment as an important campaign issue.⁷¹ Party decisions are often driven by politics and their political outcomes, rather than their established positions on policy matters.

While Western parliaments tend to emphasize party coalitions, in much of Africa, the ruling parties have such large majorities in the legislature that there is no need for them to collaborate with other parties to pass motions, bills, or even constitutional amendments. Moreover, with a strong executive president and weak or absent prime minister, a parliament majority is not needed to form or run government. Multiparty caucuses on policy

matters—including on environmental matters—are not common in Africa and bipartisanship is rare, although legislators of minority parties sometimes vote in unison in opposition to the ruling party. Party competition and personal rivalries between leaders limit cooperation and compromise.

Legislators acting in concert to pursue common local interests can be effective and, in a few cases, they are working across party lines to address common constituency needs. In Kenya, lawmakers from Coast Province collaborate to address tourism, mining, and local land use issues; groups of legislators representing coffee-growing constituents, sugar-growing constituents, and tea-growing constituents come together for joint efforts; and the Kenya Pastoralists Parliamentary Group brings together legislators representing pastoralist communities. In Uganda, legislators who represent ethnic Acholi people in Gulu, Kitgum, and Pader Districts have established an umbrella body, the Acholi Parliamentary Group, to address common needs, such as securing land rights and resettling internally displaced persons.⁷²

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In Cameroon, lawmakers concerned with the environment recently established the Cameroon Caucus of Parliamentarians for the Protection of the Environment chaired by the Vice-President of the National Assembly. The Caucus includes more than 60 lawmakers from the four most powerful political parties represented in the 180-seat National Assembly (five parties have members in parliament; the single lawmaker from the Union Nationale pour la Démocratie et le Progrès/National Union for Democracy and Progress party is not a Caucus member).⁷³ The Caucus is not a powerful voting block in parliament, but it does provide an important venue for member lawmakers to share concerns and discuss needed reforms, and to learn from NGO leaders, donor officials, and other experts invited to Caucus meetings. The member lawmakers are assisted in their efforts by a local NGO that facilitates the work of the Caucus.

While the laws and practices affecting political parties vary across Africa, the power of parties to maintain discipline—in many cases to the detriment of constituency representation—stems from several sources, including:

- *Party Resources and Infrastructure.* Large, established parties often have the resources, expertise, experience, contacts, and name recognition among voters for their candidates to run successful campaigns and for their sitting legislators to deliver on *constituency servicing* and local development. With control of the executive branch, the ruling party is further advantaged by its access to state apparatus, infrastructure, and resources.
- *Party-List Electoral Systems.* In proportional representation and other party-list electoral systems, candidates are selected from party lists that are usually developed behind closed doors and include only loyal members (see Legislator-Constituency Relations section). Independent-minded party members are kept off party lists and sitting legislators with a history of opposing party positions are removed from party lists before the next election.
- *Prohibitions on Independent Candidacies.* With some exceptions, such as Mali,⁷⁴ the constitutions of most African countries, including Cameroon, Kenya, Malawi, Senegal, Tanzania, and Zambia, mandate that all candidates for the legislature be nominated by and be a member of a registered political party. Sitting legislators who lose their party affiliation must vacate their seat. The prohibition on independent candidacy helps parties maintain discipline among their legislators by threatening to revoke their membership.
- *Restrictions on Switching Parties.* In South Africa, Kenya, and other countries, “anti-defection” laws restrict sitting legislators from switching political parties. Legislators who resign or are ousted from their party lose their seat and any ministerial appointment. In South Africa, brief periods of time are designated during which legislators can switch parties without losing their seats. In Mozambique, the law prohibits party switching, but allows a sitting legislator to leave his party and become an independent without losing his seat.

Local Notables. Local elite and other notables can have a significant influence over lawmakers. The influence of local government officials, traditional chiefs, and business leaders deserves special attention.

Local Government Officials. Local government officials in Africa, many now elected by popular vote, are also often opinion leaders in their electorate. Many are elected to office because of their prior status as popular or powerful community leaders, and voters look to them to help guide their decisions, including decisions about candidates for the legislature. As a result, many candidates seek the counsel and endorsement of local government leaders familiar with voter views and local priorities. In a few countries, legislators actively participate in local government affairs, further cementing this link; in Malawi, legislators are official, voting members of local government committees. Recognizing their influence, the executive branch and political parties look for ways to control local government officials. Their actions often come at the expense of establishing democratic decentralizations (see Local Governments section).⁷⁵

In some countries, local government officials also sit in the national legislature. The bicameral Parliament of South Africa consists of the National Assembly and the National Council of Provinces (NCOP). The NCOP—the upper house of parliament—replaced the former Senate of South Africa with the implementation of the 1997 Constitution. The NCOP consists of 54 permanent members and 36 special representatives. Each of South Africa's nine provinces sends ten representatives to the NCOP—six permanent members and four special delegates headed by the provincial premier or a member of the provincial legislature designated by the premier. Election for five-year terms to the NCOP is indirect. Citizens vote for lawmakers in provincial legislatures, and each of these legislatures then nominates its delegation of ten members to the NCOP. The delegation must reflect the proportion of each political party in the provincial legislature. The South African Local Government Association (SALGA), a public entity that represents local government on inter-governmental forums, joined the NCOP in 1998. SALGA can send a delegation to attend NCOP sittings, but it cannot vote. In addition, local (municipal) government representatives may participate in the NCOP, but not vote; ten part-time members represent different categories of municipalities.

Customary Authorities. Africa's traditional systems have changed significantly from pre-colonial times, but in many places indigenous leaders still hold sway over local populations. In Ghana, South Africa, and other countries, traditional authorities are recognized by the state and entrusted with important public roles and government functions. In most countries, however, indigenous leaders

have no formal responsibilities or authorities over political processes and public policy matters. In practice, many traditional leaders in Africa are important opinion leaders and their support is often sought by candidates and sitting legislators for (re)election purposes and to achieve other political ends.

In some cases, paramount chiefs and other senior customary authorities command such respect that candidates for the legislature must have their backing to win elections. In Zimbabwe, after voters rejected a referendum on a draft constitution in 2000, the ruling ZANU-PF party shored up its support in the rural regions by giving traditional leaders salaries and benefit packages commensurate with their local influence (among other power shifts, the draft constitution would have given government the authority to acquire private land in a compulsory manner for redistribution and resettlement purposes). ZANU-PF also reserved ten of the 30 appointed legislators in Zimbabwe's 150-member lower house National Assembly for traditional leaders, and one chief was made a deputy minister. The chiefs rewarded the party by helping it win the presidency in 2002 and more than a two-third majority in the 2005 parliamentary elections.⁷⁶

In South Africa, the constitution recognizes the right of communities living under traditional law and custom to influence the way in which the country is run. The National House of Traditional Leaders and six Provincial Houses of Traditional Leaders (in Eastern Cape, Free State, KwaZulu-Natal, Limpopo Province, Mpumalanga, and North West) perform an advisory role in government. The Provincial Houses advise provincial government on matters affecting traditional customs, such as circumcision and polygamy. Each Provincial House nominates three members to the National House, which also elects its own office-bearers. The National House advises the national government on customary law, the role of traditional leaders, and on the rights of communities in areas where traditional customs are still followed. It also conducts its own investigations and advises the president on request. In South Africa, there are strong links between some tribes and political parties—the Zulu are strongly linked with the Inkatha Freedom Party and the Xhosa with the African National Congress.

Business Leaders. With Africa's shift to market-based economies and the growing importance of private investments to growth and development, corporations and business leaders are seeking and gaining influence

over elected officials and government affairs. Many businesses have interests in land and natural resources (e.g., agro-businesses and extractive industries), and have acquired considerable power to achieve desired policy changes and legislative reform. In Congo-Brazzaville, foreign logging companies operating in isolated parts of the north essentially act as the government, developing infrastructure, providing social services, and in some cases, making public policy at the government's behest. This is reminiscent of the late 17th century, when private companies administered territory on behalf of the colonial powers. The Imperial British East Africa Company exercised control over part of East Africa—now Kenya—for seven years until the territory was declared the East Africa Protectorate in 1895. In southern Africa, the British South Africa Company administered Northern Rhodesia (now Zambia) from 1890 until 1924, and Southern Rhodesia (now Zimbabwe) until 1925.⁷⁷

With Africa's shift to market-based economies and the growing importance of private investments to growth and development, corporations and business leaders are seeking and gaining influence over elected officials and government affairs.

Local businesses are providing important financial support to political parties and to the campaigns of individual candidates. Many companies and corporate leaders contribute to several parties and candidates to ensure ties with the eventual winners. While difficult to document, many are also known to informally give money and provide services to politicians to buy their favor. Few countries have comprehensive campaign finance or

BOX 7 | PRIVATE FUNDING OF POLITICAL PARTIES IN SOUTH AFRICA

Political parties need resources to run their affairs, including election campaigns. Money, however, has the power to corrupt and subvert voter interest in favor of the powerful individuals and interest groups that donate funds with conditions attached. In South Africa and other countries, private funding of political parties is disproportionately large in comparison to monies from public coffers. Moreover, a small number of entities provide most of this private funding. This can be problematic when it happens outside of the public eye and promotes unequal access to political power by a few donors who make significant contributions. Equity in representation of all constituents—rich and poor—is the standard that marks a true democracy.¹

In South Africa, the constitution and Promotion of Access to Information Act provide for freedom of information and the right to know. South Africa is also a signatory of the African Union Convention on Preventing and Combating Corruption, which obligates the government to adopt measures to “incorporate the principle of transparency into funding of political parties.”² There is no specific law, however, that governs the receipt of private monies by political parties. Recently, a High Court dismissed an application by an NGO to access records of private donations made to the nation's four largest political parties. Despite their clear public role, the judge ruled that political parties are private, not public bodies and “should not, as a matter of principle, be compelled to disclose details of private donations made to their coffers.”

He added, however, that a “compelling case” was made for the regulation of private funds for political parties and that such donations should be regulated by legislation.³

Some progress is being made. In 2002, the Institute for Democracy in South Africa (IDASA), a pro-democracy NGO, prepared a draft bill to govern the receipt of private funds by political parties. The bill contributed to public debate on this issue and supported the efforts of concerned legislators. Before the 2004 national elections, 16 major corporations voluntarily disclosed the amount of their donations to political parties and the identity of the recipients. In October 2004, the JSE Securities Exchange South Africa—the Johannesburg stock exchange—released its revised Social Responsibility Index, which credited companies that publicly disclosed their political donations. In July 2005, IDASA and other South African NGOs launched a website on political party funding in Africa. The NGOs hope that this Internet-based resource will build momentum for lawmakers to enact legislation to govern the private funding of political parties.⁴

Notes

1. ISS and IDASA 2008; AMG 2005; February and Calland 2005a; 2005b; SABC 2005
2. AU 2003
3. ISS and IDASA 2008; AMG 2005; February and Calland 2005a; 2005b; SABC 2005
4. ISS and IDASA 2008; AMG 2005; February and Calland 2005a; 2005b; SABC 2005

disclosure laws to encourage transparency and discourage inappropriate influence of special interests (see Box 7). In Liberia and other nations, the electoral commission is required to conduct regular financial audits of political parties and candidates. But such audits are rarely performed and, when undertaken, are more often used as political weapons to intimidate opponents than as an accountability tool to maintain an appropriate separation between business and government.

The absence of campaign finance laws and the lack of effective oversight can contribute to other election-related problems. In Tanzania, the National Elections Act of 1985 legitimized the giving of inducements to voters during election campaigns in the name of traditional hospitality, called *takrima*. The practice encouraged vote-buying and placed wealthy or well-funded candidates in an advantageous position. It also violated the constitutional right of all citizens to participate in government. In 2006, the High Court called these provisions “discriminatory,” “unnecessary” and “very dangerous,” and ruled them unconstitutional.⁷⁸ Electors, particularly poor rural people, are susceptible to financial and other material incentives that can influence their votes. In Ghana, as candidates give more and voters demand more, elections have become “harvesting seasons” for the electorate (also referred to as “electoral blackmail”).⁷⁹

C. AUTHORITY

Legislatures and legislators must have sufficient and discretionary authority to effectively carry out their representation responsibilities. Most importantly, they must have the authority to run the parliament, make legislation, and oversee the affairs of government (see Box 8).

Legislatures and legislators must have sufficient and discretionary authority to effectively carry out their representation responsibilities.

Control of Parliament. In the 1970s and 1980s, when one-party political systems dominated the African continent, the legislature essentially conducted the president’s business. The president and ruling party appointed the speaker, set the parliament’s agenda, established the rules of procedure or standing orders (internal rules that guide and regulate the affairs of parliament), and

controlled parliamentary debate and decision-making processes. Over the last two decades, many governments have initiated reforms to empower legislatures and legislators, and in some countries, the parliament has made considerable progress in regaining control over its business.⁸⁰ In 1999, Kenya adopted a constitutional amendment that empowered the legislature to establish the Parliament Service Commission (PSC) to run the parliament. The amendment gives the PSC control over the establishment of parliament’s rules and budgets, recruitment and assignment of staff, and determination of compensation levels for members and staff. The PSC has helped de-link the parliament from the Office of the President, loosening the executive branch’s stranglehold on parliamentary affairs.⁸¹ In Cameroon, Tanzania, and other countries, the parliament has established new standing orders, although it is not clear how well they are being implemented and whether they have helped legislators regain control of the parliament.

Despite these reforms, the executive branch and ruling party in many countries still retain control and influence over the legislature, particularly through the parliamentary leaders.

Despite these reforms, the executive branch and ruling party in many countries still retain control and influence over the legislature, particularly through the parliamentary leaders. In Tanzania, the president and his party, the Chama Cha Mapinduzi (CCM)—which holds a sizeable majority in parliament—play a significant role in selecting the speaker. The speaker sets the agenda, chairs all sessions, decides which bills and motions are presented, casts the deciding vote when there is a deadlock, appoints committee members, enforces the rules of procedure, and suspends legislators who disobey orders. In Zimbabwe and other countries, the speaker also has the power to dismiss a legislator for a variety of reasons, and in some cases, to dissolve the legislature. Speakers beholden to the executive branch often use their powers to do the government’s bidding, rather than conduct the legislature’s business. In such circumstances, legislative leaders act more like supervisors than presiding officers. They can ignore questions from opposition party legislators, deny their motions, distribute legislative funds to allies, and refuse to table private members’ bills (PMBs)—bills which emanate from an individual member or group of legislators.

Across Africa, the executive branch has expanded the president's role in lawmaking and placed conditions on parliament's authority, such as limiting the issues over which lawmakers can legislate.

Lawmaking Authorities. Across Africa, constitutional reforms in the last 10 to 20 years have sought to reinstate the parliament as the supreme lawmaking body.⁸² Parliaments have regained some statutory authority to mark-up, approve, or dismiss government bills; amend legislation; and pass PMBs. Legislators are increasingly exercising their lawmaking authorities, but few of them effectively use these powers, especially in support of their

constituents' specific concerns. Most lawmakers and parliamentary committees still wait for the government to draft and submit bills to the legislature for review, and do not proactively draft PMBs. Parliamentary reviews of government bills are often cursory; their mark-ups rarely call for a significant departure from government positions, especially on budget and other critical issues.

Moreover, executive branches continue to look for ways to limit and overrule the lawmaking authorities of parliaments. Across Africa, the executive branch has expanded the president's role in lawmaking and placed conditions on parliament's authority, such as limiting the issues over which lawmakers can legislate. In some cases, the executive branch has sidestepped the legislature and ruled by presidential decree and administrative fiat. In 2004, the Ugandan cabinet developed a proposal for a constitutional amendment that would give the president the power to appropriate private land in a compulsory

BOX 8 | CAMEROON'S MENGAME GORILLA SANCTUARY

In September 1997, the government of Cameroon signed a three-year management agreement with the Société Forestière PETRA (SOFEPETRA), a local forestry company owned by a Cameroonian of Lebanese origin. The agreement obligated SOFEPETRA to support biodiversity conservation in the Mengame Gorilla Sanctuary and to promote development in the surrounding areas. Residents in the areas closest to the sanctuary—Oveng Sub-division of Dja et Lobo Division and Mvangane Sub-division of Mvila Division—were dissatisfied with the terms of the agreement, and with SOFEPETRA's performance and practices. They shared their concerns through various means, including petitions, with local and central government officials and with their legislators. Cameroon uses a proportional representation electoral system with the division as the multi-member electoral circle; the people of Dja et Lobo Division are represented by five legislators and the people of Mvila Division by three lawmakers.

The Oveng and Mvangane Sub-division residents were upset with the government and SOFEPETRA over several matters. One, they claimed that, contrary to the participation provisions in Cameroon's 1994 forestry law, they were not consulted and did not participate in the negotiations with SOFEPETRA. Two, the residents had a preference for community-based management schemes over the government's protected area approach to biodiversity

conservation. Three, the residents were not involved in the management of the Sanctuary Fund, which they claimed was being mismanaged. The Fund was capitalized by SOFEPETRA with 200 million Communaut Financière Africaine (CFA) francs, almost US \$400,000. Four, they argued that SOFEPETRA was logging illegally in the Sanctuary and its buffer zones. Finally, they claimed that SOFEPETRA, in complicity with certain local administrative officials, was violating taxation requirements. In contrast to the protests of the Oveng and Mvangane residents, villagers in other parts of Dja et Lobo and Mvila Divisions were generally pleased with SOFEPETRA's development efforts, which included the construction of schools and bridges, and the payment of hospital bills and school fees.

In response to the protests, one of Dja et Lobo District's five legislators repeatedly exercised his oversight authorities in parliament to bring up the concerns raised by his Oveng constituents. He discussed the issues during written and oral questioning periods in parliament and in meetings with government officials, including the Minister of Environment and Forest. The legislator questioned the volume of cut timber declared by SOFEPETRA, the benefits to his constituents, the alleged embezzlement of Sanctuary Fund monies, and the quality of government oversight of the agreement. In representing his constituents, the legislator received valuable information from Fond d'Appui au Développement

manner for economic development and investment purposes (by law, such authority can only be exercised for a public purpose, such as a road). The government eventually withdrew its proposal, but not until several legislators and NGOs expressed their concerns.⁸³

Some of the more problematic restrictions on legislators' lawmaking authority concern budgetary and other financial matters. In many African nations, lawmakers have limited authority to review government budgets, scrutinize state expenditures, and mark up appropriation bills. Yet even this limited authority is rarely exercised because of the pressure government puts on lawmakers. In Kenya, efforts are under way to establish a Parliamentary Budget Office—similar in design to the Parliament Service Commission—to strengthen the legislature's role in making, reviewing, and monitoring the budget, but the efforts have been slowed by a reluctant executive branch.⁸⁴

In Kenya, Tanzania, Uganda, and other countries, legislators also have limited powers to submit PMBs. In most countries, PMBs must be tabled by the speaker and in some cases, need to be pre-approved by the executive branch. In Cameroon, Kenya, Tanzania, Uganda, Zambia, and other countries, PMBs with financial implications (*i.e.*, those that raise or reduce public expenditures) are inadmissible. These and other restrictions significantly limit the ability of legislators to develop PMBs to address constituency needs. In practice, few PMBs are drafted, only a small fraction are tabled by the speaker and voted on by the full house, and an even fewer number are signed into law by the president. In Cameroon, the legislature passed its first ever PMB (to amend the standing orders of the parliament) in 2004. In some African nations, no PMBs have ever been passed into law.

Oversight Authorities. In functioning democracies, legislators exercise their oversight authorities to monitor

BOX 8 | *continued*

Économique et Social, a local environmental NGO (based in Dya et Lobo Division), which he chaired.

The legislator called for the government to revoke its agreement with SOFEPETRA and demanded that decision-making processes regarding local development be more inclusive and transparent. He also insisted that a control structure be established to oversee biodiversity conservation and ensure SOFEPETRA compliance with the agreement. The government initially defended its decision to enter into an agreement with SOFEPETRA, but did agree to establish a Planning and Follow-Up Committee to help oversee conservation in the Mengine Sanctuary and development in the region. The 12-member Committee included the Mayors of Oveng and Mvangané Sub-divisions and two parliamentarians (not including the concerned lawmaker).

Under continuous pressure from the legislator and residents of Oveng and Mvangané, however, the government eventually revoked its agreement with SOFEPETRA and disbanded the Committee, replacing it with a new government team and an Advisory Board to manage the Mengine Sanctuary. The Board is broad-based and representative of Oveng and Mvangané residents, and of various local institutions.

The concerned legislator holds a Ph.D. in history, is a senior member of the ruling Cameroon Peoples Democratic Party (CPDM) and was Secretary General in charge of Legislative

Affairs in the parliament prior to becoming a lawmaker in 1997. He and the President of Cameroon both hail from Sangmelima Sub-division in Dja et Lobo Division. Several other senior government officials also hail from this area. The eight legislators for Dja et Lobo and Mvila Divisions are consistently from CPDM. The concerned legislator's seniority in the ruling party, his attention to the needs of his constituents, his personal commitment to the environment, and perhaps his private relationships with the owners of several competing logging companies motivated him to question the government's agreement with SOFEPETRA.

The legislator paid a steep political price for his representation efforts. In the run-up to the 2002 election, he was sanctioned by his party, lost in the primaries, and not included on the CPDM party list. Although the electoral circle in Cameroon is the division, the CPDM assigns each member legislator a specific region in the division to represent—the concerned legislator was given his home Sangmelima Sub-division. Many Sangmelima residents, who were pleased with the SOFEPETRA agreement, questioned his decision to focus on the environmental concerns of the residents of neighboring Oveng Sub-division (who he also officially represented) and of Mvangané Sub-division in neighboring Mvila Division (who he did not officially represent).

government and ensure the executive branch performs its statutory roles and responsibilities. To effectively discharge their oversight roles, legislators need the authority to confirm presidential appointees, monitor government actions, and impose sanctions for poor performance.

To effectively discharge their oversight roles, legislators need the authority to confirm presidential appointees, monitor government actions, and impose sanctions for poor performance.

Confirming Presidential Appointees. The power to confirm presidential appointments can help lawmakers curb nepotism and clientelism in government, and strengthen legislative representation. In Malawi, Uganda, and a few other countries, certain presidential appointees must be confirmed by the parliament. In Tanzania and many other nations, however, cabinet members, ambassadors, special legislators, senior justices, the inspector general, and other appointees with important portfolios are not approved by the legislature. Many of these appointees make or participate in decisions that affect rural people and local environments. The absence of confirmation authority robs legislators of an important opportunity to screen candidates, learn of their views and history of performance, and to communicate their own expectations. Moreover, the legislature in many countries is not involved in decisions determining which positions are filled by presidential appointees, making it difficult for the parliament to limit the total number of such appointments and thereby to curb clientelism (see *Autonomy* section).

Monitoring Government. Legislative oversight helps ensure that government exercises its authorities appropriately and meets its responsibilities, including protecting the constitutional rights of citizens, implementing laws, and enforcing judicial orders. Effective legislative oversight requires close monitoring of government actions and their effects. In some cases, this can be achieved informally, as when a legislator uses the occasion of a private meeting or lunch to question a minister about certain government decisions. More formal means of monitoring performance include submitting written questions to government officials (questions on notice for written or oral reply); contributing to open discussions and debates in parliament; reviewing

government documents; launching parliamentary inquiries; holding hearings; summoning witnesses; and collecting testimony. In many African countries, the legislature either does not have these authorities or is significantly restricted in exercising them. Most monitoring authorities are subject to the discretion of the speaker, who, as noted, is often beholden to the president and the ruling party. In many countries, the speaker has used his power to protect the executive branch and government officials from inquiries that may embarrass or compromise them.

To protect lawmakers from retaliation for their parliamentary decisions and actions, the standing orders in most countries provide legislators immunity. No legal proceedings can be brought against lawmakers for any statements made on the floor of the house. In Kenya and other countries, this provision has enabled lawmakers to question executive branch decisions and actions even without substantial evidence (although problems have arisen when some lawmakers have misused their immunity to malign competitors or other people).

Issue-oriented parliamentary committees have been established in most legislatures in Africa to shadow government ministries. In Uganda and other countries, these committees are permanent bodies, while in Kenya, Liberia, Zambia, and other nations, they are sessional. In Tanzania, Uganda, and elsewhere, the legislature has established distinct environment committees. Alternatively, in Cameroon, Kenya, Malawi, Mozambique, Zimbabwe, and other nations, the legislature has incorporated environmental matters into committees with other, sometimes contradictory, responsibilities, such as the Committee on Mines, Energy, Environment and Tourism in Zimbabwe, and the Parliamentary Committee on Agriculture, Land and Natural Resources (PCALNR) in Malawi and in Kenya. A few environmental committees are led by powerful legislators, but more often, the committee is weak, unpopular, and does not attract the interest of senior lawmakers.

The responsibilities of committees vary, but they usually include making informed contributions on policy and legislation, developing and presenting recommendations to the full house, and monitoring the performance of relevant ministries. In Uganda, the official functions of standing committees are to make recommendations regarding all bills laid before the parliament; initiate any bill within their respective areas of competence; assess government activities related to the environment; and

carry out relevant research. Parliamentary committees also serve as arenas for legislators to share the needs of their constituents and to mobilize the full house on constituency matters of national importance. The effectiveness of the committees has varied depending partly on the members' knowledge of their subject areas, and the power of the committee and its leaders within parliament. Committees have significantly improved the legislature's contribution to policy debates, and in some cases, environment committees have had success in strengthening bills and holding the executive branch accountable. In Kenya and other countries, committee recommendations to the full house are beginning to challenge the influence of the party whips over legislators.

Parliamentary committees also serve as arenas for legislators to share the needs of their constituents and to mobilize the full house on constituency matters of national importance.

Sanctioning Government. To effectively oversee the affairs of government, the legislature and parliamentary committees must have the authority to impose sanctions on government officials and institutions for poor performance, such as negligence, incompetence, abuse of office, and other inappropriate actions. Sanctions that can discipline the behavior of government officials include censure, votes of no confidence, and impeachment. In many countries, the constitution grants these authorities to the legislature, but enabling laws, regulations, and standing orders place restrictions on their use.

In practice, sanctions are sometimes threatened, but rarely imposed. Their use is limited partly because the procedures for applying sanctions are controlled by the leadership in the legislature and the fall-out for the legislators involved can be severe. In Uganda, following concerns raised by affected communities and the popular media over the degazettement of several forest reserves and the allocation of timber concessions in protected areas, the Inspector General of Government undertook investigations into the matters. With the release of the Inspector General's report, several legislators called for a parliamentary probe into the affairs of the Forest Department. In 2000, the parliamentary committee's final report noted, among other findings, that the Minister for Water, Lands and Environment had issued an illegal

order removing protected status from at least one forest reserve. The Minister narrowly avoided being subjected to a censure motion after evidence emerged that he was acting under direct instructions from the Office of the President. While the parliament chose not to pursue the matter further, the investigation was closely followed and reported on by the Ugandan press, and raised the political costs of favoritism and abuses of power.

In Malawi, President Bingu wa Mutharika—elected into office in May 2004—quit his United Democratic Front (UDF) party in February 2005 and founded the Democratic Progressive Party (DPP). He argued that the UDF was against his tough stance on corruption. In October 2005, the UDF, which controlled the parliament, started impeachment procedures. The party's efforts, however, were almost immediately halted by the High Court to determine the constitutionality of the process. The following month, the sponsoring UDF legislator was arrested and taken to court by the government for allegedly issuing false documents to hide his 1999 conviction for misappropriating government funds. Such a conviction would have made him ineligible to stand for election as a Member of Parliament. Three months later, in January 2006, he withdrew his impeachment motion. At that time, the UDF vowed to proceed through another member legislator.⁸⁵

In 2006, three state governors in Nigeria had been impeached in the preceding years and another two governors were facing impeachment proceedings from their local legislatures over allegations of corruption (Nigeria is a federal state). After impeachment moves in the southwestern state of Ekiti, President Olusegun Obasanjo declared a state of emergency, giving him the authority to appoint a new governor—a former army general. Opposition politicians in the national Senate argued that the move was unnecessary and part of a wider plan by the president—a retired army general and former military ruler—to consolidate his control in the run-up to the April 2007 polls. President Obasanjo argued that he took action to prevent Ekiti from descending into chaos. The Senate passed a resolution that the legislature should be consulted before any future state of emergency declarations.⁸⁶

In Cameroon, the procedures for sanctioning the government are strict. A legislator may prepare a motion of censure, but the motion must be signed by at least one-third of the members of parliament (at least 60 of the 180 members) and passed by a two-thirds majority within

48 hours of its tabling. If the motion fails, its signatories are barred from submitting another motion for a full year. Further, the prime minister, as the formal head of government, can present a vote of no confidence which, if passed by an absolute majority in parliament within 48 hours of being tabled, compels the prime minister to tender the government's resignation. While such conditions are designed to discourage frivolous motions, if they are too stringent, they can also have the effect of stifling parliamentary oversight.

Even if legislatures and legislators were sufficiently empowered with lawmaking and oversight authorities, many lack the capacity to exercise their authorities and discharge their responsibilities. Few legislatures in Africa

have the trained staff, offices, equipment, and other infrastructure needed to operate efficiently and effectively. An office in the voting district and staff to conduct policy research on constituency matters are important for lawmakers to meet their representation roles, but in most countries the parliament's budget cannot support these needs.

Legislators sometimes team with NGOs to help fill the gaps in legislative capacity and to provide them with the needed assistance. Some policy-focused NGOs monitor government performance, and share their findings and recommendations with legislators. In Tanzania, the Lawyers' Environmental Action Team (LEAT), an environmental law NGO, drafted a framework national

BOX 9

KENYA'S SONDU-MIRIU HYDROPOWER PROJECT

The Sondu-Miriu Hydropower plant in Nyanza Province, western Kenya, is the first phase of the multi-purpose development plan for the Sondu River Basin. The run-of-the-river hydropower plant relies on the water flow to generate electricity with only a small water storage reservoir at the intake. It has a maximum capacity of 60 MW and an average annual energy output of 331 GWh, principally for the nearby town of Kisumu. Water is diverted to a power station through a 7.2-kilometer tunnel through the Kasaye Hills and then a penstock (pipeline) to the power station. From the power station, water is returned to the river through an outlet channel approximately 14 kilometers downstream of the intake. Construction started in March 1999 and the project was completed and commissioned in late-2007. The project to build the plant was implemented by the government through the Kenya Generating Company Limited (KenGen) and Japan's Nippon Koei Company Ltd, with funding from the Japanese Bank for International Cooperation (a government bank).

The Sondu-Miriu Hydropower plant is situated in Nyakach constituency, but also cuts into neighboring Kasipul-Kabondo and Karachuonyo constituencies. The Nyakach lawmaker first won office in 1997 on an opposition party ticket of the National Development Party (NDP), historically a popular party in the region. Though construction on the plant had not begun, the project was a major campaign issue in the 1997 elections. Most residents supported the project because of its promises of jobs and development. The Nyakach legislator expressed positive sentiments for the project during the campaign and after winning office, hailing it as an important development initiative and promising to champion local interests—

employment, new local businesses, and compensation for lost property.

Two former parliamentarians from Nyakach and Kasipul-Kabondo constituencies spearheaded the fight against the project, working with national NGOs to raise a number of social and environmental concerns. According to the environmental impact assessment (EIA), the project would displace 1,000 households and cut off or severely limit the principal water supply to another 1,500 households. It would also reduce the flow of water between the intake and outlet, creating a 14-kilometer "depleted zone" that would adversely affect local agriculture and fishing. Further, the dynamite and chemicals used to cut the tunnel and develop other project infrastructure could increase pollution and lead to eye and respiratory problems.

During the Nyakach lawmaker's first term in office, the construction of the Sondu-Miriu Hydropower plant brought to the fore several significant environmental and livelihood matters, including allegations of human rights abuses and anti-project activists. Strong advocacy groups and lobbies emerged to represent these community concerns, arguing for the payment of higher compensation and the development of a new EIA. As public opinion turned away from the project, the Nyakach legislator echoed the perceived negative impacts of the project in the constituency, even as he continued to underscore its importance to the economic development of the constituency. He opened three offices in his constituency where residents could lodge complaints and explain their grievances, and urged the contractors to address environmental issues, such as sprinkling water on

environmental management bill in 2003 at the request of the Parliament Committee on the Environment. The draft bill was used by the Committee members to review and assess the government-prepared bill. In Cameroon and other countries, lawyers from the NGO community (and private sector) stand ready to help legislators draft private members' bills and review government-sponsored bills. Some NGOs, such as the Cameroon office of the Network for Environment and Sustainable Development in Africa-Central Africa (NESDA-CA), the Advocates Coalition for Development and Environment (ACODE) in Uganda, and the Centre for Environmental Policy and Advocacy (CEPA) in Malawi organize meetings between legislators and NGOs to discuss local development and environment issues.

D. ATTRIBUTES

Individual values and beliefs, ideological orientation, development vision, personal interests, private motivations, and other intangibles can profoundly shape a legislator's actions. Legislators are likely to represent the land and natural resource interests of their constituents when these personal attributes are aligned with local environmental matters (see Box 9). Four such intangibles deserve special attention—career development, representation philosophy, professional training, and personal impacts.

Career Development. Individuals run for office for a multitude of reasons. In Kenya, South Africa, and other nations a new generation of legislators—young,

BOX 9 | *continued*

the new access roads to reduce dust and air pollution. He also promised that local people would be given priority in project employment and reasonable compensation for those who lost their land. A review of the *hansards*, however, reveals that the Nyakach legislator did not represent these or other constituency concerns in parliament.

The environmental concerns of the Sondu-Miriu Hydropower project caught the attention of the Japanese government and parliament, which organized several fact-finding missions to Kenya. In June 2001, the government suspended funding of the project and threatened to terminate its support. The Nyakach legislator helped organize protests against the suspension and made efforts to restart the project. A Technical Committee on Environment, which included the Nyakach legislator, was established to sort out community grievances, although it was not particularly effective in moderating between environment and development concerns.

Leading up to the December 2002 general elections, the political landscape in Kenya was changing dramatically. The ruling party, the Kenya African National Union (KANU), was losing support while the National Rainbow Coalition (NARC), which bound 15 parties in an electoral pact, had united the opposition and emerged as a real political force. At the height of the political crisis—when Nyakach residents were largely in opposition to the Sondu-Miriu Hydropower project—KANU merged with NDP (the two parties had been in merger discussions since 1997-98). The NDP leader was appointed Minister of Energy, giving him responsibility for the project. The Nyakach legislator was given the position of Assistant Minister for Foreign Affairs, and the NDP lawmaker from

neighboring Karachuonyo constituency (and former political detainee) was appointed to the powerful position of Minister for Planning and National Development. This marked the first time that KANU had appointed members of the opposition to government ministerial positions.

The new Energy Minister immediately made efforts to quell the dissenting voices. The Nyakach and Karachuonyo legislators took positions that were consistent with their NDP party—and that of KANU and the government. The Nyakach legislator spoke less about the negative social and environmental impacts of the project, and more about its promises of jobs and development. The influence of the NDP, Energy Minister, and the Nyakach and Karachuonyo legislators in the region helped redirect local sentiments back in support of the Sondu-Miriu Hydropower project. The KANU-NDP merger only lasted from March to October 2002 with NDP then aligning itself with NARC. The NARC link helped the Nyakach legislator win re-election in the December 2002 polls. In 2005, after a four-year lull, the Japanese government resumed its funding of the Sondu-Miriu Hydropower project.

The lawmaker took a pragmatic approach to the Sondu-Miriu Hydropower project—initially supporting it, later expressing reservations over the social and environmental problems, and after NDP merged with KANU, again supporting the project. When the merger collapsed and NDP aligned itself with NARC, the legislator continued to support the project, but not with the same fervor. Many residents believe he identified with the majority sentiment in the constituency in order to position himself for the upcoming polls and secure his re-election.

educated and professional—is taking office. Many of these lawmakers come into the parliament from outside the established patronage network. They view their work as a public service—an opportunity to serve their country and constituents—and focus on meeting their representation and other constitutional responsibilities. They have interests in democracy and good governance, in poverty reduction, and in sustainable development. Higher salaries for lawmakers in some countries may curb their appetite for patronage resources, and may limit the lure and power of clientelism.⁸⁷ In Kenya, legislators receive a government salary of more than US \$6,000 per month, while in Cameroon, Zimbabwe and other countries, they make less than US \$1,000 per month.

For other lawmakers, being a legislator is primarily a job and—with its salary, benefits, and perks—one worth keeping and protecting. Such lawmakers may regard their posts primarily as a stepping stone to a more senior position with even greater personal rewards. For them, the possibility of receiving a presidential appointment or other senior government position is a strong incentive to become a legislator and remain in the president's favor. For career-motivated legislators, representing their constituents in parliament is secondary, unless it contributes directly to job security and the prospects for promotion. Some have used divisive local environmental matters to distinguish themselves from others in the legislature and their party, and achieve short-term political gains.

For other lawmakers, being a legislator is primarily a job and—with its salary, benefits, and perks—one worth keeping and protecting.

Representation Philosophies. A legislator's beliefs about his representation role also shape his decisions and actions. Political scientists recognize a representation continuum. At one end, lawmakers consider themselves an agent of their electors and act on their explicit instructions ("delegate"). At the opposite end, legislators believe that once elected, they are free to use their own judgment and do as they think best for their constituents ("trustee").⁸⁸

The implications of this representation continuum for performance are complex. Given voter interest in *constituency servicing*, a "delegate" lawmaker may tend

to focus his attention on new development investments in his district, while a "trustee" lawmaker, recognizing the many challenges his country faces, may be more inclined to emphasize national matters (in both cases, *political representation* is sidelined). Legislators must balance their national and local responsibilities. Some lawmakers are nationalists and believe that their principal responsibility is to promote national interests; others are more focused on their electorate and regard representing their constituents as their fundamental role. National and constituency interests may converge when localized environmental matters, such as many natural disasters, rise to the level of a national concern, when local issues become common across the rural landscape or when they affect the majority of people.

Professional Training. Few of Africa's legislators are formally trained in environmental management or have a good understanding of even the most basic ecological principles. The decisions and actions of lawmakers suggest that many may undervalue the importance of natural resources and other ecosystem services to local livelihoods, and underestimate the democratic and security dividends of social equity and environmental justice (defined as fair distributions of environmental costs and benefits). Legislators with little regard for environmental matters may support local development investments with short-term benefits—projects with quick, tangible results that meet campaign promises or the immediate needs of their electors—but with damaging long-term social and environmental consequences. In contrast, legislators who have formal training in the natural or life sciences, are professionally committed to sustainable development, or are personally interested in environmental matters may be inclined to look for and capitalize on opportunities to represent their constituents' environmental concerns and needs.

Personal Impacts. Many legislators come from and maintain homes in the constituency they represent, but few reside there year-round. As a result, local environmental issues do not affect lawmakers to the same degree as they affect residents. This distance may dampen their sense of urgency to act on pressing matters. Alternatively, legislators who are directly confronted by environmental challenges are likely to be motivated to address them in local administration, central government, and the parliament. In Mozambique, a senior ruling party legislator, against the position of central government, opposed the incineration of 300 tons of banned pesticides at a cement factory near his home. The factory is located

in the constituency of another legislator who is not a resident and who did not address the issue in parliament. Cement kiln hazardous waste incineration is an obsolete technology and a leading source of dioxin creation. There are many viable alternatives to incineration that do not produce such persistent organic pollutants. For two years, the legislator and several local and international environmental NGOs worked to defeat the incineration plan, which was supported by Danida, the Danish bilateral aid agency. In 1999, the Mozambique government abandoned its effort and the Environment Ministry announced plans to export the pesticides for proper disposal abroad.

Localism may also explain why legislators, who spend much of their time in the capital, are paying increasing attention to urban or “brown” environmental matters. With urbanization rates of more than four percent per annum,⁸⁹ the quality of air and water in most African cities has deteriorated and led to significant health

problems. Urban constituencies also feature closer physical links between voters and their legislators than do rural constituencies, providing more opportunities for citizens to press their representatives into action, monitor their performance, and hold them accountable.

When legislators act on local environmental concerns, their actions must be—in perception and practice—in the interest of their constituents or the general public, not for any personal or private gain. This can be problematic when the lawmaker, his family, or close colleagues also benefit from such actions. In many Western countries, legal and other measures are in place to ensure that public officials do not abuse their office. In Africa, however, only a few countries have articulated codes of conduct and established ethics rules that require legislators to disclose relevant personal information bearing on potential conflicts of interest. Most African legislatures also do not have ethics committees to monitor the performance of their members.

FINDINGS

Four principal findings flow from this research on legislative representation in Africa.

FINDING 1. Institutionalized incentives discourage legislators from performing their fundamental representation responsibilities.

The laws, regulations, procedures, norms, and customs that establish the enabling environment and incentive structure for legislative representation vary across Africa. In the nine research countries, their cumulative effects on legislators are, however, similar. Strong incentives to advance executive branch and party interests coupled with few inducements to pursue local matters, discourage lawmakers from performing their fundamental representation roles. Legislators are not downwardly accountable to their electors, sufficiently autonomous from political bosses and institutions, or empowered with the authorities and capacities needed to effectively address their constituents' concerns. Moreover, many do not possess the personal attributes, convictions, or motivations consistent with legislative representation in general and environmental representation in particular.

Many of the incentives that contradict representation are codified in law, institutionalized, and engrained in the culture of decision making. In Kenya, the constitution does not grant citizens the authority to recall poor performing lawmakers; in Mozambique, the proportional representation electoral system and anti-defection laws make legislators more accountable to their party than their electorate; in Tanzania and Zimbabwe, the president

appoints some legislators, helping to ensure that his party maintains a majority in parliament; and in Cameroon, the authority of lawmakers to affect bills with budget and financial implications, including private members' bills, is severely limited.

Legislators are not downwardly accountable to their electors, sufficiently autonomous from political bosses and institutions, or empowered with the authorities and capacities needed to effectively address their constituents' concerns.

The result is that legislators do not routinely represent their constituents' concerns in parliament or in other important policy fora. They rarely use their lawmaking and oversight authorities to support their electorate, and—as the Butamira Forest Reserve case study from Uganda (see Box 5) and Serengeti National Park study in Tanzania (see Box 6) illustrate—when they do, their efforts are often ineffective at resolving local matters. In particular, legislators do not represent constituency matters that contradict the interests of the executive branch, their political party, or powerful local notables. In summary, the specific concerns of most rural citizens are not represented well or effectively in parliament, and many local views are misrepresented by legislators.

FINDING 2. Local environmental issues are important livelihood matters for poor rural people, but for many legislators, the environment is a secondary concern.

The rural poor in Africa have common environmental needs in support of basic subsistence and local livelihoods. Rural residents communicate with their legislators—either directly or indirectly through community-based associations or national NGOs—when their access to land and critical natural resources is threatened or their means of translating environmental goods into wealth are jeopardized. Many lawmakers also hail from and maintain a home in their constituency, and have a general understanding of their voters' most important environmental needs.

Still, few lawmakers in the nine research countries consistently represent their constituents' pressing environmental issues. In Cameroon, almost 20 percent of the bills passed by the legislature from 1992 to 2002, and in Malawi, 19 percent of the bills brought to parliament from 2004 to 2006 were concerned with environmental issues. The bills, however, emphasized national interests, and did not advance the specific needs and immediate concerns of local people. In Zimbabwe, environmental matters are not priorities for the parliament or the executive branch; legislators who address such issues are not considered to be serious lawmakers by their peers. In Mozambique, the legislator who represented residents potentially affected by the proposed incineration of banned pesticides did not live in his constituency and did not oppose the government effort. Rather, another lawmaker who lived near the cement factory advocated against the incineration and his efforts contributed to the government eventually deciding to export the pesticides.

Advocacy on local environmental issues can be problematic for lawmakers for many reasons. Some environmental matters, such as biodiversity conservation, tree-planting, and maintaining green spaces in urban centers are considered secondary concerns by many legislators, overshadowed by health, education, employment, infrastructure, and other more pressing needs. Many senior officials in the executive branch also consider such environmental matters to be moral luxuries, not policy priorities. Legislators who address these issues risk being marginalized by their peers in the legislature and the executive branch. Other environmental issues, such as security of land, access to natural resources, and benefit-sharing can be politically charged and divisive. Legislators who address contentious environmental

matters risk antagonizing their political bosses or other powerful elites, especially when the needs of their constituents contradict their political party priorities or jeopardize the vested interests of the powerful elite.

Legislators who address contentious environmental matters risk antagonizing their political bosses or other powerful elites, especially when the needs of their constituents contradict their political party priorities or jeopardize the vested interests of the powerful elite.

FINDING 3. Legislators can support the livelihoods of rural people by effectively representing local environmental matters.

The links between representation, poverty, and the environment are complex. This research supports the theoretical basis of representation, the experiences of many development professionals, and the findings of other studies that local livelihood and wellbeing can be improved when legislators effectively represent the environmental concerns of their constituents. When lawmakers reform land laws to strengthen private property rights, poor people benefit from greater security in the land that supports their livelihoods. When legislators decentralize the management of natural resources, rural people can exercise more control over local resources. When lawmakers strengthen environmental impact assessment regulations, local people can better protect their land from potentially damaging government and corporate actions.

In Cameroon, the government revoked its agreement with a local forestry company to manage the Mengame Gorilla Sanctuary and established an inclusive Advisory Board after one legislator questioned the company's performance (see Box 8). In Tanzania, park rangers improved their relations with local residents and the government increased its support to communities near the Serengeti National Park primarily because of the actions of one lawmaker (see Box 6). In Kenya, lawmakers with forest-dependent constituents effectively stalled the government's proposed seizure of public forest lands until a new administration was voted into office and scrapped the plans (see Box 3).

Securing nature-based sources of livelihoods and other support to household economic activities can improve local wellbeing and reduce poverty. Giving rural people greater control over their land and natural resources can translate into new investments, higher incomes, and local development (see Economic Growth and the Environment section). As a result, effective environmental representation can support the conditions for economic growth, new livelihood opportunities, improved wellbeing for rural families, and sound environmental management. Effective representation of local livelihoods can also support government policies and development initiatives designed to meet national objectives of poverty reduction and sustainable development.

FINDING 4. Legislative representation of local environmental matters can nurture citizen involvement in political processes and strengthen democracy.

This research supports the experiences from Eastern Europe, China, and other parts of the world that environmental issues can provide a powerful impetus to mobilize rural people and engage citizens in government matters. The case material shows that threats to local livelihoods and new opportunities to improve wellbeing can bring out a degree of political activism in community members. It also demonstrates that conscientious legislators can support citizen advocacy and facilitate public participation in government. In this way, legislative representation around environmental themes can promote political reforms and strengthen democracy more broadly.

Democratic reforms are most likely to succeed when they engage citizens and deliver on issues that matter to local people.⁹⁰ The case studies from Cameroon, Tanzania, and Uganda show that the environment can provide a strong material and cultural motive for citizens to demand responsive government, and an important entry point for engaging with local and national interests. As sources of livelihood and wealth, and as objects of multiple overlapping claims, natural resources are the substance of social and political struggles. Environmental decision-making processes are critical points of cooperation and conflict among various actors—citizens, NGOs, the private sector, and all branches and levels of government. Unlike health, education, and other sectors which are revenue sinks (albeit needed investments), natural resources generate wealth for individuals, communities, companies, and governments. The environment can provide a platform for citizens to organize around, a catalyst for the development of civil society, and an impetus for grassroots

political participation. As a result, environmental activism can be a powerful lever for promoting political reforms and can support the foundations of a vibrant democracy.⁹¹

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Legislative representation around the environment can also invoke new rights, authorities, and procedures that prompt more systemic governance reforms and strengthen the institutions and proceedings of democracy. In Uganda, the case study legislator presented a petition to parliament in support of his constituents—a rarely used parliamentary procedure. The Butamira Forest Reserve issues were so contentious that they ultimately contributed to the replacement of the Parliamentary Committee on Natural Resources leadership. In another effort involving the same legislator, his probing of government plans to develop a dam on the Nile River at Bujagali Falls contributed to a broader campaign, including support for public disclosure of the power purchase agreement between the government and the international energy company. This matter was eventually brought to the High Court, and the judgment which ordered disclosure set a new and important precedent.⁹² Subsequently, the Committee on Natural Resources, as part of its probe into the energy sector, demanded that the government release all power concession agreements.⁹³

In Kenya, the positions of the opposition party legislator and his constituents on the Sondu-Miriu Hydropower project contributed to KANU's decision to appoint him and two other leaders of his political party to senior government positions. This marked the first time that KANU had appointed opposition party members into the cabinet. These experiences show that legislative representation of local environmental concerns can promote good governance and bolster democratic reform efforts. They are also consistent with new research on Africa's democratization experiences that has concluded that "(t)he strength of the national legislature may be a—or even the—institutional key to democratization."⁹⁴

5

RECOMMENDATIONS AND CONCLUSIONS

In the past two decades, governments in Africa have undertaken sweeping political and economic reforms. In some countries, the efforts to dismantle authoritarian regimes and build democratic institutions have profoundly affected legislatures and legislators. The legislatures in Ghana, Kenya, South Africa, and elsewhere are undergoing rapid reform, causing other institutions and actors to take notice. The executive branch, policy-focused NGOs, businesses, and the international aid community are beginning to engage the legislature, believing that parliament matters.⁹⁵ In Kenya, the president and executive branch are now routinely reaching out to the legislature on important government matters. Civil society and other actors crystallize around institutions that have important authorities and are positioned to affect critical decisions and actions.

In most African countries, however, efforts to promote democracy have been inconsistent and circumscribed, with the legislatures remaining firmly in the grip of the president and political party leaders. Many citizens in these countries are becoming increasingly skeptical that the democratic reforms will deliver on the issues that matter most to them. In the absence of any significant democratic dividends, some disenchanted voters are beginning to call for a return to the strong centralized states of the past, which at least delivered on some local priorities.⁹⁶ Some evidence suggests that parliamentary debates may have been more open and legislative representation more common during one-party rule in the late-colonial and early independence period, than in today's multi-party political systems with legislatures crippled by partisan politics.⁹⁷

New investments are needed to transform Africa's legislatures into strong representative bodies. While various reforms are required, the research conducted for this report suggests that realigning authority and changing the dynamics of power—especially between the legislature and executive branch, between legislators and their political party, between legislators and various political and economic elite, and between legislators and their constituents—are central to making legislative representation common practice and effective. Improving the responsiveness of legislators to their constituents is not possible without addressing the exercise and limits of power that impinge on the constitutional accountabilities and authorities of the parliament.

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International development agencies have long supported Africa's legislatures, but their assistance has always constituted only a small percentage of their overall investments in democracy and good governance.⁹⁸ Development assistance designed to open government and bring citizen voices into policy processes has tended to focus on promoting public participation, especially engaging NGOs and other civil society organizations

(CSOs) in policy reform and project design, and to a lesser extent on supporting decentralization and strengthening local governments. Few donor investments have focused exclusively on strengthening legislative representation to promote inclusion and advance democracy.

Donor assistance has been invested to upgrade the technical capabilities of the legislature, educate lawmakers, and reform standing orders and rules of procedure. It has rarely, however, sought to reshape the fundamental power relations within the parliament or between the legislature and the executive branch. Investments that discount the influence of the broader political context in which parliaments are embedded and that treat legislatures as self-contained entities are unlikely to have much effect on the deeper incentive patterns, informal rules, and power principles that guide political life.⁹⁹ Strengthening legislatures by internal mechanisms alone will not make legislative representation common or effective, and can undermine democracy by legitimizing parliaments' current roles in rubber-stamping executive branch decisions.

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Investments designed to strengthen legislative representation provide opportunities for democracy proponents, development professionals, and environmentalists to collaborate. Development professionals recognize the importance of democracy for achieving their objectives and have a history of supporting good governance initiatives. Many environmentalists are also working to protect nature by promoting democracy. While strong legislatures do not guarantee pro-poor public policies or sustainable development outcomes, an emphasis on representation will strengthen legislator-electorate relations, facilitate debate on government decisions that affect local people, and help ensure that public policies reflect majority positions. Attention to representation can also lead to a better understanding among legislators of poverty-environment relations and can foster greater appreciation of national objectives

among constituents. Further, strong legislator-voter links can strengthen accountability, increasing the likelihood that lawmakers will act on their campaign promises, and that citizens will participate in government and abide by local rules and national laws.

Democracy proponents recognize that the environmental community—perhaps more than other sectors or assets—has addressed governance issues and contributed to democratic reforms. Many democracy experts, however, do not recognize the comparative advantages of natural resources over other sectors to support good governance processes, and do not consider the environment to have any special or specific instrumental utility in strengthening Africa's nascent democracies. They undervalue the importance of natural resources to politics and power structures, and underestimate the effectiveness of the environment as a lever for achieving positive governance outcomes and consolidating democracy. As a result, few democracy donors invest substantially in promoting good environmental governance or democratic environmental management.

The findings of this research suggest that a mix of policy reforms, institutional support, and technical assistance is needed to strengthen legislative representation in the research countries. Transferring authorities and reshaping power structures require fundamental changes in political systems and state institutions. Investments in actions that encourage and press governments to undertake these reforms can support and accelerate change. Two sets of recommendations—on policies and programs—are presented below. Each set is organized into issues of accountability, autonomy, authority, and attributes.

A. POLICY RECOMMENDATIONS

The policy recommendations presented below are designed to overcome obstacles and create incentives for legislators to better represent their constituents' environmental interests. Most recommendations call for systemic governance changes and require constitutional or other legislative reforms. Policy-reform processes vary by country, but new legislation is rarely the responsibility of one individual or the outcome of one institution's efforts, even in a highly centralized or authoritarian regime. Effective legislative reform usually involves the concerted efforts and collective actions of many public and private actors.

Since legislation is often the product of negotiation and compromise, the recommendations are presented in general terms. In each country, the details of the new legislation will vary depending on existing statutes, national policy objectives, institutional priorities, the specific interests of decision makers, and on the historical context. The recommendations are derived from the findings in the case study countries, but may also find application elsewhere in Africa, and in other regions of the world.

Accountability

- Institutionalize electoral systems that establish strong links between legislators and their constituents
- Establish term lengths for legislators that provide voters with regular opportunities to hold lawmakers accountable through elections
- Provide citizens with recall and other authorities to enable them to hold legislators accountable for their decisions and actions between elections
- Repeal national security laws that restrict state-society communication and enact freedom of information acts that are consistent with open, transparent government
- Broaden political freedoms, civil liberties, and procedural rights to facilitate the participation of citizens and NGOs in government and legislative affairs

Autonomy

- Restrict the president's authority to appoint legislators to the parliament and ensure appropriate separation of powers between branches of central government
- Regulate and oversee the use of state and public resources, including revenues to limit their use for patronage purposes
- Formalize the process of presidential appointments and require that all appointees be confirmed by the parliament
- Allow independent candidates to compete for and hold office to limit the influence of political parties over their member legislators
- Repeal "anti-defection" laws in majoritarian electoral systems and enact new regulations that allow sitting lawmakers to switch political parties in mid-term

- Establish democratic decentralizations that make elected local leaders downwardly accountable to their voters and limit the influence of local notables over legislators
- Limit the formal public roles of traditional leaders—indigenous authorities interested in public service should be required to stand for election as individuals
- Regulate private funding of political parties, legislators, and campaigns to limit the influence of the private sector and special interests over legislators

Authority

- Limit executive branch and political party influence in the selection of legislative leaders (*e.g.*, speaker and committee leaders) to strengthen legislators' control over parliament
- Strengthen standing committees and other parliamentary institutions to enable them to effectively shadow line ministries and perform their functions
- Repeal laws that vest legislative powers in the president (except in genuine emergencies) and place all lawmaking authorities in the legislature, including over budget and financial matters
- Remove unnecessary restrictions on the use of private members' bills (PMBs) by legislators to enable lawmakers to draft PMBs in support of local matters
- Provide the legislature with the full force of the courts to call government officials to testify before parliament and to access government documents
- Empower legislatures with the authority to impose sanctions on government officials and institutions for poor performance, such as abuse of office and incompetence

Attributes

- Establish minimum standards and qualifications of legislators to ensure lawmakers have the experience and expertise to perform their functions
- Establish codes of conduct, disclosure laws, and other ethics regulations and rules to guide the behavior and discipline the authority of legislators

These institutional reforms and power transfers are being debated and acted on in several African countries. In Kenya, Malawi and other countries, constitutional reform processes are under way or are expected to

begin shortly. Democracy proponents, development professionals, and environmentalists can advance their causes by working with government and NGOs, and by engaging in reform processes to strengthen legislatures and promote representation.

B. PROGRAM RECOMMENDATIONS

A number of program recommendations are presented below. Some recommendations address obstacles that hinder legislative representation in general; others are designed to promote environmental representation specifically. Most do not involve systemic governance changes or require new legislation, and can be achieved through changes in rules and regulations, such as parliament standing orders or new administrative procedures and practices. Many recommendations are independent of government actions and can be undertaken by voters and NGOs.

Accountability. To promote accountability, legislatures in Africa must become more open and transparent in their proceedings. Representation is facilitated when: (1) legislative sessions and environmental committee meetings are open to the public and broadcast live on radio, television, and over the Internet; (2) *hansards* are published and made available in a timely manner; (3) legislative votes on motions and bills are recorded and available to the public; and (4) reports from parliamentary inquiries are released to the public. In most cases, such actions will require revising the standing orders or rules of procedures in parliament. Most modern constitutions in Africa call for open government and many include a Bill of Rights that grants citizens the rights of access to information, participation, and justice. Most constitutions are also consistent with the Universal Declaration on Human Rights (1948), International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966), and African Charter on Human and Peoples' Rights (1981).¹⁰⁰

Rural people in Africa must also become more engaged in government matters and be more vigilant in monitoring the decisions of their legislators in parliament and in sanctioning poor performance. NGOs and the popular media can help rural people by: (1) educating the public on the constitutional roles and authorities of the parliament and legislators; (2) collecting information on the decisions and actions of legislators in parliament; (3) providing independent assessments of the performance of lawmakers; and (4) consolidating performance data

into easily understood formats, such as “environmental scorecards” or a “green index.”¹⁰¹ Some NGOs are launching new initiatives to assess the performance of legislators—and of parliaments and committees—against their constitutional responsibilities, political party's positions, campaign promises, and their constituents' interests and priority needs.¹⁰² Simple scorecards can help voters compare legislators' track records and evaluate performance over time. Scorecards can also encourage citizens to base their votes in parliamentary elections more on policy positions, promises and performance, and less on ethnicity, family ties, or party affiliation. When linked to awards, public recognition, or other benefits, performance scorecards can act as an incentive to encourage legislators to better represent local matters.

Rural people in Africa must also become more engaged in government matters and be more vigilant in monitoring the decisions of their legislators in parliament and in sanctioning poor performance.

Autonomy. Given their influence over legislators, political parties can promote environmental representation in a number of ways. They can: (1) establish positions on local environmental matters; (2) develop election-year platforms that recognize local concerns; (3) help candidates incorporate environmental commitments into their manifestos; and (4) convene candidates' debates on local issues. Most parties and legislators in the research countries do not have formal, documented positions on local environmental matters. Ensuring that political parties have positions on the environment, and holding them and their member legislators accountable to those positions can promote environmental representation. The importance of party coalitions, party discipline, and issue-based caucuses in parliamentary systems lends urgency to party reforms in Africa. Caucuses and issue-based groups of parliamentarians that address local environmental issues operate in some countries. “Green” parties have also been established in Cameroon, Kenya, Senegal, Tanzania, and other African nations. Some green party members hold elected local government offices, although only a few candidates have done well in national elections.

The priority environmental needs of rural people are rarely major campaign issues or national concerns, reflecting the ineffectiveness of citizens and their

associations to advocate local matters. NGOs and the popular media can help make the environment a prominent party and campaign issue by organizing voters to demand government attention and by advocating the environmental concerns of rural people. Some NGOs are pressing political parties to take environmental stands, helping them to develop, document, and distribute their positions, and organizing election-year debates involving leading candidates.¹⁰³ In the 2000 presidential elections in Tanzania, the Wildlife Conservation Society of Tanzania (WCST), a local NGO, organized a presidential candidate debate on the environment. The event provided an opportunity to highlight local environmental concerns and to discuss the strengths and weaknesses of the candidates' positions.¹⁰⁴ In Kenya's 1997 presidential elections, two candidates campaigned on predominantly environmental platforms. One was a member of the registered Green Party; the other was Wangari Maathai, a well-known environmental crusader—founder of the Greenbelt Movement and recipient of the 2005 Nobel Peace Prize. Both candidates lost their bids, but in the 2002 elections, Maathai won a seat in parliament with an overwhelming majority and, in January 2003, was appointed Deputy Minister of Environment and Natural Resources and Wildlife (a position she held until November 2005).¹⁰⁵

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Authority. Legislatures in Africa with strong standing committees on the environment fix permanent attention on natural resources and provide a venue for discussing local environmental matters. Committees must have in-house expertise to critically assess the potential environmental effects of pending bills and proposed developments, evaluate government-sponsored bills, and draft private members' bills (PMBs) on environmental matters. They must be able to shadow line ministries and sectoral departments, monitor government decisions and actions that affect rural land and natural resources, and provide legislators with an entry point for bringing local environmental issues to the attention of the full house. Several steps can be taken to ensure that environment committees have the capacity to effectively exercise their authorities and discharge their responsibilities. These

include: (1) recruiting and retaining knowledgeable staff; (2) securing constituency offices and equipment; and (3) engaging powerful parliamentary leaders so that committee recommendations carry weight in the full house.

Policy-focused NGOs can help by engaging not only with the executive branch, but also with the legislature and individual lawmakers. Many NGOs bypass the legislature, even on matters that fall within its roles and accountabilities. NGOs with interests in developing new legislation often work with the executive branch where power is exercised, not with the legislature where legitimate lawmaking authority lies. In the process, they contribute to the marginalization and delegitimization of the parliament, and undercut democratization investments. NGOs can support their parliamentary environment committee by: (1) monitoring government performance and assessing the environmental impacts of government actions; (2) providing independent reviews of government-sponsored bills; (3) contributing legal skills to help draft PMBs; and (4) conducting regular performance audits that compare environmental committee roles with actual work and accomplishments. Such support can help ensure that public policies reflect majority needs and that government actions are consistent with the constitution and enabling legislation.

NGOs with interests in developing new legislation often work with the executive branch where power is exercised, not with the legislature where legitimate lawmaking authority lies.

Attributes. Across Africa, poverty reduction, sustainable development, and sound environmental management are common policy objectives. To better champion local environmental needs, legislators—especially environment committee members and their staff—should have, at minimum, a basic understanding of environmental and natural resource management issues. In many cases, this will require training legislators in the fundamentals of ecology and the principles of sustainable development. Such knowledge can help legislators better relate to their constituents' environmental needs and better evaluate the potential environmental consequences of their decisions in parliament. Further, legislators should consider: (1) hiring staff with environmental expertise; (2) stocking

the parliament's library with environmental literature; (3) participating in conferences on environmental matters; (4) soliciting information from NGOs and the academic community; and (5) organizing public hearings on critical natural resource management issues.

To better champion local environmental needs, legislators—especially environment committee members and their staff—should have, at minimum, a basic understanding of environmental and natural resource management issues.

National and international networks of legislators offer opportunities for lawmakers to interact with their colleagues in parliament and to cooperate with their peers in other countries on environmental matters of mutual concern. At the national level, legislators can organize discussion groups or more formal caucuses, such as the recently established Caucus of Parliamentarians for the Protection of the Environment in Cameroon, to address common issues confronting their constituents. The new regional legislatures of the East African Community (EAC), Economic Community of West African States (ECOWAS), and African Union (AU) provide additional opportunities for legislators to share experiences and work on common matters. For example, in February 2008, lawmakers from the EAC's East African Legislative Assembly adopted various recommendations for improving accountability and transparency in the sub-region's extractive industries—oil, natural gas, and minerals.¹⁰⁶

Through South-South exchanges, study tours, and other forms of networking, legislators can meet at regional and international levels to address local environmental matters. For example, the Conference on Central African Moist Forest Ecosystems (Conférence sur les Ecosystèmes de Forêts Denses et Humides d'Afrique Centrale—CEFDHAC) has established a network of legislators from 10 countries to address forest management issues in the sub-region (Réseau des Parlementaires-Afrique Centrale—REPAR). At the REPAR conference in Yaoundé, Cameroon in October 2006, Cameroon's Environment Caucus was formally presented and lawmakers from the sub-region committed themselves to establishing similar caucuses in their own countries.¹⁰⁷

International networks of parliamentarians provide African lawmakers an opportunity to interact across the North-South divide. For example, Global Legislators for a Balanced Environment (GLOBE), a worldwide network of green lawmakers, provides legislators with opportunities to meet and share ideas with their peers in Europe, Asia, Latin America, and North America. Some African lawmakers are GLOBE members and have served in leadership roles of GLOBE-International (a prominent Ugandan legislator has served as the deputy chairman).

C. CONCLUSIONS

Africa's political reforms to democratize—the continent's "second liberation"—provide a unique opportunity to strengthen legislative representation and to promote poverty reduction and sound environmental management. Reformers in the executive branch and legislature must step forward and champion changes in the laws, procedures, and in the underlying political culture of Africa's parliaments that hinder the performance of legislators. Presidents, political party leaders, legislative leaders, and other power brokers who hold sway over lawmakers must not resist moves to transfer power to and build the capacity of Africa's legislatures. Civil society and the international community can contribute to the needed changes in significant ways by lending their financial, technical, and political support. Only through such reforms can the legislative process be opened and effective representation achieved. With international attention focused on promoting democracy and reducing poverty, the time is right for democracy proponents, environmentalists, and development professionals to join hands in pursuit of common goals of good governance and sustainable development.

Reformers in the executive branch and legislature must step forward and champion changes in the laws, procedures, and in the underlying political culture of Africa's parliaments that hinder the performance of legislators.

MAP OF RESEARCH COUNTRIES

Legislative Environmental Representation *Countries of Research*



Annex B

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Cameroon

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