**Democratic Development and Kenya’s National Assembly**

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*Comments and criticisms welcome*

**Abstract:** This study examines different aspects of democratic development in Kenya. The central argument advanced in the study is that, addition to the onset of multiparty contestation, the adoption of a new constitution, and arguably a reduction in corruption, the National Assembly as an institution has become more democratic and in turn is likely to contribute to further democratization in the country. After providing an overview of the recent transition to multi-party contestation and the adoption of a new constitution, I highlight two aspects of democratic developments in the Assembly: (i) an enhanced capacity to provide oversight of the executive branch, indicated by the strengthening of the legislative committee system and the defeat of executive legislation, and (ii) using new legislative vote data I find evidence of a strengthened legislative party system, given an increase in party unity and legislative consensus since the first opposition electoral victory in 2002.

**I. Introduction**

Coinciding with the transition from single-party rule to democratization since the ‘third wave’ of democracy swept over sub-Saharan Africa in the early 1990s, there have been several important developments in Kenya. Institutionally, the country recently adopted a new constitution in 2010 with a number of important features. Also, there has been the development of a multiparty system and electoral contestation. Third, in terms of the ‘electoral connection’ in Kenya, there is some evidence of a transition from neopatrimonialism to a less corrupt form of constituency service.

In addition, I argue that changes in the legislature can also be seen as part of Kenyan democratization. Specifically, there appears to be (i) an enhanced capacity of the legislature to oversee the executive, indicated by the strengthening of the legislative committee system and the defeat of many government bills and (ii) a strengthened legislative party system, as is indicated by an increase in party unity since 2002 and perhaps also by an increase in legislative consensus. *The central argument of this study is thus that (i) the third wave of democratization in Kenya has yielded real progress towards democracy in the country, and that (ii) developments in the National Assembly have been integral to this progress*.

 With this study, I have three primary objectives: (i) provide a synthesized overview of Kenya’s democratic transition, (ii) in so doing, highlight the onset of multiparty competition, the adoption of the new constitution, and a reduction in corruption and (iii) utilize new legislative vote data from the Kenyan National Assembly to demonstrate the legislature’s integral role in Kenyan democratic development. This study pays particular attention to the Kenyan National Assembly, for a couple reasons. First, legislatures are important to democratization for accountability—as a forum for vertical accountability (voting the rascals out of office) and as an agent of horizontal accountability (oversight of other branches of government). Second, as Barkan (2009) notes, studies of democratization in sub-Saharan Africa have rarely paid attention to national legislatures. Thus, this study helps to fill this gap in the literature.

**II. Political Developments in Kenya: An Overview**

**2.1 KANU rule before the third wave: 1963-1992**

Following the Mau Mau uprising in the 1950s, Kenya gained independence from Britain in 1963 (Ochieng’ & Atieno-Odhiambo 1995). Kenya’s independence constitution, like others in Africa drafted at the time of independence, was the product of negotiations between the departing colonial power, and nationalist leaders who were eager to take control (Hyden 2013, 107-8). Kenya’s independence constitution granted significant powers to regional authorities and some concessions to the Kenyan African Democratic Union (KADU) representing Kenya’s smaller ethnic groups. However, within the first year of independence, the Kenyan African National Union (KANU), under the presidency of Jomo Kenyatta, increased the power of the central government and established a one-party state (Widner 1992).

Kenyatta served as president of Kenya from 1963 to 1978 and was succeeded by Daniel arap Moi, also of the KANU. Moi would remain in power as president of Kenya from 1978 until 2002. Between independence and 1982, Kenya had competitive political elections, albeit under the umbrella of KANU’s de facto single party rule—KANU’s Executive Committee had a final veto over election outcomes, and candidates had to swear allegiance to KANU and Kenyatta (Thomson 2010, 115). Daniel arap Moi amended the constitution in 1982 to create a *de jure* one-party state after a failed coup attempt.

During Kenya’s 1988 general elections, harassment prevented opposition parties from conducting a viable campaign in one third of the country’s 188 constituencies (Throup & Hornsby 1998, 3-4). However, during Moi’s time as president, Kenyan opposition parties began to create space for political contestation and the third wave of democracy.

**2.2 The Third Wave in Kenya**

*The emerging challenge to KANU rule*

Between 1988 and 1991, KANU’s one-party state began to break apart due to pressure from radical intellectuals and politicians from Nairobi, criticism from bilateral aid donors such as the United States, and dissent from the Kikuyu ethnic group of Central Province (Throup & Hornsby 1998, 2). In the early 1990s, after the fall of the Soviet Union and regime changes in Eastern Europe, a wave of liberalizing developments swept Africa, part of the larger ‘third wave’ of democratizations, motived by an opposition to authoritarian politics and poor economic conditions (Barkan 2009).[[1]](#footnote-1)

In the early 1990s two leaders of the opposition, Oginga Odinga (a leader from the Luo ethnic group and co-founder of the Forum for the Restoration of Democracy (FORD) party in 1991) and Paul Muite (FORD chairman and co-founder of the Safina party) challenged the single-party rule of KANU and president Moi. Oginga Odinga declared his intention to run as president with the FORD party in 1992. Despite the emerging opposition challenge, Moi and the KANU triumphed again in the December 1992 general election, due largely to electoral fraud and divisions within the opposition (Throup & Hornsby 1998, 2-3; Howard & Roessler 2006, 377).

Indeed, during the 1992 elections, the opposition FORD movement fragmented into FORD-Asili and FORD-Kenya parties, each with their own presidential candidates. This fragmentation is consistent with Elischer (2008) who describes the Kenyan party system between 1991 and 1997 as a period of *fission*, in which multi-ethnic alliances disintegrated and the effective number of parties hovered between four and five.

*NARC victory in the 2002 election*

By the turn of the 21st century, there was a widespread desire for a change of leadership as well as constitutional change (Kramon & Posner 2011). President Moi’s 2002 campaign strategy was to promote Uhuru Kenyatta (son of Jomo Kenyatta) as the next KANU president, build support among Kenyan youth for the KANU and undermine the emerging trans-ethnic opposition (Kagwanja 2005).

The opposition camp in 2002 was composed of a diverse group of parties and alliances. Elischer (2008) describes the party system period between 1998 and 2002 as a time of *fusion*, when the effective number of parties declined from 4.5 to 2.9. Indeed, the opposition National Rainbow Coalition (NARC) brought together many different parties. Before the elections, Mwai Kibaki, presidential candidate for the NARC, signed a ‘Memorandum of Understanding’ with Liberal Democratic Party leader Raila Odinga to work together after the election on a new constitution. The opposition was able to challenge KANU in all electoral districts for the first time (Elischer 2008, 20). In 2002, Mwai Kibaki of the NARC, won more than 60 percent of the presidential vote and the NARC coalition won 125 of the 210 elected seats in parliament.

Howard and Roessler (2002) refer to the 2002 elections as a watershed in Kenyan politics—it marked the first opposition victory, increased the degree of liberalization, and also placed Kenya among Ghana and Tanzania as the only three African countries to hold successful competitive elections after a failed transition attempt in the early 1990s (Manning 2005, 711). In his inaugural speech President Mwai Kibaki pledged to tackle corruption and ensure good governance, though corruption would remain a challenge in the years to come (Hyden 2013, 107).

**2.3 The National Assembly after the NARC victory**

Since the NARC opposition victory in 2002, Kenya has had three parliamentary terms: the 9th (2003-07), the 10th (2008-13) and the 11th (2013-18). Table 1 below shows the number of legislative seats of the major parties corresponding to each parliament, the party of the president and prime minister, and the parties in the Assembly majority.

Table 1: Kenyan general elections results since 2002

|  |  |
| --- | --- |
|  | Number (and percentage) of National Assembly seats of major parties |
| Party | Elections for 9th Parliament(Dec. 27, 2002) | Elections for 10th Parliament(Dec. 27, 2007) | Elections for 11th Parliament(Mar. 4, 2013) |
| National Rainbow Coalition (NARC) | **125 (61)** | 3 (1) | 3 (1) |
| **President:****Mwai Kibaki** |
| Kenyan African National Union (KANU) | 64 (30.50) | 14 (7) | 6 (2) |
| Forum for the Restoration of Democracy (FORD-People) | 14 (6.70) | 3 (1) | 3 (1) |
| Orange Democratic Movement (ODM) | — | **99 (47)** | 96 (27) |
| **Prime Minister:****Raila Odinga** |
| Party of National Unity (PNU) | — | 43 (20) | — |
| President:Mwai Kibaki |
| The National Alliance (TNA) | — | — | **89 (25)** |
| **President:** **Uhuru Kenyatta** |
| United Republican Party (URP) | — | — | **75 (21)** |
| Wiper Democratic Movement (WDM) | — | — | 26 (7) |
| Total Seats | 210 | 210 | 350 |

Notes: ‘Major parties’ included in this table are defined as those with over 5 percent of the seats in at least one of the three parliaments. Data was acquired from the Inter-parliamentary Union Parline online archive. Bold type indicates the party/ies in the majority coalition in the Assembly.

*The 9th parliament: 2003-08*

The 9th Parliament opened on February 18, 2003. It was the first time that the KANU and Moi were in the opposition minority since independence. Elischer (2008) describes the Kenyan party system from 2003 to 2008 as a period of partisan *fluidity*, in which it was hard to determine whether parties were in or out of government, and when party alliances were made up of party wings and individuals rather entire parties. This fluidity is apparent when one traces the fissiparous party developments. This is apparent as one traces the attempt to redraft the Kenyan constitution.

The new executive cabinet included Kibaki of the NARC and Odinga of the Liberal Democratic Party (LDP). Consistent with their pre-election Memorandum, the two leaders began to work together to draft a new constitution. However, a division between Kibaki and Odinga quickly emerged, with Odinga favoring a dual executive and a decentralized system, and Kibaki favoring a single executive president and a more centralized system (Kramon & Posner 2011).

The ‘Bomas draft’ constitution leaned in favor of Odinga’s LDP. However, Kibaki pushed through legislation adding a flexible simple-majority amendment procedure to the draft. The subsequent ‘Wako draft’ weakened the premiership, limited devolution, and also added a party-list (PR) component to the assembly election system. The Wako draft was approved in the legislature but was later defeated in the 2005 public referendum.

After the 2005 constitutional referendum, Kibaki threw out the LDP members from his cabinet (including Odinga). Odinga would then go on to form the Orange Democratic Movement (ODM), composed of former members of the LDP plus members of the KANU opposition. Odinga would subsequently challenge Kibaki and his new Party of National Unity (PNU) in the 2007 general elections.

 In 2007, about half the KANU joined with Kibaki’s new PNU, while the other half joined the ODM. The original NARC allied itself with the ODM, which subsequently split into two separate ODM parties, one led by Raila Odinga and another led by former Minister of Foreign Affairs Kalonzo Musyoka.

*The 10th Parliament: 2008-13*

In 2007, the major contestants in the presidential election were Mwai Kibaki of the PNU, and Raila Odinga and Kalonzo Musyoka representing the two ODM factions. The elections resulted in a controversial presidential electoral victory for Kibaki, who would subsequently appoint Musyoka as Vice President from 2008-13. Although he had lost the presidential race, Odinga’s ODM had won an electoral majority in the Assembly.

 A post-election crisis was brought to a close with the establishment of a power sharing agreement between president Kibaki and Odinga. After the inauguration of the 10th parliament on March 6, 2008, the Reconciliation Act (NARA) 2008 was passed by the National Assembly, re-established the office of the prime minister. Odinga would become the first prime minister of Kenya since 1964 when the post was abolished.[[2]](#footnote-2)

A Committee of Experts was created during the 10th parliament to draft a ‘harmonized’ constitution, making Kenya one of the few Anglophone African countries to have appointed an independent commission to draft a new constitution (Hyden 2013, 110-11). Echoing the division between Kibaki and Odinga in 2003, divisions arose between the PNU who advocated a centralized presidential system with limited devolution, and the ODM who favored a dual executive with a strong prime minister and extensive devolution. The 2010 revised draft of the constitution omitted the premiership altogether (pleasing Kibaki), but also included a two-tier devolutionary system with 47 county governments (pleasing Odinga).

The new constitution also established a Senate with 67 elected members, increased the size of the National Assembly to 349 seats, advanced a number of social and economic rights, created a special female Assembly representative position for each county, enhanced constitutional review, and maintained the SMDP electoral system. Parliament approved the proposed constitution on April 1, 2010, and 68 percent of voters did as well on August 4 of the same year, including Kibaki and Odinga (Kramon & Posner 2011).

*The 11th Parliament: 2013-18*

The March 2013 elections were Kenya’s first held under the new constitution. There were eight presidential candidates and over twenty parties competing for legislative seats, aligned into four main groupings: the Jubilee Coalition, the Coalition for Reforms and Democracy (CORD), the Amani Coalition, and the EAGLE Alliance. The Jubilee Alliance—including two new parties, The National Alliance (TNA) and United Republican Party (URP)—won a majority of seats in both the National Assembly and the Senate.

The recently formed Independent Electoral Boundaries Commission (IEBC) declared Uhuru Kenyatta of TNA (son of Jomo) the winner of the presidential election with 50.07 percent of the vote, with his closest challenger, Raila Odinga of ODM, taking 43.7 percent. Kenyatta’s Jubilee Coalition took a total of 167 National Assembly seats, 30 Senate seats, and 18 gubernatorial races. The CORD opposition camp won 141 National Assembly seats, 28 Senate Seats, and 23 gubernatorial races. The 11th Parliament of Kenya began on the 28th of March, 2013.

**III. Democratization in Kenya’s National Assembly**

I have thus far reviewed the third wave of democracy in Kenya, highlighting the development of Kenya’s multiparty system and new constitution. This provides a context for a discussion of democratization in Kenya’s National Assembly, the topic to which I now turn. Specifically, I will focus on two aspects of legislative politics in Kenya: the electoral connection between lawmakers and voters, and horizontal accountability.

**3.1 Electoral connection**

*Neopatrimonialism during KANU rule*

The ‘electoral connection’ refers to the link between civil society (voters, interest groups, and civic organizations) and elected representatives. According to basic electoral connection theory, in democracies with SMDP electoral systems, office-seeking legislators rely on voters in their electorate and thus have strong incentives to use their legislative positions to provide goods and services to constituencies in their districts, making legislators very responsive to the voters. This electoral connection can become problematic however, if it becomes a source of corruption.

In the countries of sub-Saraharn Africa, the era from the late 1960s into the 1980s became known as an era of neopatrimonial rule, in which a single leader relied on the distribution of patronage in the form of appointments to government positions to remain in office. The SMDP electoral systems inherited from Britain in the Anglophone countries provided a foundation for clientelistic politics and the emergence of neopatrimonial, “Big Man” regimes (Barkan et al. 2010, 5). In Kenya, there was a dual system of patronage—the president appointed most of the ministers, while keeping rank-and-file legislators reliant on him through a combination of low-salaries and cash handouts (Barkan 2009, 14).

During the period of KANU rule, voters were more interested in MPs who could deliver particularistic goods such as employment opportunities than they were in the distribution of public goods by the legislature. When MPs could not provide such private goods they were voted out of office, creating a high turnover rate (Thomson 2010, 115). In this context, government corruption proliferated as ministers took whatever was needed to maintain their electoral support. This in turn led to economic problems such as inflation as officials printed more and more money, bankrupting the state and weakening its capacity to provide basic public goods and services. In this context, Moi’s regime came to known as a ‘kleptocracy’.

*From neopatrimonialism to constituency service*

With the fall of KANU in the 1990s, there appears to have been a shift from neopatrimonialism to a less corrupt form of constituency service. Many African voters, particularly those from countries with SMDP electoral systems, believe that representation and constituency service is more important that law making *per se* or oversight of the executive (Barkan et al. 2010).[[3]](#footnote-3) Surveys also reveal that 40 percent of Kenyan MPs believe the national interest is the most important factor driving their legislative choices, followed by constituency service (35 percent), party preference (13 percent), and then personal motives (8 percent) (Barkan et al. 2010).

 Despite this increasing emphasis on constituency service, in contrast to the more corrupt form of particularism coinciding with the era of neopatrimonialism, corruption remains a challenge in Kenya. For instance, a 2015 Afrobarometer survey revealed that the percentage of Kenyans who believe their government is handling the fight against corruption well declined from 85 percent in 2003 to 26 percent in 2011 (Kivuva 2015). Also, in their 2015 report, Freedom House observed that, “Corruption is a serious problem in Kenya”.

**3.2 Horizontal accountability**

*Increasing legislative independence and oversight*

Horizontal accountability refers to the ability of the branches of government to check each other. The system of neopatrimonialism during KANU rule kept the legislature weak and unable to check the executive branch. Before the third wave, MPs generally focused on their constituencies rather than executive oversight, in part because challenging the regime was dangerous. For example, after a critic of Jomo Kenyatta, J.M. Kariuki, died suspiciously in 1975, the parliament opened an investigation into the death. In response, Kenyatta dismissed the junior ministers which supported the investigation, and detained the investigation’s leaders (Thomson 2010, 115-6).

Despite the ongoing challenge of disproportionate executive power in many sub-Saharan African countries (Rakner & van de Walle 2009), since 2002 the Kenyan legislature has gained more independence from the executive branch (Barkan 2009, 2). For instance, between 2005 and 2010, most Kenyan legislation originated from the president. Yet on average only 13 of 27 bills introduced were passed by the assembly. This would seem to suggest that Kenyan legislative parties are no longer providing a ‘rubber stamp’ for legislation favored by the president (Barkan et al. 2010).

*Legislative committee professionalization*[[4]](#footnote-4)

When Kenya gained independence from Britain, there was no system of legislative committees established in the Assembly, and it would take more than four decades before this aspect of legislative organization would develop (Barkan 2009, 10). Legislative committees are important as they provide a forum for executive oversight. For example, Chaisty et al. (2012, 15) note that even in Kenya, where legislative particularism is high and the emphasis on oversight is low, the strengthening of the committee system enabled MPs to investigate the involvement of government ministers in the Anglo Leasing scandal, leading to several ministerial resignations.

In Kenya, the average number of bills introduced between 2005 and 2010 was 27, with 16 being subject to committee review on average over the same period. This is a higher rate of committee review than that found in Malawi, Namibia and Mozambique, but a lower rate than that found in Zambia and South Africa.

Another dimension in committee work is the level of public involvement. In Kenya, this has remained comparatively low at the national and county levels since 2013. According to the Afrobarometer (2015), eight of ten Kenyans find it difficult to participate in key county activities and to access information of county budgets, legislation, and project plans. However, over 70 percent of Kenyan MPs feel that the legislative committees have increased in effectiveness between 2005 and 2010. Also noteworthy is that 56 percent of bills introduced to the Kenyan Assembly between 2005 and 2010 were amended either at the committee or the plenary stage.

**3.3 Party system strength**

*Legislative party unity*

Another measure of democratic development is the strength of the party system. Party systems, like committee systems are an important part of legislative organization. As such, measures of party strength can be used to assess the level of democratic development in Kenya. High levels of party unity are conducive to democratization for two reasons: (i) unified parties can use their electoral mandate to fulfill the policy pledges they campaigned on consistent with notions of vertical accountability and ‘responsible party government’, and (ii) unified parties provide a more useful partisan cue for voters, who will have a more reliable source of information in the party brand name during the general election.

To assess levels of party unity in Kenya, I use a new legislative vote data set gathered from the Hansards provided at info.mzalendo.com. Some of these legislative debates include roll call votes, several of which I compiled into a spreadsheet for analysis. The data set includes 12 roll calls and 193 MPs from the 9th parliament, 24 roll calls and 216 MPs from the 10th, and 10 roll calls and 326 MPs from the 11th. As figure 1 shows, the overall levels of intra-party dissent, from the 9th to the 10th to the 11th parliament, appears to have declined sharply, despite the strong emphasis on constituency service by voters and MPs, and despite the SMDP system in Kenya which has incentivized legislative particularism.

Figure 1: Decreasing intra-party dissent



Notes: Vote data was gathered from the Hansards provided at info.mzalendo.com. The y-axis indicates the mean rate of dissenting votes within each party. Thus, 0 indicates no intra-party dissent, and .3 indicates that on average 30 percent of MPs dissented from their party majority on roll call votes.

Using probit models with *dissent* as a binary outcome variable, and 9th, 10th, and 11th parliament dummies as key variables, we can control for more variables than the bar graph in figure 1 allows. Table 2 shows the estimates of four different probit models. In model 1 none of the control variables are included. In model 2, two MP-level dummies are controlled for: party and county. In model 3 two legislation-level dummies are controlled for: the legislative procedure (e.g. clause, second reading, adoption of report), and the substantive issue of the motion (e.g. electoral, constitutional, budgetary). In model 4, all four control variables are included. I also cluster standard errors by legislative motion for each model.

Table 2: Probit models of MP dissenting votes

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Variable | Model 1 | Model 2 | Model 3 | Model 4 |
| 9th to 10th parl | -.5043\*\*(.1859) | -.3940†(.2036) | -.1796(.1385) | .0046(.1527) |
| 10th to 11th parl | -.4925\*(.2297) | -.6758\*\*(.2461) | -.5265\*(.2199) | -.7387\*(.3074) |
| Party dummies | — | Included | — | Included |
| County dummies | — | Included | — | Included |
| Issue dummies | — | — | Included | Included |
| Procedure dummies | — | — | Included | Included |
| Constant | -.9402\*\*\*(.1312) | -6.465\*\*\*(.6150) | -.6385\*(.3137) | -6.392\*\*\*(.7360) |
| Psuedo-R2 | .0599 | .0933 | .1472 | .1838 |
| Observations | 4816 | 4575 | 4291 | 4082 |
| N (legislative motion clusters) | 46 | 46 | 43 | 43 |

Notes: \*\*\* p ≤ .001, \*\* p ≤ .01, \*p ≤ .05, †p ≤ .10. Standard errors are clustered by legislative motion. Dissenting votes are defined as votes cast by an MP against the majority of his/her own party.

The results of the probit models largely confirm what was apparent in figure 1—an increase in party unity coinciding with each subsequent parliament post-2002. The significance of the institutional effect on legislative dissent is more consistently significant in the transition from the 10th to the 11th parliament (coinciding with the constitutional change), than during the transition from the 9th to the 10th, underscoring the importance of the constitutional change in strengthening the party system.

The data at this point is too limited to allow a precise explanation of this decline in intraparty dissent. However, some suggestive comments can be made. One factor which may explaining this increase in party unity is the proliferation of parties coinciding with the onset of multiparty contestation. The multiple cleavages and ethnic diversity of Kenya has ensured that a fluid multiparty system would unfold despite the SMDP electoral system. Also, as legislative parties and organizations strengthen in the aftermath of the era of neopatrimonialism and single-party rule, so too would we expect the influence of the party leaders and whips over their backbenchers to be more important. To wit, as legislative resources and professionalism increase in Kenya, so too should legislators rely less on clientelistic relationships at the local level to remain in power.

*Legislative consensus*

Another measure of party system strength is legislative consensus. Reasonably people disagree over whether majoritarian or consensual institutions are most conducive to democratization. Given the ‘essentially contested’ nature of this debate, I will simply highlight a few measures of levels of consensus as applied to the recent parliaments of the Kenyan Assembly. Although the country maintained SMDP (a characteristic of majoritarian democracy), Kenya does now have a multiparty system, as well as other characteristics of consensus democracy such as enhanced judicial review, decentralization, and bicameralism. As such, we might expect these increased checks and balances to foster an increase in legislative consensus.

There are a few ways to measure legislative consensus. One simple and direct way is with ‘Rice scores’—measuring the seat share of the majority in legislative votes. Applying that measure to the legislative vote data described above, there does appear to be an increase in consensus in Kenya coinciding with the subsequent parliaments after 2002: The average majority size was .5856 during the 9th parliament, .6978 during the 10th, and then .7206 during the 11th.

Another way of assessing increases in consensus is by looking at the length of debates in the legislature, with longer debates indicating more deliberation and thus presumably also more consensus. Figure 2 below shows the average number of words in legislative meetings in the Assembly from the last several meeting days of the 10th parliament, and that during the first several meetings of the 11th (just before and just after the implementation the new constitution in March of 2013). There appears to have been a decline in the amount of debate on the Assembly floor after the commencement of the 11th parliament. This may be taken as a decline in consensus after the reform, though this may also be because there is more legislative business to handle at the end of a parliamentary term.

Figure 2: Length of parliamentary debates before and after the implementation of the new constitution



Note: Debate length is measured in the number of words in the total debate from that day. Debate transcripts (from which word counts are acquired) are from the Hansard records provided at info.mzalendo.com.

Finally, I look at the rates of bipartisanship between major opposing parties—that is, the percentage of votes where at least half of the MPs from two parties vote together. As figure 3 demonstrates, there was an increase in rates of bipartisan voting outcomes between KANU and NARC from the 9th to the 10th and from the 10th to the 11th parliaments. This would seem to suggest that the increasing intra-party unity discussed above did not coincide with increased polarization as is often the case in the United States.

Figure 3: Rates of bipartisan voting between major parties



Notes: A bipartisan vote is when at least half of the MPs from one party vote with at least half those from another party. Thus, the rates shown in figure 3 indicate the percentage of all votes where this was the case. Vote data was gathered from the Hansard records provided at info.mzalendo.com.

Odinga’s ODM and Kibaki’s PNU agreed on about half of the sampled roll call votes from the 10th parliament. Subsequently, the rate of bipartisanship between the ODM and The National Alliance during the 11th was comparatively low at about 25 percent of the total votes in the sample. This makes sense considering that during the 10th parliament, there was a power sharing arangment between Odinga (the premier) and Kibaki (the president). It might also be noted that, in a sample of legislative votes gathered from the newly formed Senate, the vast majority of roll-call votes resulted in unanimous agreement, and where divisions did take place, there were supermajority outcomes. Taken together, the three measures of consensus used here—legislative majority size, length of legislative debates, and rates of bipartisanship—provide mixed results on whether or not there has been an increase in legislative consensus in Kenya since the NARC victory in 2002.

**IV. Conclusion**

The third wave of democratization was an important development in sub-Saharan Africa, marking a ‘second liberation’ following decolonization. However, it remains a matter of debate just how far countries such as Kenya have progressed towards liberal democracy. While most would agree that Kenya has not yet achieved liberal democratic status, there is some disagreement over how far along it is.

Most Kenyans feel that their country is a democracy, albeit one with problems and a system which only half of the people are satisfied with (Kivuva 2015). Lindberg (2006) has referred to Kenya as an electoral authoritarian regime, Howard and Roessler (2006) as a competitive authoritarian regime, and Freedom House classified Kenya as ‘partly free’, a status it has held since 2005 when it was raised from ‘not free’ status. Meanwhile, Barkan (2009) classifies Kenya as an ‘aspiring democracy’—a status closer to liberal democracy than competitive authoritarianism.

The data utilized in this study does not allow me to make a suggestion as to the most accurate classification of the Kenyan political system, though it seems safe to say that there has been some real progress in the direction of democracy since the single-party rule of KANU. The third wave in Kenya has been characterized by the development of multiparty contestation, the establishment of a new constitution with several progressive features, and a transition from neopatrimonialism to constituency service. Meanwhile, the national assembly has become better equipped to provide horizontal accountability, and appears to have developed a strengthened party system conducive to democratization.

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1. As Barkan (2009, 4) observes, between 1990 and 2006, “all but three of the forty-eight states that compose sub-Saharan Africa attempted *nominal* transitions by holding multiparty elections for the first time in twenty or more years”. However, Rakner and van de Walle (2009) emphasize that the third wave has only resulted in a limited increase in political competition in sub-Saharan Africa. [↑](#footnote-ref-1)
2. This coalition building under Kibaki is consistent with the observation of Chaisty et al. (2012, 15) that, in sub-Saharan Africa, presidents often construct broad alliances representative of the balances of parties within parliament. LeVan (2011) has suggested that such power sharing agreements can actually undermine democratic progress by allowing candidates who loose elections to negotiate their way back into power. [↑](#footnote-ref-2)
3. Barkan et al. (2010, 7-8) highlight the tradeoffs between SMDP and PR in African countries: While legislators elected in multi-member PR districts (e.g. South Africa) spend more time on law making and executive oversight, they are less likely to travel to specific localities to provide particularistic constituency services. [↑](#footnote-ref-3)
4. This review of the Kenyan committee system is based primarily on the report provided by Barkan et al. (2010). [↑](#footnote-ref-4)