

**UNIVERSITY OF NAIROBI**

**Department of Political Science and Public Administration**

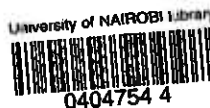
**Research Topic: "REPRESENTATION POLITICS & LEGISLATOR RE-ELECTABILITY IN  
KENYA: THE CASE OF ALEGO & BONDO CONSTITUENCIES"**

**By**

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**Dissertation Submitted as part of the partial fulfilments for the requirements for the award of the  
degree of Master of Arts in Political Science and Public Administration of the University of  
Nairobi 2010.**



**DECLARATION:**

This dissertation is my original work and has not been presented for the award of a degree in any other university.

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**Name:** Joshua M. Kivuva, PhD,

## **DEDICATION:**

This work is dedicated to my parents the Late Musa Mbeya Wawiye and Monica Agola *Nyajok* who overcame their poverty to see me to this level and to my wife Beatrice Vanessa Okere-Wawiye and children Barbara Gift Wawiye and Sovereign Monica Wawiye who daily give me the inspiration to continue living.

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The support from my employer CLARION through the Executive Director Morris Odhiambo deserves special mention. They availed resources and synergies to make this work possible.

My family especially my wife Beatrice Vanessa Okere-Wawiye who took pride in wanting to see me attain this goal is highly appreciated. In addition, together with the girls Barbara Gift and Sovereign Monica they had to endure many days when dad was away and the challenges that emerged out of his absence.

The scholarship support and patience of the University of Nairobi is greatly appreciated as well as all those colleagues and lecturers who cannot be mentioned in person. However, the limitations of this work are entirely mine and cannot be attributed to any of the above.

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## **List of Abbreviations & Acronyms**

<b>AIDS</b>	<b>Acquired Immune Deficiency Syndrome</b>
<b>CDF</b>	<b>Constituency Development Fund</b>
<b>CDFC</b>	<b>Constituency Development Fund Committee</b>
<b>CLARION</b>	<b>Centre for Law &amp; Research International</b>
<b>DP</b>	<b>Democratic Party</b>
<b>FORD</b>	<b>Forum for the Restoration of Democracy</b>
<b>FORD-Asili</b>	<b>Forum for the Restoration of Democracy- Asili</b>
<b>FORD-K</b>	<b>Forum for the Restoration of Democracy- Kenya</b>
<b>HIV</b>	<b>Human Immuno-Deficiency Virus</b>
<b>IPU</b>	<b>Inter- Parliamentary Union</b>
<b>KADU</b>	<b>Kenya African Democratic Union</b>
<b>KANU</b>	<b>Kenya African National Union</b>
<b>KNC</b>	<b>Kenya National Congress</b>
<b>KIHBS</b>	<b>Kenya Integrated Household and Budget Survey</b>
<b>KNBS</b>	<b>Kenya National Bureau of Statistics</b>
<b>KPU</b>	<b>Kenya People's Union</b>
<b>LDP</b>	<b>Liberal Democratic Party</b>
<b>LegCo</b>	<b>Legislative Council</b>
<b>MP</b>	<b>Member of Parliament</b>
<b>NARC</b>	<b>National Rainbow Coalition</b>
<b>NDP-K</b>	<b>National Development Party of Kenya</b>
<b>ODM</b>	<b>Orange Democratic Movement</b>
<b>PICK</b>	<b>Party of Independent Candidates of Kenya</b>

## **ABSTRACT**

Parliament has an important role to play in modern governments. The key functions of parliament are legislation, oversight and representation. The study looks at the representational role of parliament in Kenya. It explores the extent to which members of parliament have played the representational role and whether in playing this role, they have lived up to the expectations of the represented. A lack of synchrony in understanding of the role of the legislator between the represented and the representatives denies parliament its quintessential power to provide the check and balance on other arms of government.

The study was motivated by the high turnover of MPs in Kenya's parliament demonstrated by the fact that, since 1997, 84% of constituencies have had more than one MP in the life of 3 parliaments! The high turnover led to asking why this was the case. Could it be that people's expectations of their MPs are too high? Or is it that MPs do not understand their roles? What is the perception of voters of the role of the legislator and what do members of parliament understand as their representation mandate? What factors shape electors' choice of an MP? And to what extent do the perceptions of the roles contribute to the re-electability of a legislator?

Although a sizeable turnover of MPs in every election cycle is expected, the high turnover of MPs in Kenya demonstrates a disjunction on the understanding of the citizenry of the role of an MP and the way the MP understands and executes his role as a parliamentarian. The overall objective of the study was to explore the representational role of the members of parliament with a view to informing the variance in representational expectations between the electorate and the representative and how this influences re-election of MPs in Kenya.

The study hypothesized a disconnect between what the MPs perceives to be his/her role as a representative and that of the electorate, arguing that the more the disconnect between electors perception and those of the legislator on the role of the MPs, the more the likelihood of none re-election. Using the cases of Alego and Bondo constituencies, the study investigated the factors that shape electors' choice of representatives and explored the perceptions of both MPs and electors on representation and the influence of these perceptions on re-election.

Employing the theory of representative government espoused in modern political thought by scholars such as John Stuart Mill, Montesquieu and John Locke, it was established that representation in Kenya grew out claims to the ancient liberties by British colonial citizens ... *no taxation without representation*. However, challenges in parliamentary representation still remain in Kenya with regard to the system of representation and other dynamics such as gender.

In exploring the extent to which members of parliament have played their representational role and whether in playing this role, they have lived up to the expectations of the represented, it was established that the demands from the electorate on the MP are numerous. Some of these include meeting personal elector needs such as payment of school fees, employment, paying medical bills and taking care of funeral expenses. The others are communal in nature such as provision of clean water and construction of roads largely falling under the domain of constituency service.

Seemingly, voters are for a Member of Parliament who is a provider in the same sense as the head of a household. The Kenyan electorate seems to vote for implementers rather than representatives. From the perspective of MPs there is no official job description. Overall, there seems to be convergence in understanding of the roles of the representative between the

represented and the MP even though the latter still lay more emphasis on the traditional roles of law making and oversight probably recognising that it is not possible to meet the demands of every constituent.

The traditional functions of an MP i.e oversight, legislation and representation were found to exist in tension with constituency service. It is to a large extent a zero sum game where on the one hand, time spent on constituency service means less time available to spend on legislating and oversight. On the other hand, time spent on legislating and oversight to ensure accountability means less time spent on representation and constituency service and hence lower prospects for re-election.

In investigating factors that determine the re-election of a Member of Parliament, the roles/functions of the MP were found to be different from the factors that electors consider while choosing a representative. While the functions can and should be performed by any Member of Parliament, voters look for intrinsic characteristics when making the choice of the candidate to elect. Some of these were found to be affiliation to a popular political party and support of the party leader, development consciousness of the aspirant or past performance as an MP, kinship ties/family relationship, attractiveness of campaign pledges, desire for change, wealth of the aspirant, education qualifications and age.

However, as much as the above are important for first time election to parliament, a different set of parameters determine re-election. Among these were, ability to meet the personal needs of the constituents, political party affiliation, performance in parliament and political linkage to the centre. Certainly, the task of representation has become more complex as the demands on the MP

have increased by the day. Representatives who understand these factors have higher chances of re-election than those who do not.

# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1 Background**

Recent developments in Kenya's political scene has drawn attention to the relationships between the three arms of government i.e the judiciary, legislature and the executive in the conduct of public affairs. In fact, as public opinion has grown against an assumedly overbearing executive and an ineffective and non-independent judiciary, parliament has been seen to be coming of age in playing its role as a check and balance on the other two arms of government. While on the one hand this is seen as a positive development in the democratization of the country, others see a resurgent parliament as an affront on the executive and one that is moving the country from a single man dictatorship to a parliamentary dictatorship.

Whichever way one looks at it, one thing is certain, that parliament has an important role to play in modern governments. The idea of modern governments connotes the existence of three arms that are mutually interdependent but expected to operate independent of each other in executing the functions of government. The three arms of government are first and foremost interdependent; secondly they are separate and finally functionally distinct from each other. This categorization of government functions into the three arms stems from the theory of separation of powers advanced by Montesquieu which posits that there are three essential functions of the government which ought to be exercised by three distinct though interdependent branches. Montesquieu argues that:-

When the legislative and the executive powers are united in the same person or in the same body of magistrates, there can be no liberty if the judicial powers be not separated from the legislature and the executive.<sup>1</sup>

In John Locke's model of separation of powers, the legislative and executive powers are to be separated. The legislature prescribes rules while the power of execution lies with the executive which is subordinate and accountable to the legislature<sup>2</sup>. The key functions of parliament are legislation, oversight or supervision and the representation of the people.

The study looks at the representational role of legislators in Kenya. The representational role comes from the idea of the individual being the sovereign<sup>3</sup>. The role parliament plays as a representative of the individuals who have decided to govern themselves by coming into civil society evolved over time. Once individuals decided to come into civil society to escape the state of nature where life was brutish, nasty and short, the first development was self governance. However, as society became more complex, it was not possible for all individuals in society to self govern. Structures evolved over time where decision making and arbitration over conflicts emanating from the civil society had to be handled by chosen representatives. By playing the representational role, members of parliament assume the role individuals have willingly assigned to it to govern by applying the general will<sup>4</sup>. Indeed, parliament is the incarnation of the will of the people (Oloo 1995:4).

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<sup>1</sup> Montesquieu, The Spirit of the Law, Thomas Niget with an Introduction by Franz Neumann, New York, Hatner [1949] (Translated by the Hinton Press)

<sup>2</sup> Yamamoto Hironori, Tools for Parliamentary Oversight: A comparative Study of 88 National Parliaments. Geneva, Inter-Parliamentary Union, 2007 p9.

<sup>3</sup> See the writings of Jean Jacques Rousseau. However, on the exercise of sovereign authority, Rousseau was opposed to the idea that the people should exercise sovereignty via a representative assembly. The idea of representation which supports the existence of parliament is to be found in the writings of English philosophers especially John Locke.

<sup>4</sup> Rousseau (ibid).

While a number of studies have been conducted on Kenya's parliament among them John Howell (1968), John Okumu (1974), Samuel Makinda (1983) Adams Oloo (1995), J. D Barkan (2003), N. Gitau (2006) a number of these studies have focused on the concept of separation of powers pitting the extent to which parliament has been able to act as a check and balance on the other two arms of government namely executive and the judiciary. Focuses of these studies have been on the autonomy of parliament and its ability to provide the necessary checks.

The study explores a hitherto unexplored area, the extent to which legislators have played representational role and whether in playing this role, they have lived up to the expectations of the represented. This is important because parliament derives its power from the understanding that it is representing the vast majority of the population. Scholars such as Barkan have noted in that the significance of parliament in a developing country like Kenya lies not in the collective activities of members such as passing of bills but rather the individual behaviour of each member. As such, the legislative institution of importance is not the legislature but the legislator<sup>5</sup>.

## **1.2 Problem Statement**

Kenya last reviewed its constituency boundaries in 1997 resulting in the creation of 210 constituencies. The general elections of 1997 to date have yielded 3 parliaments. However, out of the 210 constituencies only 28 have had one MP since 1997, 101 constituencies have had two MPs while 81 have had three members of parliament in three parliaments. This translates into an MP for every election cycle for these 81 constituencies. The statistics above shows that 48.1% of

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<sup>5</sup> Barkan J. D, "Legislators, Elections and Political Linkage" in Barkan J.D & Okumu J J. (1979), Politics and Public Policy in Kenya and Tanzania. Nairobi, Heinemann, p. 66



the constituencies have had two MPs while 38.5% have had three members of parliament. Taken together, the percentages above shows that 87% of the constituencies have had more than one MP in the life of 3 parliaments! From the constituencies that have had three MPs in 3 parliaments, it can be interpreted that on average 38.5% of Kenyan members of parliament do not get re-elected at the end of each parliamentary term.

Jean Blondel in his comparative study of legislatures (1973) found that the turnover of legislators across the world varied markedly. Some had 100% turnover (e.g Costa Rica where legislators cannot stand immediately for re-election) to as low as 20-30% in western democracies and others in between. His conclusion was that the nature of turnover is not necessarily linked to the type of political system but can be a process of development of legislatures.

Although a sizeable turnover of MPs in every election cycle is expected, this high turnover of MPs in Kenya's election cycle does not seem normal. It demonstrates a disjunction between the understanding of the citizenry of the role of an MP as a people's representative and the way the MP understands and executes his role as a legislator. On the flip side of the coin, it may demonstrate that once elected, the Member of Parliament has his own interests that are not essentially in agreement with those of the constituents. That is to say, the agenda for which the MP was elected to parliament changes significantly.

It leads one to inquire what the MPs who have managed to get re-elected severally (three times in the life of the three parliaments) have done right and what the others that drop out have failed to do. What are the expectations of the electorate and are these at variance with those of the representatives (MPs) once in parliament? If yes, what accounts for the variance? If no, what factors account for their non-performance to merit being removed?

The role of the MP once elected is to play the roles of representation, law making and oversight. While the functions of oversight and law making relate to the general citizenry, it is the representational role that directly relates to the constituents. In playing this role, it is expected that the MPs will first and foremost take into consideration the interests of the constituents that elected them to parliament even as the sphere of representation broadens from the local to the national constituency (James 1968).

The high turnover leads one to question the extent to which the members of parliament have been effective in playing their representational role. It begs the question, what do the electorates perceive to be the role of an MP? Is the high turnover merely about the poor performance of the MP in his role as a legislator? The study hypothesizes a disconnect between what the MPs perceives to be his/her role as a representative and that of the electorate. The expectations of the electorate could be differing a great deal from those of their MP.

An earlier study by Barkan J. D (1979), postulated that in Kenya and Tanzania, the primary role of an MP is to act as linkers in the complex web of centre-periphery relations. Their role according to Barkan is to provide political linkage that the centre can use in controlling the periphery while the periphery uses it in accessing prebends from the centre. His conclusion is that MPs who understand this as their primary role stand higher chances of re-election as opposed to those who do not. Does this argument hold in contemporary representational politics in the Kenya?

This study explored the disconnect between the understanding of the role of an MP as understood by the represented and the representative's role as a Member of Parliament using the cases of Alego and Bondo constituencies. It investigated the factors that shape electors' choice of

legislators and explored the perceptions of both MPs and electors on representation. Specifically the study sought to answer the questions, what are the expectations of the electorates on their MP once elected to parliament? What do MPs consider to be their representational mandate from the electorate? Finally, if these factors are in tandem or not, do they influence the re-election of a legislator in Kenya?

### **1.3 Study Objectives**

The overall objective of the study is to explore the representational role of the members of parliament with a view to informing the variance in representational expectations between the electorate and the representative and how this influences re-election of members of parliament in Kenya.

Specifically, the study seeks to:

1. Explore the perception of the electorate of the role of the MP vis-a-vis the perception of the MP of their role as representatives.
2. Investigate the influence this perception has on electors' choice of an MP.
3. Examine the extent to which the above perceptions influence an MP's re-election..

### **1.4 Justification of the study**

A number of studies have been conducted on the Kenyan parliament (Gitau 2006, Barkan 2003, Gikendi 1982, Barkan & Okumu 1979) among others. However, little attention has been focused on representatives or legislators. The study is an attempt to understand the role of legislators as representatives. The study departs from the given ideal role of representatives as has already been documented but delves into the way Kenyan MPs understand their role and if that understanding is in consonance with that of the represented. The argument here is that parliament and its composition is informed by the environment in which it operates.

The behaviour and character of MPs is significantly discernible by studying the society that elects the members of parliament. The study provides an exploration of the understanding of Kenya's MPs on their role and what the electorate expects of them. This understanding has an effect on the conduct of parliamentarians as they seek to execute their representational mandate and the chances of re-electability. The study will thus make recommendations that will improve the following constituencies;

- Members of parliament themselves in reorienting them to the needs of the electorate.
- The electorate in understanding the role of MPs as representatives and making informed choice at elections.
- Academia in the continuous generation of knowledge to help inform the development of a more responsive society.

### **1.5 Scope of the Study**

The main objective of the study is to explore the representational role of the members of parliament with a view to informing the variance in representational expectations between the electorate and the representative and how this influences re-election of members of parliament in Kenya. Whereas current developments have seen a resurgent legislature, pundits argue that this resurgence does not necessarily indicate progress towards better governance or improved citizen representation. Better representation can only be gauged by the extent to which the aspirations of the represented are in agreement with those of the representatives.

This being an exploratory study, it may not be time bound. There will be back and forward referencing to previous and current parliamentarians. The study dedicates sections to treat the

historical development of parliament. This is in broader context of legislatures as a branch of modern governments and also the Kenyan parliament in its own context. The research confines its analysis to the expectations of representation between the representatives and the represented and how this affects the re-electability of MPs in Alego and Bondo constituencies.

## **1.6 Literature review**

### **1.6.1 Introduction to Literature Review**

A survey of literature on parliament shows a clear tendency to study parliament as an institutional whole, a corporate entity. While some have attempted to dissect this institution, most dissections tend to look at the components of this institution such as committees, the roles of the key offices such as the Speaker, the Clerk etc. However, little literature exists on the analysis of the individual members that are a key component of parliament.

The literature review below seeks to trace how parliament came to assume the role of representation and how this role is understood from the perspective of MPs and voters with specific reference to Kenya. The literature will focus on representation as one of the functions of legislature apart from oversight and legislation. The review will explore how different scholars have sought to analyze the question of representation and the gaps in such analyses.

### **1.6.2 Origins of parliament**

It is not possible to trace the origins of parliament without making reference to the House of Commons "for it is England which is the mother of parliaments"<sup>6</sup>. James (1968:15) asserts that

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<sup>6</sup> Mackenzie K (1959), The English Parliament. Middlesex, Penguin Books, P 1

parliament has obtained its supremacy by virtue of controlling the nation's money. This makes it possible for it to control the government without being the government. Parliament achieves this because of the establishment of the principle that the remedy of grievance must come before the granting of money to the government.

Parliament is a feudal institution, traceable to Saxon times for by then it was an accepted fact that the King must govern with the advice of his great men (Mackenzie 1959: 9). The vassals, lords or barons as members of the feudal community owed duty of attendance and advice in the royal court. It was an obligation and this is what Thomas Becket meant when he wrote to King Henry *'in that you are my lord, I owe and offer you counsel.'* The duty of the feudal vassal in feudal court was to advice. Meeting thrice a year, the writs issued then indicate that parliament then was composed of bishops, abbots, earls and knights<sup>7</sup>.

Mackenzie (1959:11) notes that at the onset, a distinction emerged in parliamentary history where on the one hand, a general assembly of the tenant-in-chief (vassals) where-in the whole nation was conceived to be present, met at intervals to advise the king on the great matters of the realm and on the other hand, a small body of personal advisers assists the king in the actual-day-today business of government. Parliament is the child of the occasional national assembly and retains today its essential character as an advisory assembly representative of the nation. In the course of time, it has found the means to enforce its advice and to make its criticism effective but it does not in itself govern.

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<sup>7</sup> Ibid. 1959, p10

The evolution of parliament to its position of independence took centuries to realise. Initially taken just as advisors summoned at royal discretion, the writ inviting the members to come and discuss with each other evidently conceded to parliament a degree of corporate existence which could not fail in the long run to encourage their development as critics of rather than the participators in government.

The major leap in the development of parliament emerged from the reason for summoning the representatives of the people- that of granting financial aid to the king and deliberating affairs of grave concern to the survival of the kingdom (the Roman maxim long stated; *that which touches all should be approved by all*). From as early as 1295, parliament assumed responsibility for financial resources as well as protecting the sovereign. From 1311, it became apparent that no gifts could be granted to the king or new customs levied (taxes) without the consent of barons in parliament (parliament assumed taxation powers) thereby confirming the assertion by James that parliament has gained supremacy by virtue of controlling the nation's money.

In the matters of the realm, the king could not go to war without consent of parliament. Later on the statute of York gave parliament a paramount place in the constitution. It declared that "all the matters which are to be established for the estate of the king and of his heirs and for the estate of the realm and of the people, shall be treated, accorded and established by parliaments..."<sup>8</sup> According to Mackenzie, the proper expression of the will of the community was perceived to be in parliament.

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<sup>8</sup> Ibid 1959, p24

It should be remembered that the commons as opposed to the lords did not have a traditional claim to advising the king. What was to transform or convert the commons into effective legislators was their ability to refuse the grant of supply (taxation powers) until remedy had been provided for their grievances. So long as the king stood in need of financial and other forms of support, the commons had effective means of bringing pressure to bear. This is no way different from the practise in Kenya's parliament today. Legislators use this tactic to arm twist the president whenever he is in need of their support for certain crucial legislation. For example in the aftermath of the 2005 constitution referendum in which the government sponsored constitutional draft was defeated, a number of political party leaders refused to take up ministerial appointments until their demands were met mainly by appointing more of their party loyalists into cabinet positions<sup>9</sup>.

Parliament is the stage on which the struggle for power is waged between contending factions or parties. Opposition in parliament for example has the role of supervising, advising and criticising the government which has all its facilities of the civil service behind it. The measure of the strength of parliament resides in the fact that without the confidence and support of parliament, the business of government cannot be carried on. Parliament controls finance, their assent is required for legislation; they have the right to demand that policy implementers defend policy to them. Parliament is not a debating society; it is the seat of power in modern governments.

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<sup>9</sup> For example, Musikari Kombo, the chair of Forum for the Restoration of Democracy -Kenya (FORD-K) party and Charity Ngilu Chair of the Social Democratic Party (SDP) demanded more slots in the cabinet for their party members which the president had to give in to in order to bolster his weakened government in the aftermath of the referendum defeat.



According to Lord Birkenhead, parliament is the microcosm of the talent of the country and no man conscious of its great powers should ever, willingly be excluded from it<sup>10</sup>. It is this recognition of the power of parliament that individuals willingly sacrifice careers, businesses and social relationships in order to become members of parliament. The reality of becoming an MP dawns once one is elected to parliament. The perception of this role determines the behaviour of an MP which would later determine re-election or not.

### **1.6.3 Parliament and representation**

As has already been stated, parliament has three major functions; legislation or making of laws, oversight or control of or holding the executive and judiciary arms of government accountable and representation. It is the later role that is of interest to the study. Representation function is important because it is the function of the legislature that relates exclusively to the constituents or electorates.

Historically, despite the several centuries of resistance by the Crown to have the people have a say in the affairs of the state, it was always assumed in the king's assembly that the people were represented. For instance, when the commons in the parliament of 1339 declared that they could not provide aid in grant without the consent of the people (their constituents); the king decided to dissolve that parliament and called a new one<sup>11</sup>.

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<sup>10</sup> James R.R (1968) An Introduction to the House of Commons. Collins, London, pp 21-22

<sup>11</sup> Mackenzie K (1959), The English Parliament, Middlesex, Penguin Books, Pp 91-92

Literature reveals that representation in parliament has always been contentious. The members of parliament are often torn between serving the general interests of the country and focusing on the interests of the constituents. In societies where the constituents are defined in parochial terms such as ethnic community as is the case in Kenya, MPs find themselves in most cases defending this local interest at the expense of the national<sup>12</sup>. According to Barkan<sup>13</sup>, the process of self government to colonized African countries meant altering the method of selecting representatives and expanding membership. What emerged was among other things a structure of political representation that was particularly responsive to local interests and issues rather than to issues of national concern<sup>14</sup>.

The conflict between local and national interest representation is not unique to Kenyan legislators. In early English parliament there was a definite trend in feeling among members against the propriety of constituents giving instructions to them. Members became reluctant to admit anything like a close or continuous control over their actions in the house<sup>15</sup>. In fact Sir Yonge (1745) stated that 'after a gentleman is chosen, he is the representative or if you please, the attorney of the people...he is not obliged nor ought to follow the advice of the constituents, if he thinks it inconsistent with the general interests of his country' (Mackenzie 1959: 95-99). Edmund Burke was later to make this the more authoritative position when he asserted that members are more responsive to the laws of the land than the wishes of the constituents.

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<sup>12</sup> Look at the current storm generated by evictions from Mau forest and how MPs have responded.

<sup>13</sup> Barkan J. D, "Legislators, Elections and Political Linkage" in Barkan J.D & Okumu J J. (1979), Politics and Public Policy in Kenya and Tanzania. Nairobi, Heinemann, p. 65

<sup>14</sup> Barkan J. D & Okumu J.J, Politics & Public Policy in Kenya and Tanzania, Nairobi, Heinemann, 1979, p 65

<sup>15</sup> George II's remark to Elder Pitt (the then PM) during the 7 year's war (1756-63) demonstrates this "you have taught me to look for the sense of my subjects in another place than the house of commons" .

The resistance to adhere to the demands of the constituents is always a double edged sword for the Member of Parliament. An MP may perform excellently at the national level but judged to be poor performer at the constituency level. The MP is always alert to the fact that it is the local constituency but not the national one that will determine their re-election to parliament. Many MPs have had their Political careers cut short by the perception that they are not delivering at the local level. For example the MP for Ugenya James Orengo<sup>16</sup> was an excellent debater in the 8<sup>th</sup> parliament (1993-1997) and raised a number of issues of public interest including the first ever no-confidence motion against Moi's government but was unable to make it to the 9<sup>th</sup> parliament due to perceptions that he was not as effective in representing the interests of his constituents. The persistent question then is; what do constituents expect of their MPs?

The understanding of the role of an MP as a representative continues to be contentious and at times undermined in Kenya. For example while asserting the supremacy of parliament in independent Kenya, the then Speaker Slade stated that parliament has three major functions but which went on to underestimate the representational role of MPs;

The first is that of making laws for this country, by which government is bound no less than any other member of community. Second is that of controlling the raising of money by taxes and expenditure of that money by government. The third function of parliament is known as "the critical function", is the right and indeed the duty of parliament, to whom government is answerable, to seek explanations from government, and to criticize and advise government, in the exercise of its executive authority<sup>17</sup>.

It is evident from above that in espousing the roles of parliament, the speaker paid least attention to representation.

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<sup>16</sup> Institute for Civic Affairs and Development, Kenya's Parliament: Members Participation, ICAD, Nairobi.

<sup>17</sup> Gertzel J.C, Goldschmidt M & Rothchild D (eds), (1969), Government and Politics in Kenya, East Africa Publishing House, Nairobi. P196.

Gertzel, Goldschmidt and Rothchild (1969) in their study of Kenya parliamentary system takes a look at representation in parliament but more from excerpts of debates in parliament. Apart from Kenyatta's letter contained in the Manchester Guardian (1930) in which he protested against appointing whites to represent Africans in the legislative council, little attention is paid to the role of MPs as representatives. Instead, the work looks at debates around delimitation of boundaries and political party requirements for candidates seeking parliamentary nomination and what happens when one resigns from a party. The study also looks at powers and privileges of parliament as well as constitutional provisions on legislative powers but little on representation.

In other studies on Kenya's parliament, Nancy Gitau (2006)<sup>18</sup> studies the legislative autonomy of the 8<sup>th</sup> parliament. The thesis of Gitau's argument is that Kenya's parliament (with specific reference to the 8<sup>th</sup> parliament) has achieved a degree of autonomy from the stranglehold of the executive as compared to the case before. This has largely been aided by the establishment of the Parliamentary Service Commission which has enabled parliamentarians to employ the services of professional researchers to aid their work. Her submission is that the number and types of bills passed in the 8<sup>th</sup> parliament is a testimony to the growing legislative autonomy and effectiveness of Kenya's parliament. The study however falls short of commenting on representation as one of the key parameters for assessing the effectiveness of Kenya's parliament. Her analysis draws largely from the law making (legislative) and oversight functions at the expense of representation.

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<sup>18</sup> Gitau N., Legislative Autonomy and Effectiveness of the 8<sup>th</sup> Parliament, M.A Thesis, University of Nairobi, 2006.

Oloo Adams (1995)<sup>19</sup> in his study of Kenya's parliament delves into the role of parliament/legislature in foreign policy making process. Tracing this to independence period (1963), Oloo argues that despite the country gaining independence with a parliamentary system of government, the law was quickly amended to create a presidential system. Despite the fact that the constitution retained many of the checks upon the executive by the legislature which are characteristic of a parliamentary system of government, executive authority was hugely invested in the president. Questioning the role parliament plays in the foreign policy making process in Kenya, he concludes that several constitutional amendments that gave more powers to the executive weakened the legislature leaving it a nominal role in foreign policy making (Oloo 1995:26).

The study by Oloo looks at the broader role of parliament as a law making organ and the latitude that this institution is supposed to enjoy with regard to making of policy of which foreign policy is no exception. In fact as Ghai (1992) noted, the 1963 constitution which was not adhered to provided the legislature to enjoy the greatest leeway in making policy (domestic and foreign). The legislature could propose and debate any policy initiative bound neither by precedent, nor by predetermined framework and if approved give effect to it in form of law (Oloo 1995:25). This study apart from exploring the role of parliament in foreign policy making falls short of interrogating the representational role of parliament.

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<sup>19</sup> Oloo Adams G. R, *The Role of Parliament in Foreign Policy Making Process in Kenya 1963-1993*, M.A Thesis, University of Nairobi, 1995.

Barkan J. D (1979) in a study of legislators, elections and political linkage, postulated that in Kenya and Tanzania, the primary role of an MP is to act as linkers in the complex web of centre-periphery relations. Their role according to Barkan is to provide political linkage that the centre can use in controlling the periphery while the periphery uses it in accessing prebends from the centre. His conclusion is that MPs who understand linkage as their primary role stand higher chances of re-election as opposed to those who do not. The question is whether this argument holds in contemporary representational politics in the Kenya.

It has been argued that in Kenya's context, the role of linkage is played more by the provincial administration system rather than by the legislators. Established in the colonial period, the executive has perfected the provincial administration system to enable it penetrate and control every corner of the country. However, it is acknowledged that politicians are better placed in ensuring control as theirs is often by consent as opposed to provincial administration that depends on coercion.

Barkan (1979:67) goes on to argue that unlike administrative and economic linkages that link the periphery to the centre for control and extraction respectively and thereby agents of the centre, legislators are elected representatives of local communities and as such are expected by the people they represent to be agents of the periphery at the centre. While they are not important in policymaking and therefore allocation of resources, they affect the pattern by which resources allocated to a given problem are distributed across society at the local level. They are consequently perceived as agents capable of extracting resources from the centre for the local community. This is the context in which President Moi's assertion *siasa mbaya maisha mbaya* (bad politics [opposition politics], bad life) was understood.

In a later occasional paper, *Bringing home the pork: Legislator behavior, rural development, and political change in East Africa*,<sup>20</sup> Barkan argues that the perception of the MP of his role determines the behavior in and outside parliament. Those who adopt the conventional western view of legislators (passage of laws) become so absorbed in parliamentary combat that they fail to grasp the necessity of building a political base in their communities and linking them to the centre. These legislators pay dearly for this omission because from the perspective of their electorates, such an MP went off to the capital after elections never to be seen or heard again. The argument by Barkan on the propensity of the legislators to be linkers is potent especially in view of the factors that determine an MP's re-election.

Whereas the legislator views his active participation in the affairs of parliament as the means for maintaining visibility with electorates and attracting government attention to access resources for their communities, an MP needs to devote far more effort to solving the problems of local communities if they hope to remain in office. It would be interesting to see how the data collected confirms or disapproves this assertion.

Blondel (1973) in his study of legislatures does a comparative analysis of legislatures worldwide. Admitting the limited literature on legislatures worldwide, he argues that the conception of the role of legislatures has been flawed. At the time of theorizing about legislatures in classical times, scholars like Locke and Montesquieu dealt with a social reality that is fundamentally different from modern governments.

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<sup>20</sup> Barkan J.D, *Bringing home the pork: Legislator behaviour, rural development, and political change in East Africa*, Occasional Paper, Comparative Legislative Research Centre, University of Iowa, 1975.

Locke and Montesquieu looked at societies in which state involvement in social and economic matters was minimal if not nonexistent. For them, statutes ...covered problems of private property, individual rights, family law- in short regulation of private relationships between individuals<sup>21</sup>.

Slowly the balance tilted and the state became more involved in social and economic matters. His argument is that with this shift, it could have been fruitful to reconsider the role of legislatures in this new context, in which case some difficulties relating to the role of legislatures might have been seen in a somewhat different light<sup>22</sup>.

In terms of representation, Blondel argues that legislatures are unrepresentative of the societies that they assume to represent. Distortions exist with respect to age, sex, education and occupational backgrounds. He presents three theoretical models of representation argued in terms of the segments of the population that find representation in legislatures. These he categorizes as lawyers' paradise found in western industrialized world and parts of the Third World, workers, peasants and the intelligentsia in communist states and finally mixed model in the developing world where civil servants, teachers and managers appear to be playing a leading role.

Blondel's work forms a powerful attempt to dissect the institution of the legislature in order to look at legislators as representatives. However, when it comes to the subject of representation as a role of legislators, Blondel deviates to examine representation from the perspective of the extent to which representatives view legislative representation as a career. According to Blondel, the general conditions under which the legislature operates is important in understanding the

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<sup>21</sup> Jean Blondel, *Comparative Legislatures*, Prentice-Hall, Englewood Cliffs- N.J, 1973. P13

<sup>22</sup> *Ibid*



attitudes of legislators and their relation to the career which they have embraced<sup>23</sup>. He concludes that there is a gradual increase in professionalization of legislatures hence the vision which legislators have of their role will be modified thus changing the collective behaviour of legislative bodies and therefore their effects on legislative outcomes.

To the extent that Blondel attempts to analyze the turnover rates in legislatures worldwide, his work contains relevance for the study. However, his analysis is not carried to its logical conclusion. He views the turnover trends to be a natural process in the development of legislatures. A comparative look at legislatures around the world leads him to conclude that turnover tends to decrease over the very long period<sup>24</sup>. This summation by Blondel would lead one to conclude that the high turnover being researched in this study may be a natural process and Kenya's parliament is no exception. However, such a conclusion would be misleading since Blondel's analysis provides no comparison between legislatures of developing countries.

It is evident from the review of literature above that a number of studies on parliament especially in Kenya have focussed a lot of attention on the legislative and oversight role of parliament. There is a huge lacuna with regard to the third role (representation) that needs to be filled. This study proposes to fill this lacuna by assessing the representation role of Kenya's parliament. It will assess what legislators view as their role as representatives and what the constituents expect of MPs as their representatives.

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<sup>23</sup> Ibid p91

<sup>24</sup> Ibid pp86-89

## **1.7 Theoretical Framework**

A theory is a heuristic device that helps us to organize masses of information into manageable and co-relational units while contributing to discovery of new knowledge. It helps in simplifying complex data and helps in providing explanations for a vast array of phenomena.

The study employed the theory of representative government espoused in modern political thought. The choice of this theory is informed by the fact that the idea of representation is to be found in very early political writings that conceptualized the idea of modern governments. Modern governments were conceived to comprise distinct streams of authority where one branch exercised executive authority, another made laws while the other arbitrated conflicts between the makers of laws and executors of the same. This conception is what led to the present day governments with the executive, legislature and judiciary as arms of government.

Representation was to be carried out by the legislature following arguments that individuals had a right to participate in the sovereign authority of their governments. This they could do through a body of elected representatives. According to James Madison, representation was not an approximation of government by people made technically necessary by the physical impossibility of gathering citizens of large states. It was a superior political system because;

The effect of representation is to “refine” and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love for justice will be least likely to sacrifice it to temporary or partial considerations...it may well happen that the public voice pronounced by representatives of the people will

be more consonant to the public good than if pronounced by the people themselves, convened for that purpose<sup>25</sup>”

At fore front of arguments for representative government are political philosophers such as John Stuart Mill, Montesquieu and John Locke. Mill (1806-1873)<sup>26</sup> argued that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the state. But since all cannot, in a community exceeding a single small town, participate personally in any but some very minor portions of the public business, it follows that the ideal type of a perfect government must be representative.

However, Mill was cautious to add that, like any other government, representative government is unsuitable in any case in which it cannot permanently subsist — i.e. in which it does not fulfil the three fundamental conditions first, that the people should be willing to receive it, secondly, that they should be willing and able to do what is necessary for its preservation and lastly, that they should be willing and able to fulfil the duties and discharge the functions which it imposes on them. Among the tendencies which, without absolutely render a people unfit for representative government, seriously incapacitate them from reaping the full benefit of it are one, the desire to exercise power over others; the other is disinclination to have power exercised over themselves.

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<sup>25</sup> Manin Bernard (1997), *The Principles of Representative Government*, New York, Cambridge University Press. P2

<sup>26</sup> John Stuart Mill (web edition), *Representative Government*, ebooks@Adelaide, Adelaide, April 2009. Chapter 3

Another contribution to the theory of representative government was made by John Locke (1632–1704). His argument being that since governments exist by the consent of the people in order to protect the rights of the people and promote the public good, governments that fail to do so can be resisted and replaced with new governments. Locke also defends the principle of majority rule and the separation of legislative and executive powers arguing that if both were exercised by the same body of magistrates, it would lead to tyranny and limit individual freedom.

Another political philosopher to argue the case for representation was Montesquieu (1689–1755). He argued for the creation of a system in which different bodies exercised legislative, executive, and judicial power, and in which all those bodies were bound by the rule of law. This theory of the separation of powers would guard against despotism or the danger of governments becoming despotic<sup>27</sup>.

Blondel has however argued that when theorists such as Locke and Montesquieu began theorising about legislatures, the situation was wholly different as state involvement in social matters was minimal if not non-existent as opposed to today. This in itself does not nullify the theory of representative government as espoused by these enlightenment scholars. Representation is very much a part of modern legislatures and this goes on to demonstrate the parsimony of this theory to be able to explain the phenomenon under investigation- the representational role of Kenya's members of parliament.

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<sup>27</sup> Montesquieu, Stanford Encyclopedia of Philosophy, <http://plato.stanford.edu/entries/montesquieu/>, accessed Wednesday 13<sup>th</sup> January 2009.

## **1.8 Hypotheses**

In order to answer the above questions, the study will attempt to prove the following hypotheses,

- i. That there is a disconnect between the perceptions of the electors and the legislators on the role of the representative.
- ii. The more the disconnect between electors perception and those of the elected on the role of legislators, the more the likelihood of none re-election.

## **1.9 Study Questions**

The study will seek to answer the following questions.

1. What is the perception of voters of the role of the MP and what do legislators perceive to be their role as representatives?
2. What factors shape electors' choice of an MP?
3. To what extent do the perceptions of the roles of representatives contribute to the re-electability of members of parliament?

## **1.10 Methodology and Data analysis**

This section outlines how the information required for answering the research questions was gathered. Issues covered include study sites and the rationale for selecting the sites; sampling frame; methods used for gathering information; methods used for analysing data and how the findings of the study are presented.

The research applied a scientific method. According to Nachmias & Nachmias, a scientific methodology is a system of explicit rules and procedures upon which research is based and against which claims for knowledge are evaluated (Nachmias & Nachmias 1996:13). The scientific methodology has certain core elements such as observation, analysis, logical inference

and generalization. These elements of scientific methodology were employed in the research. The below sections outlines the procedures employed in gathering and analysing data.

### **1.9.1 Sources of Data:**

The study used both primary and secondary data. Secondary data was sourced by means of thorough literature review on parliament. Primary data was collected in the two constituencies (Alego and Bondo) to bridge the gaps in secondary data. Data was also collected from current and previous Members of Parliament in these two constituencies as key informants to gauge their own understanding of representation and how they have played this role.

### **1.9.2 Sampling and Sample Characteristics**

Purposive sampling was employed in the choice of the constituencies to be covered. The assumption was that the citizens' views captured were representative of the country (Nachmias & Nachmias 1996:184-5). Selection of key informants especially Members of Parliament employed convenience sampling (ibid). The reason for this was that interviews with whatever number of the legislators under the two broad categories (those who have successfully managed re-election and those who have not) would yield near similar results. Consequently, irrespective of the number of legislators interviewed, the information gathered for each category would not differ a great deal.

The survey interviewed 51 people in each of the two constituencies resulting in a sample population of 102 respondents chosen at random. The distribution of the respondents by age was indicated in the table below. The importance of the age distribution was to help the survey target

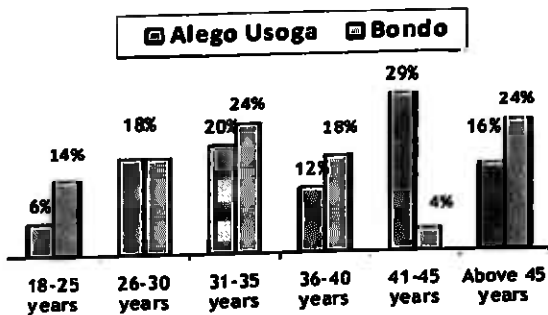
respondents who have voted for MPs in the last three elections and to establish factors that informed the choice of the MP in every election.

**Table: Distribution of respondents by age**

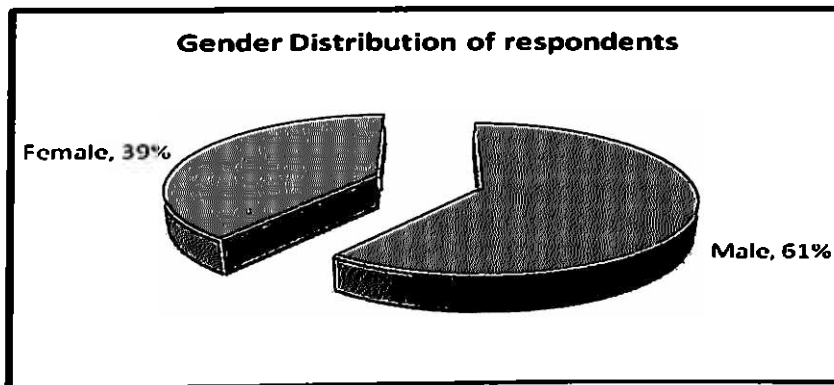
Age Bracket	No. of Respondents	
	Alego	Bondo
18-25 years	3	7
26-30 Years	9	9
31-35 Years	10	12
36-40 Years	6	9
41-45 Years	15	2
Above 45 Years	8	12
Total	51	51

Source: Study survey

**Chart: Age distribution of respondents by percentage**



In terms of gender, 61 % of males were interviewed compared to 39% of females giving an approximate ratio of 3:2 respectively. Even though the respondents were not fully balanced in terms of gender, the ratio above ensured that the perspectives of both male and female with regard to representation in the two constituencies were adequately captured.



**Source: Study survey**

All the respondents were those who had voted for a Member of Parliament in both constituencies.

The criterion was important in ensuring that responses on understanding the role of legislators and expectations of them are given by those who have made a decision to be represented in parliament. In terms of voting in the last three elections, 72.6% in Alego and 66.7% in Bondo voted in 1997, 88.2% in Alego and 82.4% in Bondo voted in 2002 while 100% of the respondents in both constituencies voted for legislators in the 2007 general elections. The percentages are significant enough to explain what respondents expect of their representatives. The table below indicates the voting by respondents in the last three elections.

**Table: Percentage of respondents who voted in the last three elections**

<b>Election Year</b>	<b>Alego</b>	<b>Bondo</b>
<b>1997</b>	<b>72.6%</b>	<b>66.7%</b>
<b>2002</b>	<b>88.2%</b>	<b>82.4%</b>
<b>2007</b>	<b>100%</b>	<b>100%</b>

### **1.9.3 Data Collection & Analysis**



### **1.9.3 Data Collection & Analysis**

Two types of methods were used for gathering information, namely field surveys using questionnaires and key informant interviews. The analysis employed two tools, quantitative information from the survey was analyzed using the standard SPSS package. From this, descriptive and inferential statistics were obtained. In so doing, the study described phenomena from the statistical observations and made recommendations from the inferences. In addition, qualitative data was used for descriptive purposes.

### **1.11 Definition of terms**

This section provides a definition of key terms used in the study. It also attempts to operationalize the key variables used in the study.

**Legislation:** This refers to the role of parliament as the law making organ of government. Inference can be made albeit unscientifically on the usefulness of passed laws in improving the welfare of the represented.

**Representation:** As used in the study, this refers to the role of acting on behalf of the citizenry in decision making processes of the state. The citizens have a say in how they are governed but because it is operationally unfeasible for everyone to govern, they entrust this role to a body of representatives who they assume will act in their best interests. In the assessment of this role, the study will ascertain the perception of legislators as representatives. What is the degree of focus of legislators in representing local or national interests? The study will ascertain how the propensity to represent local or national interest affects re-election.

**Oversight:** Refers to the role of parliament as a check and balance on the powers of the other two arms of government that is, the executive and judiciary. Oversight function looks at the extent to which parliament has been able to guard against the excesses of the judiciary and the executive.

## **CHAPTER TWO**

### **EVOLUTION OF PARLIAMENTARY REPRESENTATION IN KENYA**

#### **2.1 Introduction**

In the continuous attempt to analyse the problem of representational politics in Kenya, the chapter presents an account of how representation in parliament has evolved over the years. Since it is given that parliamentary representation is a result of the colonial experience, the chapter will present how representation has evolved from the colonial period to the present. This is not to say that Africa did not have a rudimentary system of representation in the management of societal affairs. As has been appreciated in the study of politics in pre-colonial Africa, both stateless and state societies had a system in which the mass of the ruled were represented in the management of affairs affecting the realm.

However, it is acknowledged that representation was more established in societies with decentralised administrations (stateless societies). For whereas in state societies especially those with kingships the king wielded unquestioned authority in the management of affairs of the kingdom, societies with decentralised administrations were viewed to be more egalitarian. In stateless societies, a council of elders was in place representing different families or clans and these elders in advising the highest authority at the time (chief or otherwise) were viewed to be acting on behalf of the people they represented. Even in the centralised societies, the king had his advisors. The only difference is that these advisors were picked at the discretion of the king as opposed to the former where they represented known segments of the society.

The chapter proceeds with a presentation of the various landmarks in representation in Kenya, highlighting the major representational issues that concerned representatives at each point in time. It goes on to pay particular attention to representational politics in Alego and Bondo which are the study cases. This is intertwined with and cannot be separated from the history and development of Kenya's parliament.

## 2.2 Representation in the colonial period

The history of representation in Kenya <sup>is</sup> intricately linked to her colonial history<sup>28</sup>. This is the case because the practice of the British colonialism was to export her institutions to the newly acquired territories. With the declaration of the East Africa Protectorate over what came to be Kenya by Sir Hardinge on July 01, 1895, it was apparent that the British would put in place administrative and political structures to manage the colony that would inherently resemble those of the colonial master. ✓

A stab at the need for representation was first made by the Convention of Colonists Associations in 1911 when they demanded election of unofficial Members of the legislative Council. The East Africa Protectorate was accordingly split into eleven constituencies and the first elections held in 1920, after which consideration for the provision of similar treatment to other races was initiated. Direct African representation in the Legislative Council began in October, 1944 through nomination by the colonial government of Mr. Eliud Wambu Mathu. The number of nominated African representatives on the Council was increased to four in 1948. The decision to nominate

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<sup>28</sup> <http://www.parliament.go.ke/parliament/history.php>

an African to the Legislative Council (LegCo) was informed by the need to bring Africans into the administrative system at levels higher than the chiefs and to channel the emergent African nationalism towards the support of colonial administration<sup>29</sup>. The colonial administration had completely misread the reason for African demands for representation.

The first contested elections for African Members to the Legislative Council were held in March 1957. The elections were held based on qualitative franchise reminiscent of the 18<sup>th</sup> Century England that had made property as the basis of franchise. Voters were required to meet certain educational and property qualifications resulting into mass disenfranchisement of African population. The colonial thinking with regard to representation could be understood to have been held captive by the enlightenment political thought especially views by John Stuart Mill. Even though regarded as the father of liberty, Mill believed that special measures had to be taken to prevent the views of the instructed classes from being drowned in a flood of votes from the uninstructed classes<sup>30</sup>. ✓

Both the Lyttelton and Lennox-Boyd constitutions fell short of representational expectations of Africans. Africans rejected, specifically, the continued use of qualitative franchise and the general policy of multi-racialism that was the main objective underlying the Lyttelton Constitution. They demanded among other things the establishment of one electoral roll,

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<sup>29</sup> Assa Okoth (2006), *A History of East Africa (Vol.2) 1915-1995*, Nairobi, EAEP, pp72-4

<sup>30</sup> Henry M. Magid, "John Stuart Mill" in Strauss L. & Cropsey J. (eds) (1987), History of Political Philosophy 3<sup>rd</sup> ed, Chicago, University of Chicago Press p.796.

enlargement of franchise to all people above 21 years and more seats in the Legco to reflect the population dynamics<sup>31</sup>.

Acknowledging the inevitability of granting independence to the colonized people, the new Secretary for Colonies, Mr. Ian Macleod, convened a full-fledged constitutional meeting in January 1960 at Lancaster House to map out the future constitutional development for Kenya. The First Lancaster House Constitution Conference caused major changes to the Lennox-Boyd Constitution providing for a 65 elected Member and twelve nominated Member legislative council in addition to three ex-official Members and the Speaker. The sixty-five seats for elected Members and national members elected by Electoral College were distributed as depicted in the table below.

Race	No. of representatives
Europeans	14
Asians	11
Arabs	03
Africans	37

The results of the First Lancaster House Constitution Conference on the whole fell short of the expectations and demands of Africans for equitable representation in the Legco. Consequently, while the Africans accepted to work within the Macleod Constitution, they nevertheless expressed strong reservations regarding the qualifications required of Africans in order to register as voters and distribution of the National seats among the three races. On the basis of this, the African representatives intensified the struggle for a rightful share of representation. This led to the second Lancaster House Constitution Conference in February, 1962, that resulted

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<sup>31</sup> Assa Okoth op. cit. p86

into a defined representation arrangement at independence<sup>32</sup>. There was to be a bicameral Legislature, elected by common adult suffrage; the Lower House or House of Representatives to comprise 117 Members from single-member constituencies; and twelve specially Elected Members, to be elected by the House of Representatives sitting as an electoral college.

Final constitutional review and consultations were held in Nairobi in February 1963 at which agreement was reached for an internal Self Government to assume office on June 01, 1963, and full independence six months later. A general election was held in the period May 18-25, 1963; out of which the Kenya African National Union (KANU) won an overall majority against the Kenya Democratic Union (KADU) and the African People's Party.

### **2.3 Representation in the Post-Independence Period**

The post independence period saw increasing growth of representation for a majority of Africans. The composition of the Legislature at independence remained in place until 1964 when negotiations between the government and the opposition led to a merger of all the parties represented in the House. Further constitutional amendments led to the amalgamation of Upper House or the Senate and the Lower House into a single Chamber - the National Assembly in 1966. The erstwhile forty-one Senators were accommodated by the creation of an additional seat in each of the forty-one administrative districts, they had previously represented in the Senate<sup>33</sup>.

The evolving independence scenario started to show very high attrition rates for legislators. For example, at the dissolution of the third parliament in 1979 and subsequent elections, nearly half

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<sup>32</sup> Samuel Ndindiri, *Parliament Guide 2003*,  
<http://www.parliament.go.ke/parliament/downloads/parliament%20guide.pdf>

<sup>33</sup> Ibid.

of the sitting Members of the Third Parliament lost. The high attrition could be attributed to the growing consciousness of the electorates and other factors. The elections of 1979 were the first under president Moi following the demise of President Kenyatta in 1978. The high attrition may be an indicator to attempts by President Moi to consolidate his power. This is particularly the case because a majority of those who lost their parliamentary seats were those associated with the “*change the constitution movement*” that had attempted to block Moi from succeeding Jomo Kenyatta as the next President.

With regard to legislations that emanated from the house, it can be argued that the parliaments under Moi before the re-introduction of multi-partyism in 1992 were very unrepresentative. Moi ensured that parliament churned out legislation to entrench his personal rule with little regard to ideals of representative government. John Stuart Mill argues that a parliament of elected representatives serves as the controller of the government in the interest of the people. According to Mill, parliament is chiefly a deliberative body...its function is to indicate wants, to be an organ for popular demands, and a place of adverse discussion for all opinions relating to public matters<sup>34</sup>. This was not the case with parliament in this period. In fact the insensitivity to the ideals of representative government was demonstrated in June 1982 when passed a constitutional amendment that made Kenya a *de jure* one party state.

The constricted political space and need for genuine representation led to an unsuccessful coup in August 1982. In his characteristic response, Moi resorted to more repression and constriction of parliamentary representation reducing parliament to a house of chorus for political sycophants. This constriction took the form of limited opportunities for choice of political parties

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<sup>34</sup> Magid, op cit pp794 quoting from Considerations on Representative Government, v.



and political ideologies as well as stage-managed parliamentary elections that denied the citizenry the right to choose their representatives. The fifth General Elections of 1988 was the hallmark of the constricted space for political competition. It was the only election that nominated candidates through *Mlolongo* or Queue voting system.

Continuous agitation against repression and demands for genuine representation led to the repeal of Section 2A of the Constitution effectively changing Kenya's political system from a *de jure* one party to a *de jure* multiparty state. As a result, the Seventh Parliament became the second multiparty House since Independence. Seven political parties got representation in the Seventh Parliament that included, KANU, FORD-Kenya, FORD-Asili, DP, Kenya National Congress, PICK and NDP-K. Kenya began to make steps towards a representative government theorized in 18<sup>th</sup> Century and exercised in modern democracies. As John Stuart Mill had stated, representative government is not only the ideally best polity, all things considered, but is also a form of government that can easily be established in the modern world...a properly constituted representative government could do most to aid people to achieve progress to the next stage of society<sup>35</sup>.The clamour for reforms and true parliamentary representation continues.

#### **2.4 Challenges facing representation in Kenya today**

Representation in Kenya has undoubtedly grown in the four decades of independence. However, as is the case worldwide, the desire of people to get involved in the management of public affairs has not reached its optimal stage. Kenya continues to grapple with how to meet this need. Outstanding among the issues requiring attention are how to ensure that sections of the population are adequately represented so that decisions made by the national legislature are

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<sup>35</sup> Magid *ibid.* p793

considered binding. The problem of adequate representation for all segments of the population is mostly manifested in two dimensions, system of representation and gender. This is what we turn to below.

#### **2.4.1 System of representation**

Kenya's representation is based on single member districts where an MP represents a specific constituency. This scenario is currently being contested and the debate is whether to go for proportional representation or representation based on single member districts. The debate has come to prominence to the extent of calls to adopt the principle of one man one voter. Others from sparsely populated areas feel that such a system will disadvantage them and have therefore called for adoption of one kilometer one vote. What is certain though is that as the population has grown, the system of representation has become untenable. For example, as representation for Africans has grown over the years, the minority races especially Whites and Indians have missed out on parliamentary representation save for the 4th parliament when 2 MPs of White and Asian descent were elected into the Kenyan parliament to represent Langata and Parklands constituencies respectively<sup>36</sup>. The development of a common voters roll has ensured that these categories of citizens have been disenfranchised in Kenyan politics. In the interest of equity and justice parliamentary representation in Kenya ought to be addressed.

The urgency to address this lack of equity in representation became apparent after the 2008 post-election violence. The report of the Independent Electoral Review Commission (Kriegler

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<sup>36</sup> Hon. Philip Leakey (European) was elected to represent Lang'ata constituency, and Hon. Krishan Chander Gautama, a Kenyan of Asian origin, to represent Parklands. In later years especially 6<sup>th</sup> Parliament, Hon. Amin Walji (An Asian), was elected to represent Westlands in the 6<sup>th</sup> parliament. In the 10<sup>th</sup> parliament, the only non-African member is Hon. Shakeel Shabir representing Kisumu Town East Constituency.

commission)<sup>37</sup>, found that the present configuration of constituencies systematically over-represents residents of the most sparsely populated areas of the country, and under-represents the residents of the most densely populated areas. It is highly anticipated that the current boundaries review being undertaken by the Independent Boundaries Review Commission will address these anomalies. It may call for a different electoral system for example a mixed member proportional system so that some MPs are elected via proportional representation while others represent geographically defined constituencies so that segments of the population especially the minority are not disadvantaged.

#### **2.4.2 Gender representation**

Gender representation in Kenya's legislature continues to be a cause of great concern. Representation of women in Kenyan parliament has continued to lag below the globally recommended threshold of 30%. Women continue to struggle to make it to parliament. Up to the elections of 2007 the number of women MPs remained at only 22 out of 222 MPs in parliament, with 16 elected and 6 nominated. The 16 women MPs represented 7.6 per cent of all elected MPs, while the 22 MPs, both elected and nominated represent a paltry 10% of all legislators<sup>38</sup>.

Trends indicate that the female gender still has a long road to travel before attaining equity with men in representational politics. The slow pace of progress is attributed not only to legal/policy and institutional barriers, but also to socio-cultural factors, low levels of political socialisation and a culture that frowns upon democratic processes, coupled with a "divisive" crisis of

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<sup>37</sup> Republic of Kenya (2008), Report of the Independent Electoral Review Commission (Krieglar Report). Nairobi, Government Printer.

<sup>38</sup> Odhiambo M. & Mitullah W. (2010), Gender and Leadership in Kenya: A post 2007 General Elections' Situation Analysis, Nairobi, Claripress, p. 26.

identity<sup>39</sup>. The Inter-Parliamentary Union (IPU), reaffirms gender balance in political life arguing that parliamentary democracy can only be truly meaningful if women are represented in parliament on the basis of full equality with men, both in law and practice, and strongly urges parliaments to ensure that such equality is achieved...<sup>40</sup>. The new constitution attempts to address this anomaly by asserting that no house of representatives (county, national and senate) shall comprise more than one gender<sup>41</sup>.

Consequently, Mitullah and Odhiambo<sup>42</sup> argue that affirmative action, in particular one that embeds a degree of proportionate representation and that ensures good representation of both genders, has potential of bringing on board more women. The representation of women in politics, particularly in elective offices can ensure their contribution to and participation in directing the political process and shaping public policy.

## **2.5 Brief synopsis of representation politics in Alego & Bondo**

The two case constituencies even though neighbours present very varied patterns of representational politics. Having been part of the Central Nyanza region represented by Jaramogi Oginga Odinga in the first Legco of 1957, they became two separate constituencies at independence. Bondo has demonstrated instances of very stable representation patterns where a

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<sup>39</sup> Maria Nzomo (ed) "Women in Politics: Challenges of Democratic Transition in Kenya" in Perspectives on Gender Discourse 3/03 (Nairobi: Heinrich Boll Foundation, 2003).

<sup>40</sup> Goodwin-Gill G.S. (2006), Free and Fair Elections: New Expanded Edition, Geneva, Inter-Parliamentary Union, p8.

<sup>41</sup> Republic of Kenya (2010) The Constitution of Kenya, Nairobi, Government Printer. See chapter 8 & 11

<sup>42</sup> Winnie V. Mitullah and Morris Odhiamb, "Electoral Affirmative Action for Women: Framing the Issues and Interventions" in Okombo Okoth (ed) (2009), Discourses on Kenya's 2007 General Elections: Perspectives and prospects for a Democratic Society. Nairobi, Claripress, pp59-77.

single legislator represents the constituency in multiple parliaments as compared to Alego which has changed representatives in virtually every parliament.

Odinga represented Bondo until 1969 when his Kenya People's Union (KPU) was proscribed by the Kenyatta government and subsequently placed under house arrest. His successor Odongo Omamo only sat in parliament for one term before being deposed by Josiah Ougo in the 1974 elections. Omamo who enjoyed cordial relations with the Moi government (rising to become a Minister) returned in the 1980 bye-elections representing Bondo until 1988 when Gilbert Oluoch defeated him in the infamous *mlolongo* (queue) voting of 1988. Gilbert Oluoch served one term till the re-introduction of multi-party politics in 1992.

It should be remembered that despite Moi lifting the house arrest on Odinga, the later was not allowed to participate in representational politics for some time. Odinga came back to represent Bondo in the multi-party elections of 1992 but died shortly after in 1993. He was succeeded by his son Oburu Odinga who has remained the Member of Parliament to date.

Despite sharing similar socio-economic characteristics, politics in Alego have been quite different from Bondo. Alego constituency has had a record 7 members of parliament since 1963. Starting with Hon. Luke Obok in 1963, Hon. Okudo took over in the elections of 1969 before being replaced by Hon. Oloo Aringo in 1974. Aringo has been the longest serving MP in the history of political representation in Alego.

He remained a Member of Parliament between 1974-1992 when he was defeated in the multiparty elections of that year. His defeat was attributed to the very long association with KANU (of which he had risen to become the national chairman) which the electorate wanted a

change from in 1992. He was however to bounce back in 1997 defeating the one-term MP Otieno Mak'Onyango. Come 2002, Aringo was replaced by Hon. Sammy Weya who also served for one term before being deposed by Hon. Edwin Yinda in 2007.

Despite the fact that both Alego and Bondo constituencies often share affinity to the same political parties (KANU 1963-1967 and 1969-1992, KPU 1967-1969, FORD Kenya 1992-1997, NDP 1997-2002, NARC 2002-2007, ODM 2007 to date), their voting patterns and voter expectations of their representatives seem varied. It is no wonder then that in the last three parliaments, whereas Bondo constituency has had one MP, Alego constituency has had an MP for every parliament resulting into 100% turnover between 1997 to date. The striking scenario definitely calls for analysis which is the basis of this inquiry.

## **2.6 Conclusion**

The chapter has traced the origins of parliamentary representation in Kenya and has argued that parliament is a colonial export occasioned by the desire of the migrants to exercise their long-held right that the crown could only tax them if they were represented in decisions affecting the colony. From such humble beginnings, parliament grew to take on board the demands of the growing African elite to have a say in the management of their affairs.

The overriding concern during the colonial period was to maintain the privileged position of the Whiteman at the expense of African majority. Global events and the inevitability of independence saw steps being taken to increase African representation in the legislature. These were not achieved through tokenism but by vigorous demands by the Africans including Mau Mau rebellion.

Come independence, franchise was expanded, but with challenges that sometimes constricted the arena of competition in the representation processes. This took the form of constitutional amendments that made the country a *de jure* one party state. The struggle for representation therefore shifted away from that between external and internal forces to purely internal demands to expand the space for competition. This resulted into the repeal of section 2A of the constitution to allow for the re-introduction of multiparty politics.

In addition to increasing the number of constituencies these changes have ensured a broader arena for playing representational politics. However a number of challenges continue to constrain representation. The major challenges have been the system of representation and how to achieve gender equity. Kenya has to deal with these two challenges to ensure that parliament can claim legitimacy for decisions made as being guided by public interest. Public interest is to direct consideration and action away from private, personal, parochial or partisan, interests towards matters of broader (ie. more 'public') concern<sup>43</sup>. Representation issues should be dealt with in the full knowledge that the electorate is the ultimate authority<sup>44</sup>.

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<sup>43</sup> Chris Wheeler, "The Public Interest: we know it's important, but do we know what it means", *AIAL Forum*. No. 48, p. 24

<sup>44</sup> Geoff Gallop, "The Role of a Member of Parliament", Speech at Australasian Study of Parliament Group (NSW Chapter), Parliament House, Sydney, 25 November 2008.

## CHAPTER THREE

### PERSPECTIVES ON REPRESENTATION

#### 3.1 Introduction

The study sought to explore the extent to which members of parliament have played their representational role and whether in playing this role, they have lived up to the expectations of the represented. In order to explain the above, the study sought primary information from the represented in Alego and Bondo constituencies. The assumption held was that voters' understanding of representation and expectations of a representative are in agreement with that of the legislators. A lack of synchrony in representational expectations between the represented and the representatives has obvious implications for legislators.

One such implication is the re-electability and turnover of MPs. A disjunction between the understanding by the citizenry of the role of an MP as a people's representative and the way the MP understands his role as a parliamentarian determines whether a Member of Parliament will fulfill the mandate of the electors and hence earn him/herself re-election or not. The data presented below will help in demonstrating whether there is an agreement in representational expectations between the MP and the voters in Alego and Bondo constituencies.

The objective of the presentation will be to try to establish the existence or lack of a *disconnect between the perceptions of the electors and legislators on the role of the representative*. It will also help answer the research question earlier posited i.e what are the representational expectations of the electorate and are these at variance with those of the representatives (MPs) once in parliament? What accounts for the variance?



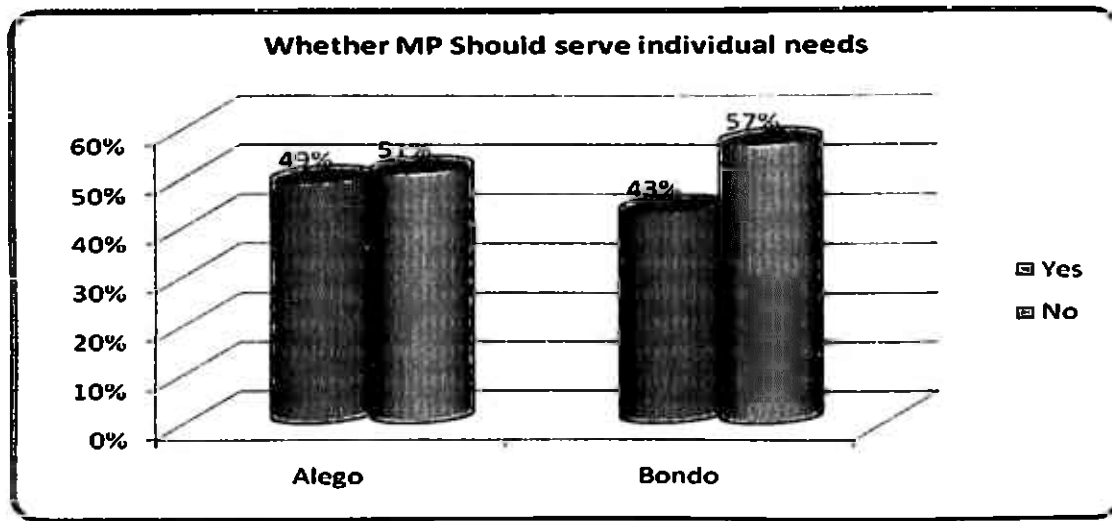
## **3.2 Individual & communal expectations of representatives**

The study sought to separate individual voter expectations of a representative and the communal expectations of what a representative should do. The individual voter expectations are the views and demands held by a person that the MP should meet in order for that voter to be satisfied that the MP is actually representing him/her. In so saying, personal demands are held sometimes in utter contradiction to the communal obligations. The differentiation between community and individual interests is important in representational politics. Below, the study presents some of the personal expectations on a representative and later communal expectations seeking to explain if these two are at variance or not and their implications on representation.

### **3.3.1 Individual expectations of representatives**

The chart below show that as high 49% of voters in Alego and 43% of voters in Bondo constituency expects the MP to do certain things to them as individuals. Some of the things that voters expect to be done for them include assistance to pay school fees/ education of their children 64%, provision of capital to start a business or engage in farming 25%, help with payment of medical bills 24%, and getting a job/ employment 22%. Other individual needs identified that the representative should help with include, improving prices of basic commodities, assisting with funeral expenses, protection of human rights, improvement of security and access to credit. The table and chart below is a summary of the personal needs constituents expect to be met in Alego and Bondo constituencies.

**Chart: Do you expect your MP to do certain things for you as an individual?**



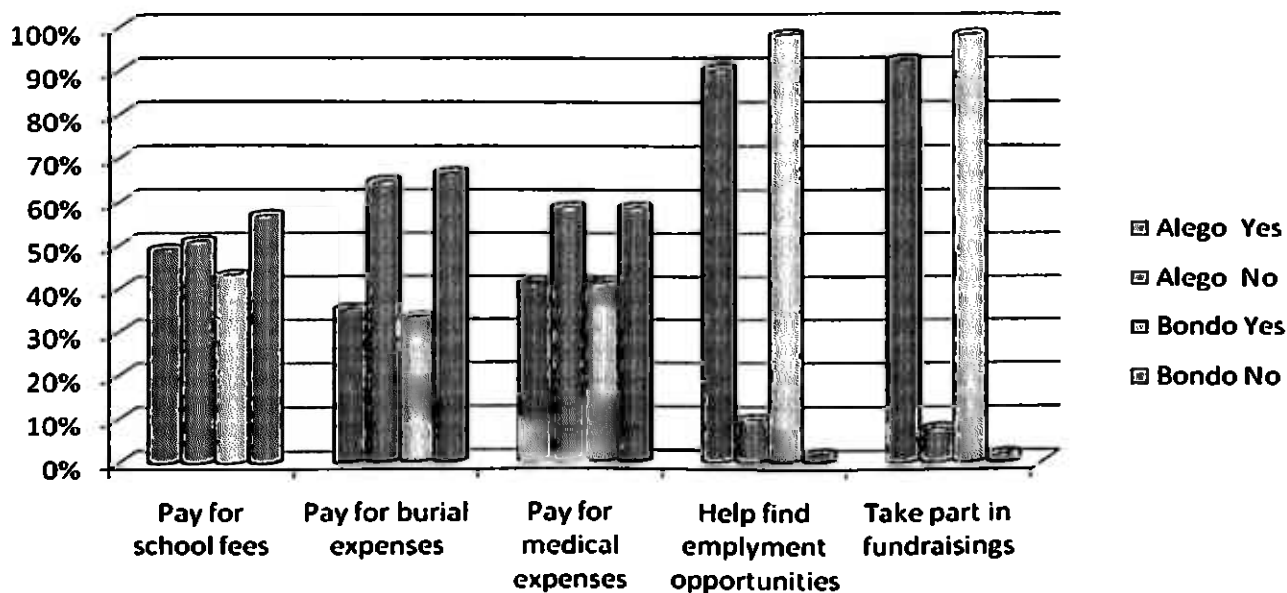
Source: Study survey

**Table: Individual voters' needs they expect the MP meet.**

What the MP should do to me	Percentage of those expecting the MP to meet individual needs	
	Alego	Bondo
Assist me to pay for school fees / get education	56%	73%
Assist me to get job/ employment	8%	36%
Assist me with capital to start small and improve business	0%	50%
Assist me with capital to pay medical bills	20%	27%
To assist with capital for farming	4%	0%
Take care of funeral expenses	4%	5%
To improve price of basic commodities	8%	0%
Protect my rights of orphans and widows	4%	5%
Help me to get water in my house	4%	0%
Provide security in the area	8%	0%
Assist me when am in a particular problem	8%	0%

Source: Study survey

## Personal needs the MP should meet



**Source: Study survey**

The table and chart above can help infer the type of an MP that electors want in these two constituencies. Seemingly, voters are looking for a Member of Parliament who is a provider in the same sense as the head of a household. The constituency is a kin to this big household with the MP acting as the head of the household. The needs to be met are very basic needs that are critical to survival just as is the case at the household level. It is a pointer to the fact that like other parts of the country, a majority of people are poor and struggling to meet basic needs. In fact, the 2006 Kenya Integrated Household and Budget Survey, (KIHBS) found that 46% of the total Kenyan population is absolutely poor, i.e. live below the poverty line, whereas 49% of the rural population is absolutely poor (Kenya National Bureau of Statistics, 2007). The 1997 Welfare Monitoring Survey showed a poverty rate of 57% overall and 60% in the rural

population<sup>45</sup>. Alego constituency has an absolute poverty level of 58% while Bondo is estimated at 52%.

To underscore this fact, the prevalence of poverty in these two constituencies informs the allocation of poverty reduction funds like Constituency Development Fund (CDF). Alego for example is one of the constituencies ranked poorest at number 18 out of 210 while Bondo comes in number 59 countrywide. Such poverty levels definitely inform the elector's perception of the role of a legislator and can be a factor when voting at an election. There is the likelihood that the voter will elect a representative who is likely to meet these most immediate needs.

Using Maslow's<sup>46</sup> hierarchy of needs theory, each individual is motivated by needs. An individual must satisfy each need in turn, starting with the first, which deals with the most obvious needs for survival itself. Only when the lower order needs of physical and emotional well-being are satisfied is one concerned with the higher order needs of influence and personal development. Conversely, if the things that satisfy our lower order needs are swept away, we are no longer concerned about the maintenance of our higher order needs<sup>47</sup>. The preoccupation of the individual with the basic needs definitely informs the choices an individual is likely to make while electing a representative.

Keene (1999) and Aubut (2004) have rightly argued that in Africa, material poverty has greatly impeded the development and sustenance of democracy and political representation as

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<sup>45</sup> Tavneet Suri, David Tschirley, Charity Irungu, Raphael Gitau, Daniel Kariuki (2009), *Rural Incomes, Inequality and Poverty dynamics in Kenya*, Tegemeo Institute of Agricultural Policy and Development, WPS 30/2008.

<sup>46</sup> Maslow Abraham 3<sup>rd</sup> ed, (2000), *Motivation and Personality*. Hong Kong, Pearson Education Asia.

<sup>47</sup> <http://www.businessballs.com/maslow.htm> accessed Saturday 20th February 2010 at 2.39pm

understood in ideal western sense. The perpetual struggle for existence has almost always been how to conquer poverty. In consequence with such major concern with matters of mere survival, apathy sets into the path of democracy. It is thus not surprising that even on the issue of electing representatives, objective choice is seldom a consideration. More often than not, various forms of cheap inducements and gratification that provide very temporary relief from the scourge of poverty are given central attention in making democratic choices<sup>48</sup>.

In this scenario, to the individual a representative is one who is most concerned with meeting these most pressing needs. There is a definite conflict in expectations of the population on their representatives. On the one hand is a propensity and a desire for the MP to meet individual needs while on the other for the same MP to serve the community as a corporate whole. The study sought to identify these individual expectations vis a vis community expectations of the representative. The task was to establish how these expectations are at variance with each other. The question to ponder is, are these personal needs any different from the communal needs that the MP is supposed to serve as a representative? This variance is what informs the choice of one representative over another and is a key determinant for re-electability.

The Member of Parliament in an ideal set up is supposed to represent the constituency as a corporate whole. In a scenario where nearly half of the represented (46%) expect their individual interests to be met, the Member of Parliament has to understand his role in a manner that is

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<sup>48</sup> Julie Aubut (2004). "The Good Governance Agenda: Who Wins and Who Loses. Some Empirical Evidence for 2001" *Working Paper Series No.04-48*. Development Studies Institute. Keene, John (1999). *State and Civil Society*. Verso Editions

distinct from the one conceptualized in ideal representation. Failure to understand the distinction between representation in an ideal set up and representation in a context like the one exemplified by this study determines whether the MP is viewed as an effective representative and hence re-electable or not.

### **3.3.2 Communal expectations of representatives**

There seems to be a conflict in expectations of the population on their representatives. On the one hand is a desire for the MP to meet individual needs occasioned by poverty while on the other, the voter is expected to act rationally enough and view the same MP as a servant of the community who should serve the greater good.

The result of the study revealed that over 90% of voters expect the Member of Parliament to work for the community or serve community interests as well as individual interests. However, the percentage population that felt that the MP should serve purely communal interests is just slightly over half i.e 51% and 57% for Alego and Bondo respectively. Among the reasons that voters cited for not wanting the MP to serve personal needs/interests of the voters included the fact that this will contribute to laziness and dependency on the MP. Further, when there is over-reliance on the MP to meet personal needs, the voter loses the power to make the legislator accountable to the electorate making them vulnerable to manipulation by the MP.

Further, it was felt that serving individual interest makes the MP partial and leading to favoritism and neglect of certain sections of the constituency. Other reasons stated included the fact that it is simply untenable to meet every constituent's demands. Too many individual demands will lay undue pressure on the MP and lead to corruption.

Among the communal interests that the MP should concern themselves with were found to include the items listed in the table below.

**Table: Do you expect your MP to do certain things for your community? If yes please list them.**

What the MP should to community	Percentage of those expecting the MP to meet these needs	
	Alego	Bondo
To provide clean water	29%	35%
Construct roads in the area	31%	33%
Construct many hospitals within the area	36%	44%
Ensure more secondary and primary schools are constructed in the community / colleges	36%	38%
To create jobs for youth	11%	13%
Improve security by providing more police stations	11%	13%
To give needy students bursaries	16%	8%
To allocate some capital to women groups for farming / to start business	9%	19%
To help needy people in the area and reduce poverty	13%	19%
Ensure access to electricity	9%	8%

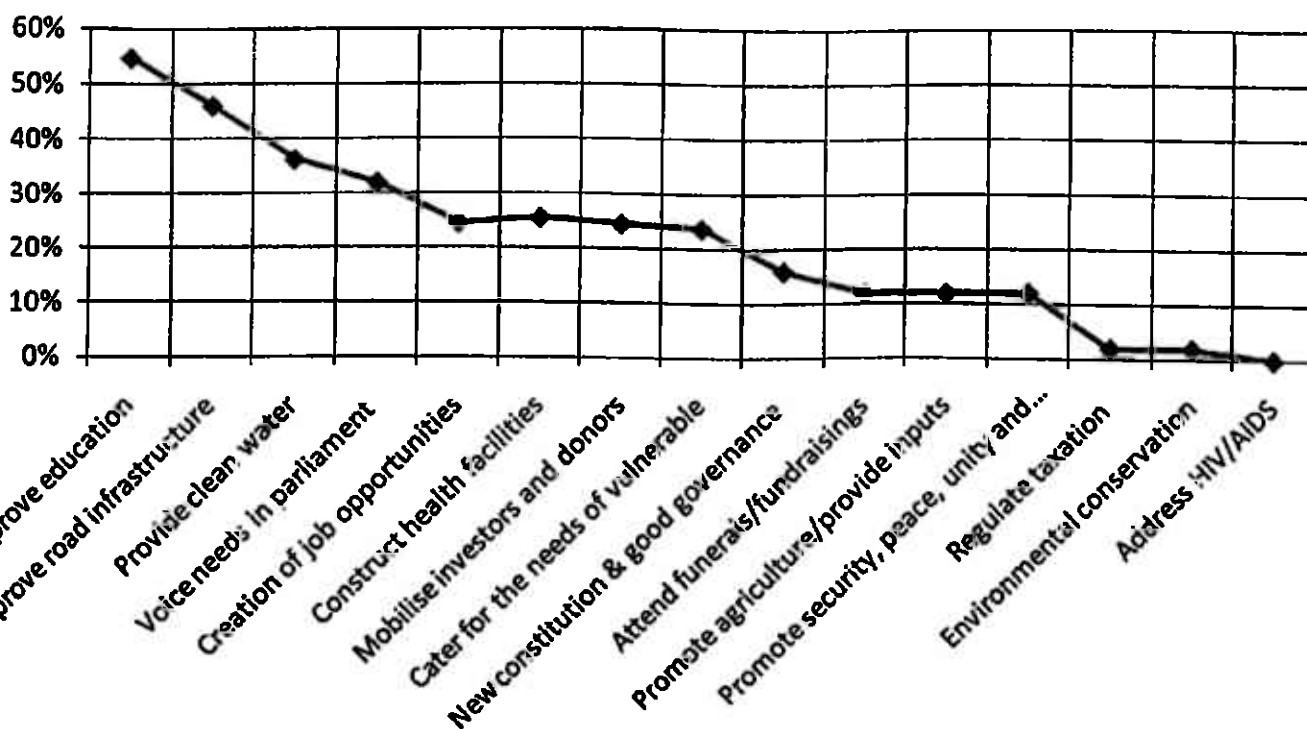
Source: Study Survey

The findings above were found to closely relate to what the voters understand as the roles of the MP as a representative which fall under the broad category of initiating development or *maendeleo* as is commonly articulated. Specifically, voters wanted the representative to play the roles listed below;

- i. Construct more schools and improve existing ones to uplift standards of education
- ii. Improve road infrastructure
- iii. Create jobs and improve economic growth through investment in agriculture and industry
- iv. Improve access to clean domestic water
- v. Improve health facilities and access to healthcare services
- vi. Address the plight of the poor- help in poverty alleviation
- vii. Voice the needs of constituents in parliament

In the chart below, we rank what the constituents perceive as the most important roles of the legislator as a representative from the most important to least important.

Rank in order of priority the things you would like the MP to do for your community





The interesting observation from the above chart is that a number of issues that concern the constituents and those that they regard as the role of the legislator are those requiring the actions of the MP as an implementer rather than a policy maker. In the chart above, things that require policy outlook/intervention such as ensuring good governance, the realization of a new constitution, fighting corruption, promoting unity and cohesion, equity, environmental conservation and addressing HIV/AIDS ranks far much lower compared to the desire to address immediate needs such as improvement of education, roads and infrastructure, provision of clean water, development of schools and creation of job opportunities.

It can be concluded from the above that voters in developing countries actually vote for implementers rather than representatives in a sense that they are looking for a hands-on person as opposed to one detached from them. If the role of implementation is that of the executive and yet the electorate expect the legislator to implement, is it a pointer to the fact that the government (executive) has been reduced to the extent that it is not felt at the local level or is it that the MP has usurped the role of the executive?

The introduction of the Constituency Development Fund (CDF) seems to have made this situation more complex. According to one legislator, whereas CDF was intended to provide an avenue through which the legislator was to meet the demands of the electorate to get things done, the fact that CDF is under the gambit of the MP reduces the capacity of the MP to act as an overseer over the executive. Whereas at the national level parliament is providing oversight over the executive functions, the role is distorted at the local level because the MP is no longer a representative but an implementer- an executive of some sort. This does not conform to the practice of parliamentary representation the world over where the roles of policy making and

implementation are clearly defined. Even in cases where the representative offers services to constituents, the services are limited to advisory. It may be argued that the legislators deliberately shy away and have no incentives to exercise their oversight role because checking the government is costly. MPs that have made this their major function lose executive support yet they need the attractive perks from the executive to make them patronise their constituencies lack of which may make them lose.

### **3.4 Legislators perception of their role**

The task of the study was to establish the degree of similarity or discordance of the roles of a representative as perceived by the voters and the legislator. It is taken that legislators can perceive their roles either in terms of the ideal roles of a representative or in a manner that is in concordance with that of the constituents. The way in which the legislator understands his/her role is a determining factor in their re-electability. The hypothesis is that representatives who perceive their roles in purely ideal sense have lesser chances of being re-elected as opposed to those whose perception of their roles is the same as that of voters.

The point to note in discussing the role of the MP is that there is no official job description<sup>49</sup> for a Member of Parliament and often it is up to an individual MP to decide what to take up or not. The MP therefore exercises a lot of latitude in defining his/her role as a representative. There is no compulsion whatsoever that the Member of Parliament should perform particular tasks. This is not to say that an MP has no boundaries on the perceived roles, the issue is that an MP has the freedom to act in a manner that is in consonance or not with the wishes of the constituents and in response to his/her own motivation for joining representation politics.

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<sup>49</sup> Philip Norton, "The Growth of the Constituency Role of the MP", Parliamentary Affairs, vol. 47, no. 4, October 1994, p. 705.

The traditional roles of the MP have always been legislation, oversight and representation. However major factors have propelled the evolution of traditional roles redefining what Members of Parliament should do, and how they should do it. Contemporary descriptions of the roles of an MP include constituency service activity (assistance for individual constituents) and party responsibilities (including both activities within the political parties and partisan obligations that affect the performance of other roles)<sup>50</sup>. The very complexity of representative politics has created a new role for the MP as guide, advocate and ombudsman for the elector.

Members of Parliament have come to devote major portions of their time to providing assistance to individual constituents. This “social worker” function may require the direct involvement of the legislator – for example, in contacting Ministers or public service officials, or using time in the House, to make known grievances of an individual constituent and seek remedies<sup>51</sup>. However, unlike the case in developed countries where constituency service primarily involves the provision of information and advice concerning the vast array of government programmes available, and is carried out by staff in a legislator’s local office, the Kenyan scenario demands that the Member of Parliament not only provide but implement solutions to vast array of demands.

Recent studies indicate that Kenyan MPs are fast adapting to the new roles described above. According to Barkan, whereas legislators state constituency service as the most important aspect of their job, Kenyan MPs place greater emphasis on the traditional roles of legislation and

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<sup>50</sup> Jack Stilborn, “The Roles of the Member in Canada: Are They Changing?” Parliamentary Research Branch, Canadian Parliament, 31 May 2002, <http://www.parl.gc.ca/information/library/PRBpubs/prb0204-e.htm>

<sup>51</sup> *ibid*

oversight<sup>52</sup>. The study affirmed this position by inquiring about the level of interaction between the members of parliament and the electorate. One of the indicators of the level of interaction was taken to be the number of times an MP visits the constituency. While a majority of the constituents favoured the fact that an MP should visit at least once a month (59% for Alego and 53% for Bondo), in actual sense, an overwhelming majority (Alego 75% and Bondo 67%) were dissatisfied with the number of times the MP visits the constituency. This is a clear indication that despite MPs favouring the role of community service over others, in actual fact, they spend most of their time away from the constituency.

The reason given by MPs for not visiting the constituency as often as they would wish was indicated as the sheer cost of the visit. The survey established that on an average weekend visit to the constituency, the MP is likely to spend not less than Ksh. 200,000 in servicing the needs of the constituents. This cost translates to nearly Ksh. 800,000 monthly and cannot be met by the constituency allowance of Ksh 200,000 per month. It forces the MP to resort to other sources of income such as personal salary which in the long term is not sustainable.

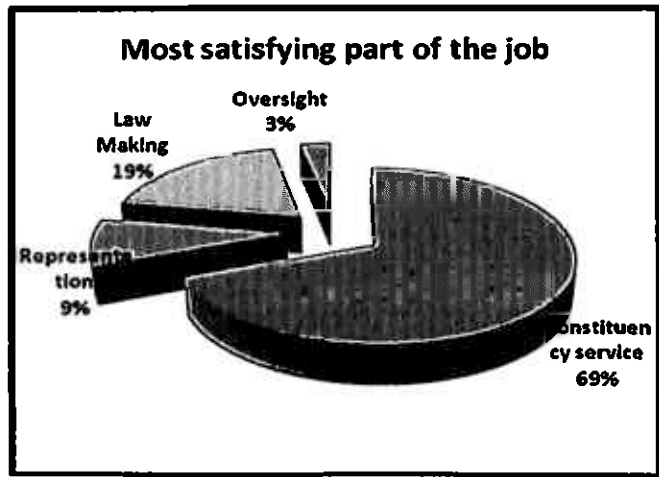
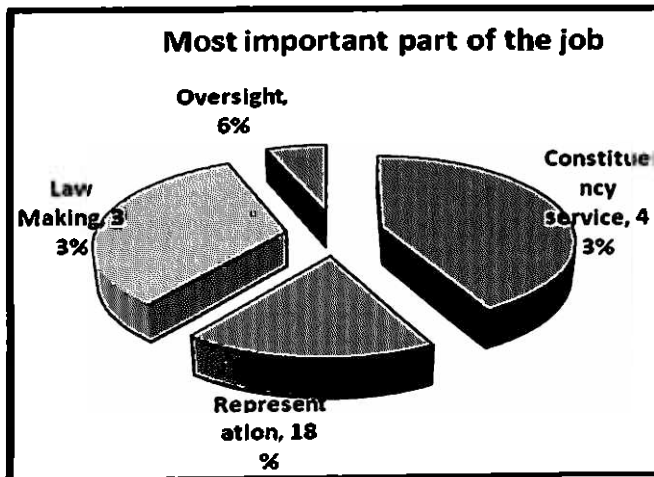
In terms of job satisfaction, constituency service once again is viewed by MPs as the most satisfying aspect of their job. Barkan explains this in terms of the fact that African MPs gain great pleasure from “taking care” of their constituents. This is not a surprise in a setting where dispensing of patronage and services has long been the basis of successful political careers<sup>53</sup>.

The charts below show the perceptions of role orientations of Kenyan members of parliament.

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<sup>52</sup> Barkan J. D et.al, “The African Legislatures Project: First Findings”, January 7, 2010 available at [http://www.africanlegislaturesproject.org/sites/africanlegislaturesproject.org/files/First\\_Findings.pdf](http://www.africanlegislaturesproject.org/sites/africanlegislaturesproject.org/files/First_Findings.pdf) accessed 24/02/2010.

<sup>53</sup> ibid



**Source: Adapted from African Legislatures Project: First Findings**

Kenyan MPs seem to have adopted their role as espoused by Philip Norton, i.e to be a safety valve for the public, allowing citizens to express themselves about the issues of the day; to provide information on a range of matters; to be a local dignitary; to be an advocate; to be a benefactor and powerful friend; and a promoter of local interests and concerns<sup>54</sup>. Local MP's can and have the opportunity to make a real difference to the communities they represent through hard work, new ideas and creative partnerships.

### **3.5 Conclusion**

The chapter opened with an assumption that voters' expectations of representation are in agreement with that of legislators as their representatives and in which case the lack of synchrony in representational expectations between the represented and the representatives has implications for re-election of members of parliament. Hypothesizing that there is a disconnect between the perceptions of the electors and the elected on the role of the representative, it was to

<sup>54</sup> Philip Norton, "The Growth of the Constituency Role of the MP", op. cit

answer the research question; what are the representational expectations of the electorate and are these at variance with those of the representatives (MPs)?

Using Bondo constituency that has demonstrated instances of very stable representation patterns where a single legislator represents the constituency in multiple parliaments and Alego constituency which has been more or less turbulent, the study showed that there is an overwhelming demand on the representative to meet personal/individual needs. The key feature of these needs was found to be very basic needs that are critical to survival. It was a pointer to the fact that a majority of people are poor and struggling with basic needs. The preoccupation of the individual was found to inform the choices while electing a representative.

Issues that require policy outlook/intervention such as ensuring good governance, promoting security, unity and cohesion, equity, environmental conservation and addressing HIV/AIDS were found to rank far much lower compared to the desire to address immediate needs. The converse of this scenario is that when there is over-reliance on the MP to meet personal needs, the voter loses the power to make the Member of Parliament accountable to the electorate. The dependence makes the voters vulnerable to manipulation by the MP.

It was established that the role of the MP has shifted away from that of providing policy direction to that of implementing actual decisions. The traditional roles of the MP such as legislation, oversight and representation are fast changing. The modern representative devotes significant amount of time to constituency service in what may be termed “social worker” role.

Overall, there seems to be convergence in understanding of the roles of the representative between the represented and the MP even though the latter still lay more emphasis on the

traditional roles of law making and oversight probably recognising that it is not possible to meet the demands of every constituent by concentrating on constituency service. The traditional core functions plus constituency service exist in tension with each other<sup>55</sup>. It is to a large extent a zero sum game where time spent on representation and constituency service means less time available to spend on legislating and oversight. Time spent on legislating and oversight to ensure accountability means less time spent on representation and constituency service and hence lower prospects for re-election. This is what we turn to in the next chapter.

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<sup>55</sup> Barkan J. D et.al, "The African Legislatures Project: First Findings", op.cit

## CHAPTER FOUR

### RE-ELECTABILITY OF LEGISLATORS

#### 4.1 Introduction

The previous chapter sought to interrogate the voter and MP perspectives of the role of the representatives. It was found that the perception of this role has evolved over time moving away from the traditional roles of legislation, oversight and representation to include constituency service or a social worker role. This fourth role is actually a flip side of the representational function. That is to say, it is part of the upward and downward dimensions of the process of making the state accountable to the governed<sup>6</sup>.

This chapter has the objective of explaining the factors that determine the re-election of a Member of Parliament. It is assumed that *the more the disconnect between perception of electors and the elected on the role of the legislator, the more the likelihood of none re-election*. In meeting the above objective, the chapter will answer the research question, to what extent do the perceptions of the roles of representatives by both voters and the MP contribute to the re-electability of members of parliament? The discussion opens with an exploration of the factors that voters consider while electing an MP. It has already been demonstrated that in the scenario under study, a representative to the individual is one who is most concerned with meeting the most pressing needs always manifested as physiological needs<sup>7</sup>.

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<sup>6</sup> Barkan J. D et.al, "The African Legislatures Project: First Findings", op.cit, ibid

<sup>7</sup> Maslow Abraham 3<sup>rd</sup> ed, (2000), Motivation and Personality, op. cit



## 4.2 Factors informing choice of a representative

In the analysis of the data from Alego and Bondo Constituencies, the respondents gave a number of reasons for electing a particular representative also understood as the roles/functions of the representative. Among the roles given were, *improve road infrastructure, provide clean domestic water*. Other priorities included helping in *construction and development of schools, creation of job opportunities, construction of health facilities/hospitals and being vocal in parliament (presenting people's needs)* also mattered. The other reasons were given as *provision of bursaries for needy students, initiation of development projects and finally catering for the needs of vulnerable groups (orphans, widows, disabled, and the poor)*.

These functions broadly defined fall under the constituency service and representation functions of the members of parliament. In Kenya's context, representatives have devised ways of meeting these needs of constituents in order to make them effective in their constituency service role. The outstanding method has been through fiscal decentralization measures where increasingly more resources are directed to the constituency office as opposed to traditional set up where fiscal decentralization was done through government departments or line ministries. The situation is one where parliamentarians are increasingly usurping the roles of the executive at the local level in order to play the constituency service role.

This trend has been institutionalized through government policy frameworks such as Kenya Vision 2030<sup>58</sup> and its implementation strategy the Medium Term Plan 2008-2012<sup>59</sup> in which

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<sup>58</sup> Republic of Kenya, (2007), Kenya Vision 2030: A Globally Competitive and Prosperous Kenya, Nairobi, Government Printer.

<sup>59</sup> Republic of Kenya, (2008), First Medium Term Plan, 2008 – 2012, Nairobi, Government Printer.

fiscal decentralization through various local funding mechanisms is cited as the key mechanism for addressing the social and economic disparities facing the country.

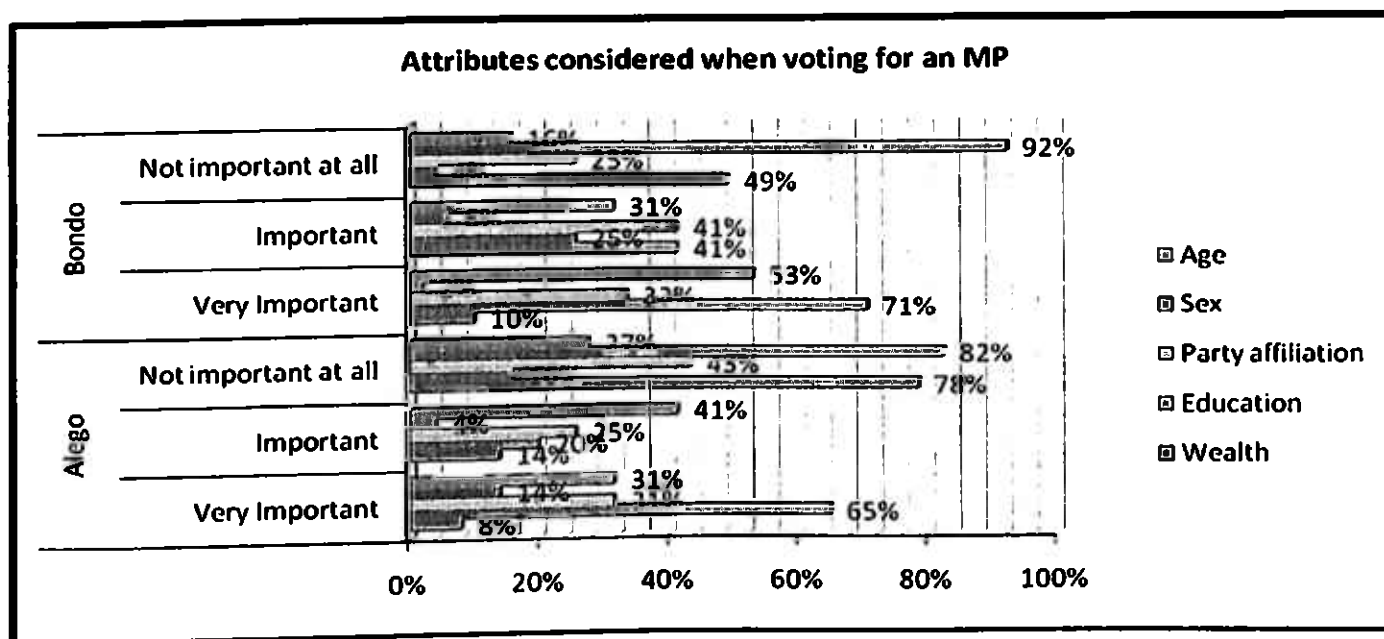
One of the key funding frameworks channeled through the constituency office has been the Constituency Development Fund (CDF). Since its inception in 2003, CDF fund comprises an annual budgetary allocation of not less than 2.5% of the government's ordinary revenue. This allocation has seen systematic increase in the kitty moving from Ksh. 1.26 billion in 2003/3004 financial year to a peak of Ksh. 14 billion in the 2009/2010 financial year. The Member of Parliament has immense control over this fund. He/she has powers to constitute the Constituency Development Fund Committee (CDFC), can be its chair or patron and generally has a say on the projects to be implemented using the fund with little or no input from the electorate<sup>60</sup>.

The roles/functions of the Member of Parliament were found to be different from the factors that electors consider while choosing a representative. While the functions can and should be performed by any Member of Parliament, voters look for specific factors or characteristics when making the choice of the candidate to elect. Some of these are assumed to be wealth, level of education, party affiliation, sex and age. The study tested the extent, to which these factors determine the election of a Member of Parliament and presents the findings in the chart below,

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<sup>60</sup> Odhiambo M. & Taifa A.P, (2009), Devolved Funds & Development: A Handbook on Participation. Nairobi, Claripress, pp8-15.

**Chart: Personal attributes considered when voting for an MP**



Source: Study survey

- i. With regard to age, 16% in Bondo and 27% of the respondents in Alego did not find age important at all. 31% and 41% respectively found age of the contestant important while a majority in Bondo (53%) and only 31% in Alego found it a very important factor.
- ii. Interestingly, whereas gender representation is one of the challenges facing the country in terms of parliamentary representation, voters did not view this as a factor informing the choice/election of a representative. Overwhelmingly 92% of those interviewed in Bondo did not consider sex important at all, only 6% found it important while a paltry 2% considered it very important. In Alego constituency, the situation was not any different. 82% of the respondents viewed sex as not important at all. Conversely, only 4% found it important while 14% believed that sex is very important in the choice/election of an MP.

- iii. The level of education seems to be highly rated among voters in the two constituencies. 71% of voters in Bondo consider it very important, 25 percent considered the level of education important while only 4% considered level of education not important at all. In Alego, 65 percent found the level of education to be very important, 20% considered it important while 16% did not consider level of education important in the choice of a Member of Parliament.
- iv. On the question of whether party affiliation mattered to the represented in making the choice to elect a particular candidate, a majority in Bondo (74%) viewed this factor as either important or very important while only 25% said that party affiliation was not important in the election of a representative. In Alego, opinion on the importance of the party was almost divided. 56% considered party affiliation either important or very important while 43% did not consider party affiliation important at all in the choice of an MP. The variance in the opinions about the importance of the party in these two constituencies can be attributed to the fact that dominant parties at different times in this part of Kenya (KPU, FORD, FORD-K, NDP, LDP, NARC and ODM) have traditionally been driven by the Odinga family who hails from Bondo. The bond with the party is therefore more likely to be stronger in Bondo as compared to Alego constituency.
- v. Finally, on the question of wealth of the aspirant, the views held in Bondo were almost at par with 51% viewing the wealth of the candidate as either important or very important while 49% said that wealth is not important at all in informing the choice of a representative. Considering the same factor in Alego, only 22% viewed it as either important or very important while the majority (78%) did not consider wealth important

at all. Again, we see a significant variance in these two constituencies with regard to the issue of wealth. It may be postulated that, given that Bondo constituency politics have been dominated by the Odinga family who also control the dominant parties in the region from time to time, there has been what may be called limited competition in the constituency elections. This is the converse in Alego where competition has been vigorous sometimes involving huge cash outlays by candidates as an inducement to get elected. In the process, Alego which has managed to change representatives more often have experimented with both rich and poor MPs and can base their decision to elect a particular candidate on a different premise other than wealth of the aspirant.

The study covering the last three parliaments sought to understand if the reason for choice of a particular representative is the same for every election or not. In the data collected for the two constituencies, the five major reasons for electing the representative were varied as follows from each constituency but remained nearly the same from 1997 to 2007. The main reasons for the choice of the MPs was belonging to a popular party or having the support of the party leader, the attractiveness of campaign pledges and more importantly the past development record of the aspirant. Other reasons included the family background of the aspirant and desire for change of management of constituency affairs. The table below presents some of the reasons for the choice of a candidate in the three elections.

**Table: What are the most important factors you considered while electing the MP in...**

Factor	1997		2002		2007	
	Alego	Bondo	Alego	Bondo	Alego	Bondo
Belonging to a popular political party and/or had support of the party leader	28.57%	51.61%	22.22%	62.16%	10%	60.87%
Development consciousness of the aspirant or past performance as an MP	8.57%	22.58%	17.78%	16.22%	20%	19.57%
Family relationship/ belonging to a well known family (those with history of leadership)	8.5%	19.53%	-	5.41%	-	6.52%
Attractiveness of campaign pledges	20%	3.23%	26.67%	5.14%	32%	6.52%
Desire for change	-	-	15.56%	10.81%	4%	8.7%
Wealth of the aspirant/ Bribery of voters	-	-	-	-	20%	-

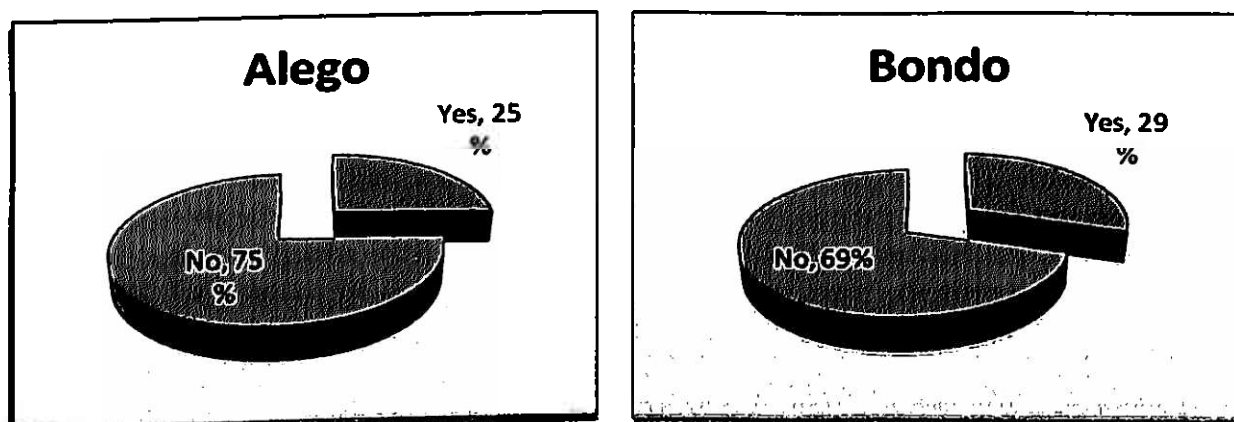
The figures above clearly show the significance of party in Bondo (average 58.21%) compared to Alego 20.26% as earlier postulated. Conversely, campaign pledges of the candidate seem to influence the choice of the candidate in Alego than in Bondo. The decision on who is elected is based on more pragmatic reasons in Alego as opposed to the more affective reasons such as family connection and party affiliation in Bondo. It is a confirmation of the position postulated above that elections in Alego have been more open and competitive compared to the same in Bondo.

The significant difference in 2007 was the introduction of bribery as a major determinant in election victory. One respondent has called the elections of 2007 to have been money elections in which voters out rightly demanded bribes from the candidates. But what could have occasioned

this scenario? In the previous chapter, we had concluded that from the nature of the demands from the electorate, a number of voters are poor and concerned with meeting immediate physiological needs.

Due to the fact that the legislators do not frequent the constituency, the lack of interaction between the representative and the electorate contributes to viewing elections as a transaction in which the voter is paid to place an MP in office while expecting very little from the latter in the subsequent five years in which he/she will be in office. The study found out that despite the fact that a majority of the constituents 59% and 53% for Alego and Bondo respectively only expect their MP to visit the constituency once a month, a majority were dissatisfied with the number of times the MP actually visits the constituency. See the charts below.

**Charts: Are you satisfied with the number of times your MP visits the constituency?**



Source: Study survey

The lack of close interaction between the MP and the electorate once elected was demonstrated by the survey which indicated that, of the constituents who have attempted to communicate with their MP, only 41% were successful in getting the MP. Further, of the problems presented, only 32% managed to have their problem solved by the representative.

In sum, it can be argued that a number of factors influence the choice of an MP. From the survey, some of the factors that inform the choice of an MP are;

- Affiliation to a popular political party and support of the party leader
- Development consciousness of the aspirant or past performance as an MP
- Kinship ties/family relationship/ belonging to a well known family with a history of leadership of some sort
- Attractiveness of campaign pledges
- Desire for change
- Wealth of the aspirant
- Education qualifications of the aspirant and
- Age

The question to explore then is whether the same factors come to play at re-election. The assumption is that if they are the same, then chances of re-electing the MP are higher if the MP does not deviate in any significant way from the perception upon which the decision to elect him/her was based on in the first instance. The study found that apart from political party affiliation, a new set of parameters different from the ones determining first time election of a Member of Parliament come into play when it comes to re-election. These are what we explore below.

#### **4.3 Factors determining re-election of MPs**

The previous chapter had demonstrated that the extent to which a representative is able to understand and fulfill the people's mandate is key to getting re-elected. The study found that among the factors that determine re-electability are;



- Ability to meet the personal needs of the constituents,
- Political party affiliation,
- Performance in parliament and
- Political linkage to the centre.

Below is a brief discussion on how these factors influence the re-election of the MPs as evidenced by findings from the study.

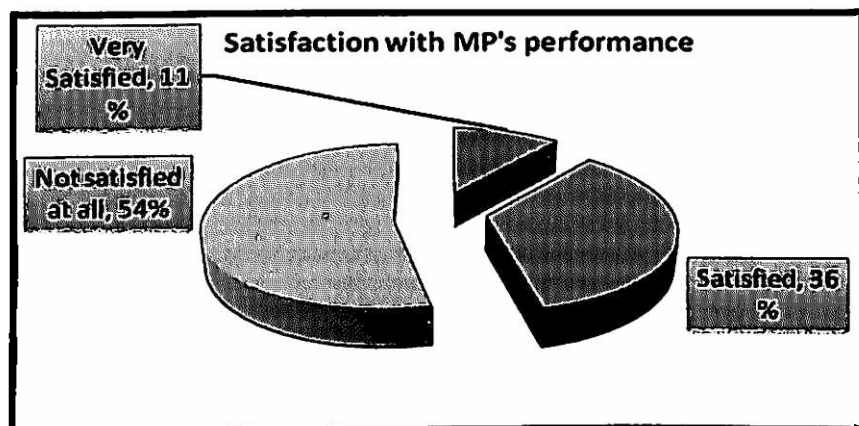
#### **4.3.1 Ability to meet individual needs of constituents**

In the previous chapter, it was indicated that voters seem to be looking for an MP who is a provider in much the same way that the head of the household is. Part of this provider role includes taking care of the needs of the orphans and poor in the constituency. There seems to be convergence in thought between the voters and the representative with regard to this perception. Evidence has it that MPs do not only find constituency service the most satisfying part of their job but that MPs gain great pleasure from “taking care” of their constituents<sup>61</sup>. Does this knowledge of “taking care” of constituents guarantee re-election? The question is of significance in view of the fact that a majority of voters were not satisfied with the performance of the MP. In fact, further analysis indicated that if elections were to be held today, a majority of the voters (66.7%) for Alego and 54.9% (for Bondo) would not vote for the sitting MP.

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<sup>61</sup> Barkan J. D et.al, “The African Legislatures Project: First Findings”, January 7, 2010 available at [http://www.africanlegislaturesproject.org/sites/africanlegislaturesproject.org/files/First\\_Findings.pdf](http://www.africanlegislaturesproject.org/sites/africanlegislaturesproject.org/files/First_Findings.pdf) accessed 24/02/2010.

**Chart: How satisfied are you with the performance of your MP?**



Source: Study survey

The dissatisfaction expressed by voters above is a clear indication that despite the fact that MPs are well aware that provisioning for their constituents would guarantee them re-election, they are either not performing that role or the magnitude of the needs is too much to be met by the MP.

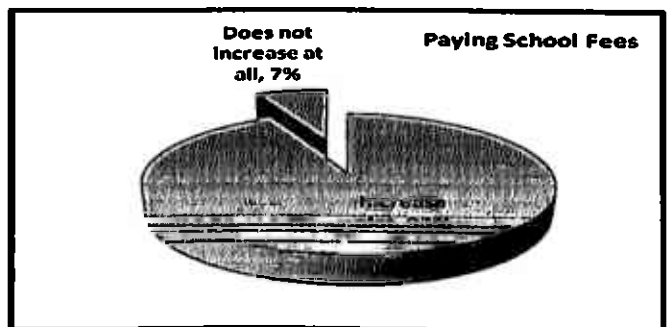
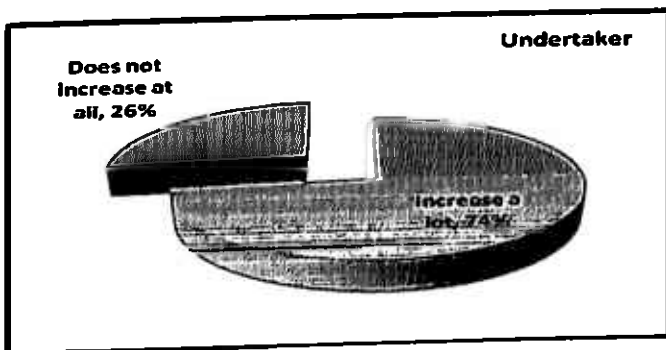
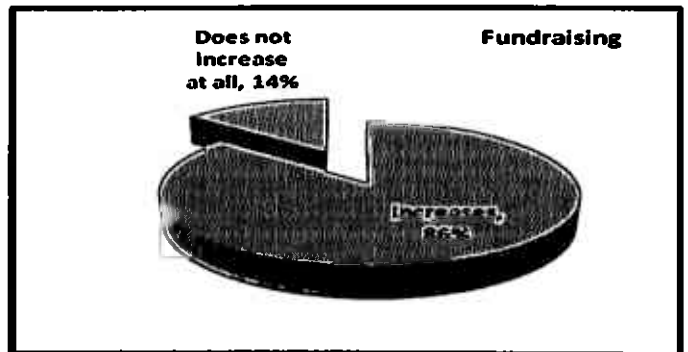
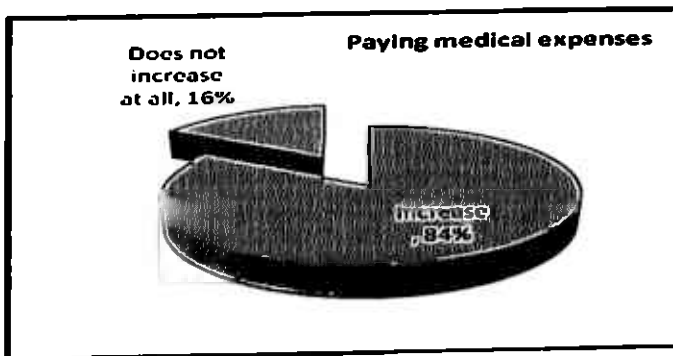
The “taking care” of constituents relates to the “social worker” function of the Member of Parliament. The study found that issues such as contribution to funerals (undertaker), payment of school fees for constituents, payment of medical expenses and conducting fundraising (harambees) significantly increases the MP’s chances for re-election. In the survey conducted in the two constituencies, the results were as presented in the table below.

**Table: Would performing the following roles influence the re-election of MP?**

Roles	Increases a lot		Increases a little		Does not increase at all	
	Alego	Bondo	Alego	Bondo	Alego	Bondo
Contributing to funerals	45%	37%	29%	35%	25%	27%
Paying school fees	76%	74%	14%	22%	10%	4%
Conducting Harambees	53%	69%	25%	25%	22%	6%
Paying medical expenses	61%	61%	20%	27%	20%	12%

Source: Survey data

If simply taken whether playing these “social worker” roles have an influence however minimal on the re-election of the Member of Parliament, the results clearly indicate the importance of the MP playing these “social worker” roles if he/she is to be re-elected as depicted in the charts below.



The data and charts above indicate that the task of representation has become more complex as the demands on the MP have increased by the day. The reason why these demands have increasingly fallen on the MP can be attributed to the developments in the nature of the state in Africa over the past two decades. Structural adjustment programmes (SAPs) greatly weakened the provisioning capacity of the state with demands that the state roll back to allow unfettered hand of the market to spur development.

During the mid to late 1990s, there was a re-evaluation of the idea that market liberalization alone would spur development<sup>62</sup>. With the failure of the market, attention shifted to the effectiveness of the state: what the state should do, how it should do it, and how it can do it better. It became acknowledged that an effective – not minimal – state was vital for economic development. An effective state was needed to enable markets to develop and to address social issues<sup>63</sup>. The pathways to a more effective state are many and varied one of which is to improve the state's capability by re-invigorating public institutions to deliver better.

It can be argued that as the institutions are being developed to deliver these social services, the lacuna left by the shrunk state has been occupied by the legislator who is seen as the face of the state at the local level. It is no surprise then that the MP is expected to provide these services and his fitness for re-election is then based on the provisioning ability.

The conception of this role by the MP has implications both for the institution of the legislature of which he/she is a member and the legislative career which he/she has chosen. This plays out in the sense that the choice to focus on constituency service “social worker” role denies parliament/legislature the opportunity to grow into a formidable and independent institution capable of playing the role of checks and balance on the other arms of the government. On the other hand, concentration on the legislative and oversight functions places the legislator out of touch with the electorate with attendant consequence of cutting short the legislative career. There is likelihood that most legislators would choose their career over the growth of the institution. This explains in part why legislatures in developing countries are weak.

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<sup>62</sup> World Bank (2007), World Development Report: The State in a Changing World, Washington DC, The World Bank.

<sup>63</sup> World Bank, “Synopsis of World Development Reports (1995-2005)”, p.4 available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTWDRS/>

### **4.3.2 Political party affiliation**

The place of political parties cannot be underestimated in modern day competitive politics. The relationship of the representative with the party was found to play a significant role in re-election. This is particularly so in areas like Alego and Bondo that subscribe to certain dominant parties in the region. As such, political party loyalty and closer relationship to party rank and file (party leader) were found to determine the re-electability of the MP.

Asked whether the party affiliation of the representative determines re-electability, 42% indicated it increases a lot, chances for re-election, 25% felt it increases a little while only 33% indicated that it does not increase chances for re-election at all. Similarly, with regard to relation to party leader, 56% felt that this would determine re-election while 44% felt that it has no consequence for re-election of the representative. On the question of party loyalty including being vocal in party matters, an overwhelming 53% indicated that it increases a lot chances for re-election, 25% that it increases a little while below a quarter (23%) showed that it is not a factor in re-electability of an MP. Evidently, a representative who is closely associated with a particular party especially in an area where the party is dominant stands a better chance of being re-elected to parliament.

In order to understand the place of party influence on re-electability of a Member of Parliament, the study sought to understand the behavior of voters after party nominations. On the question whether they will vote for a candidate if he/she was not in the party of choice, 70% were in affirmative while only 19% would stick with the preferred party candidate. If the party fielded a candidate not preferred, 31% argued that they would vote for the candidate anyway while 53% would break ranks with the party and stick by the candidate of choice. However, if in an open

contest a preferred candidate were defeated at party nominations, surprisingly 68% would vote for whoever else the party nominates while only 19% would encourage the candidate of choice to defect to another party.

What the above demonstrates is that the party still plays a major role in re-election especially in a situation where the party upholds the principle of fairness and openness in a democratic context. A majority are likely to support the party position. It should also be remembered that party affiliation mattered to the represented in making the choice to elect a particular candidate or not in the first place. The study revealed that, a majority in Bondo (74%) viewed party affiliation as either important or very important while only 25% said that party affiliation was not important in the election of a representative. In Alego a majority, 56% considered party affiliation either important or very important while 43% did not consider party affiliation important at all in the choice of an MP.

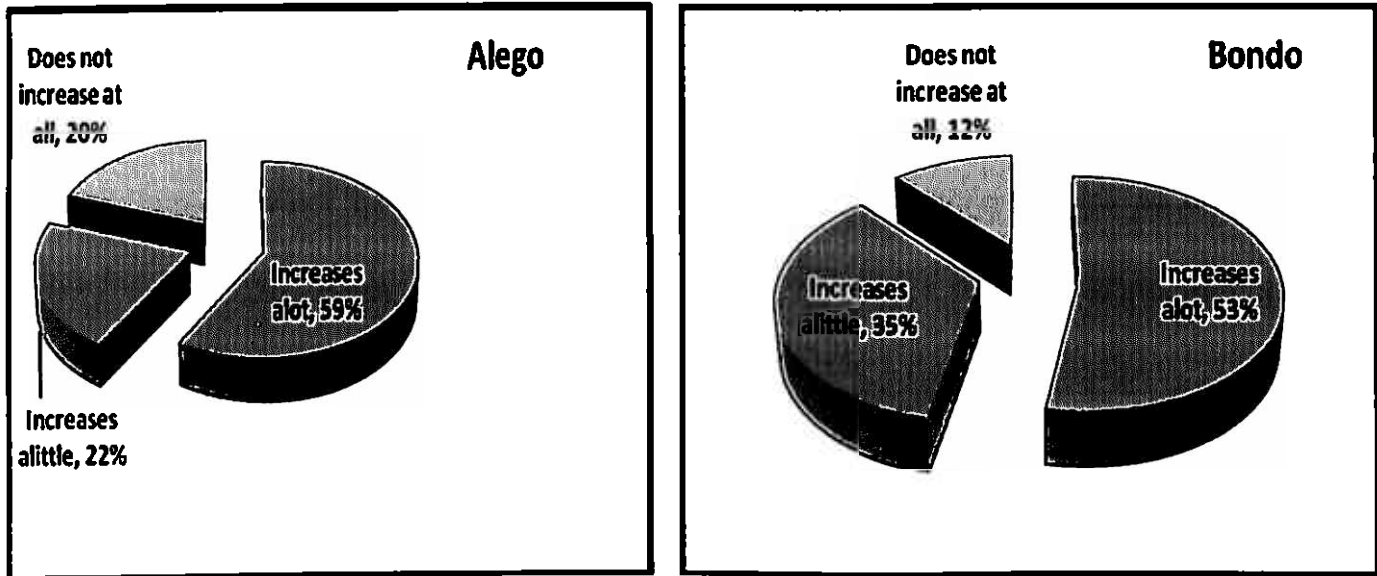
### **4.3.3 Performance in parliament**

This is one of the traditional roles of a legislator where he/she is to play the roles of aggregating constituency demands and communicating the interests of the represented in parliament, legislating and putting the government/ executive under scrutiny. Performance of the legislator in his role is open to public scrutiny because the other roles take place away from the public.

At the same time, the roles performed in the house are not constituency bound and in most cases for the benefit of the general public and also the institution of parliament to make it grow into an arm of government that can keep the other arms in check. In the assessment, it was noted that

voters still value this role of the legislator and would put it into consideration while re-electing the Member of Parliament as demonstrated below.

**Charts: Does Performance in parliament...chances of re-electing an MP?**



**Source: Study survey**

The above demonstrates that as much as citizens and even MPs themselves value constituency service, voters are very alive to the traditional roles of the legislator which is to play an active role in parliament. There is an acknowledgement that the MP should be a good debater in the house, able to make the presence of the constituency felt in the house and contribute effectively to national debate. While constituency service is valued by those who receive it, it has only limited influence in getting a Member of Parliament re-elected<sup>64</sup>.

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<sup>64</sup> Alastair Fraser, "Legislators and their Staffs," in Harold D. Clarke *et al.*, ed., (1980), Parliament, Policy and Representation, Toronto, Methuen, p.190.

#### 4.3.4 Linkage

The idea of a legislator playing a linkage role in East Africa was first conceptualized by Joel Barkan (1975, 1979)<sup>65</sup>. In his conceptualization, Barkan argued that unlike administrative and economic linkages that link the periphery to the centre for control and extraction respectively and thereby agents of the centre, legislators are elected representatives of local communities and as such are expected by the people they represent to be agents of the periphery at the centre<sup>66</sup>.

Part of the linkage role is influencing the pattern by which resources allocated to a given problem are distributed across the society at the local level. The legislator acts as an agent capable of extracting resources from the centre for the local community. Some of these resources include provision of jobs in the government which is the major employer. Whereas in the 1970s the MP was the link between the state and the people where the role of the state was that instrument of extraction, the extractive capacity of the state has diminished quite significantly in recent times mainly as a result of SAPs and also the limited productive capacity of the state to create wealth.

However, the expectations of the people from their MP have not changed and has been stated earlier, the shrunk state has left the MP as the alternative avenue for exploitation by the people. Given that voters expect the MP to be a provider, it does not matter where the resources will come from, the MP must provide something in order to remain relevant. Legislators seem to have understood this demand on the part of voters. As a response, MPs have come up with both official and unofficial means to provision for their constituents. Unofficial methods have seen

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<sup>65</sup> See Barkan J.D, (1975), *Bringing home the pork: Legislator behaviour, rural development, and political change in East Africa*, Occasional Paper, Comparative Legislative Research Centre, University of Iowa and Barkan J.D & Okumu J J. (1979), Politics and Public Policy in Kenya and Tanzania, Nairobi, Heinemann.

<sup>66</sup> Barkan J. D, "Legislators, Elections and Political Linkage" in Barkan J.D & Okumu J J. (1979), Politics and Public Policy in Kenya and Tanzania, Nairobi, Heinemann, p. 67



legislators increasingly engage in corruption or grow closer to the executive to get perks. Officially, legislators have demanded and controlled devolved funds such as CDF.

The ability to effectively play this linkage role is affected by the entrepreneurial capacity of the individual legislator as well as access to decision making structures of the state. The latter is what places advantage on one if he is a minister in government. The study sought to establish whether being an effective linker is a factor affecting re-electability of representative. Two of the indicators measured were ability to provide jobs and being a minister in government.

Strikingly, the study found out that the ability of the MP to provide jobs for constituents increases the chances for re-election of the representative by a whopping average of 88% while being a minister in government increases chances of re-election by 61%. See the table below.

	Alejo			Bondo		
	Increases a lot	Increases a little	Does not increase at all	Increases a lot	Increases a little	Does not increase at all
Does ability of legislator to provide jobs increase re-election?	82%	12%	6%	94%	6%	0%
Does being a Minister in government increase re-election?	33%	27%	39%	25%	35%	39%

Source: Study survey

Being a Minister in government becomes important because it offers greater latitude to the legislator to access a wide range of perks from the executive for the constituents. For example, in public service appointments and military or security forces recruitment such as police, ministers

have a lot of influence. The chances they secure in the recruitment process are passed on to the constituents as prebends which in turn increase the provisioning capacity of the legislator.

At a personal level, a minister has much more resources to service local demands. Other than unofficial sources, a minister officially earns Ksh. 400,000 per month over and above an ordinary Member of Parliament. Elections then seem to be a referendum on how the legislator has performed in linking the local level to the centre and the resources that have been extracted to provision in the process.

#### **4.4 Conclusion**

The chapter sought to explain the factors that determine the re-electability of a legislator. While voters consider a number of factors while electing an MP such as addressing local level development needs, it was established that a different set of factors come to play when re-electing legislators to parliament.

Among the factors identified as determining the re-election were the ability to meet individual demands (play a social worker role), political party affiliation, performance in parliament and lastly being a linker between the constituency and the centre. Representatives who understand these roles in essence have higher chances of re-election than those who do not.

## CHAPTER FIVE

### SUMMARY, CONCLUSIONS & RECOMMENDATIONS

#### 5.1 Summary

The study started from the premise of problematizing the question of representation as one of the key roles of parliament. This was in cognisance of the fact that parliament has always been assumed to play three key functions, that of legislation or law making, oversight or supervisory role over the other branches of government and representation. While the first two roles, oversight and law making take place in the public eye, are collective and attends to the needs of the realm, representation is somehow private, individual to the legislator and often relating to the way the legislator interacts with the constituents.

It was acknowledged that representation actually is the most important with regards to determining the legislative carrier of the politician. It is the premise upon which judgement of fitness for election and re-election is made. However, little attention has been paid to the study of this individual role of the legislator. Most of the studies have focused on parliament as an institutional whole without dissecting the role the individual legislator plays. One of these key roles is representation. As Barkan has noted in his writings, the significance of parliament in a developing country like Kenya lies not in the collective activities of members such as passing of bills but rather the individual behaviour of each member. As such, the legislative institution of importance is not the legislature but the legislator<sup>67</sup>.

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<sup>67</sup> Barkan, *ibid* p.66

In understanding the representational politics in Kenya, the study emanated from the point of view that the understanding of the role of representation between the representative and the represented differs a great deal. The difference in understanding of this role of the legislator is exhibited by the high turnover of members of parliament. Voters are seemingly looking for something that they cannot find in their legislators. Consequently, it was hypothesized that there is a disconnect between the perceptions of the electors and the elected on the role of the legislator and that the more the disconnect between electors perception and those of the elected on the role of the legislator, the more the likelihood of none re-election.

The study then traced the origins and evolution of parliament before testing these hypotheses. It was established that parliament is a Saxon institution traceable to the feudal times when the King was obligated to consult the feudal lords for grant in aid in addition to helping make decisions on the affairs affecting the realm. The Kenyan parliament is directly related to this British setup having been colonized by Britain that exported her institutions to the colonies. Representation has continued to grow from exclusion to qualitative franchise in the colonial period to the present where it is based on universal suffrage. This is not to say that parliament has matured, the question of representation is still an ongoing project grappling with questions of the most appropriate system and equity among the genders. However, collectively parliament is slowly asserting its authority over the other branches of government<sup>68</sup>.

The perspectives of representation between the elected and the electorate were explored in chapter three using data obtained from the field. The idea was to establish the degree of variance

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<sup>68</sup> See position taken by Barkan J.D, "Progress and Retreat in Africa: Legislatures on the Rise?", *Journal of Democracy*, April 2008, Volume 19, Number 2. p137.

in representational expectations between the electorate and the representatives and establishing factors that account for this variance. The last section of the study was to take this to another level by showing the extent to which the variance determines re-electability of the members of parliament.

## **5.2 Conclusions**

Several conclusions can be made from the study. From tracing the evolution of parliamentary representation in Kenya, it became evident that despite being a colonial export, the legislature holds a special place in Kenya today. Having adopted modern government system, it is inconceivable that parliament can be dispensed with in the current political set up. The nature of political competition is a clear indication that representational politics has not only become a career but an important mechanism through which one can access state power.

Arriving on this stage has been through struggle and is largely a project in progress. The optimal levels of representation are yet to be achieved both in terms of absolute numbers and in quality of representation. Sections of the society that have been excluded either by natural characteristics such as gender or by flawed system of representation must be brought on board so that decisions made by representatives are considered binding. The representatives must act in public interest and recognize the fact that legitimacy for decisions made depend on the electorate as the ultimate authority.

In assessing the expectations of representation between the representatives and the electorate, the study established that there is an overwhelming demand on the representative to meet personal/individual needs. The key feature of these needs was found to be very basic needs that

are critical to survival. It was a pointer to the fact that a majority of people are poor and struggling with basic needs. The preoccupation of the individual was found to inform the choices while electing a legislator. Consequently, issues requiring policy outlook/intervention were found to rank far much lower compared to the desire for the representative to address immediate needs. This has made the electorate lose the power to make the legislator accountable further making electorates vulnerable to manipulation by the MP.

In adapting to the function of meeting basic needs of constituents, the role of the MP has shifted away from that of providing policy direction to that of implementing actual decisions. The traditional roles of the MP such as legislation, oversight and representation are fast changing with modern legislator devoting significant amount of time to constituency service in what may be termed as a “social worker” role.

However, there seems to be convergence in understanding of the roles of the representative between the represented and the MP even though the latter still laid more emphasis on the traditional roles of law making and oversight probably recognising that it is impossible to meet the demands of every constituent. The traditional core functions plus constituency service exist in tension with each other. It is a zero sum game where time spent on representation and constituency service means less time available to spend on legislating and oversight. Time spent on legislating and oversight to ensure accountability means less time spent on representation and constituency service and hence lower prospects for re-election.

Given the convergence in the thinking between the representative and the electorate, the study sought to explain the factors that determine the re-electability of a legislator. It was established that a different set of factors come into play when re-electing representatives to parliament. In

fact re-election is the major test for the MP. It is a referendum on his/her performance. Among the factors identified as determining successful re-election were the ability to play a social worker role, political party affiliation, performance in parliament and lastly being a linker between the constituency and the centre. Representatives who understand these roles have higher chances of re-election. It is no surprise that there are cases where legislators who excelled in playing the traditional roles of law making (legislation) and oversight/ surveillance over the executive miserably failed at seeking re-election<sup>69</sup>.

### **5.3 Recommendations for further study**

The study cannot claim to have exhausted the question of representation. In fact, delving into this study has raised more questions than answers. The role of individual legislator as part of the larger institutional setup of the legislature requires further attention.

Particularly, how does the perception of the individual role by the legislator affect the development of the legislative institution? Is it a zero sum game as depicted? Does concern with carrier over institution portend a bleak future for the Kenyan parliament? How will the legislative careers continue to be pursued if the institution that supports those careers is of no significance to the society and running of government?

There is also the debate about whether the constituency service role, being a social worker is in conflict with the traditional role of the representative. Are they but a mutation of the same functions? At the heart of this debate is whether the representative should be a trustee or a delegate of the public. The “trustee” approach relies on the Burkean argument that the purpose of

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<sup>69</sup> Examples include Hon James Orengo and Gitobu Imanyara (8<sup>th</sup> Parliament). They were very vocal in parliament and well recognized nationally in their role in checking the executive and contributing to parliamentary debate but were judged harshly by their electorates denying them access to the 9<sup>th</sup> parliament in 2002 elections.

Parliament is not merely to reflect local opinion and interests, but to define the national interest, and that this process relies centrally upon deliberative discussion, compromise and independent judgment. Advocates of the “delegate” approach directly address concerns about responsiveness, by limiting the function of representatives to the direct reflection of opinion in the constituencies.

Finally, the study tested the assumptions in a restricted setup, two constituencies. The assumptions needs to be tested in a broader range of cases to establish whether the findings made would be applicable across the country and in fact similar legislative set ups across the continent.



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## Annex 1: Survey Questionnaire

### *Representational role of Kenyan Members of Parliament*

#### **Introduction:**

This study has been commissioned to investigate, document and inform electorate perception of the role of a Member of Parliament in Kenya. The purpose is to establish the factors that influence election and re-election of MPs and how these factors inform the behaviour of members of parliament once elected.

I am therefore requesting you to take part in this survey as part of informing the process. Your responses will be held confidential and only general positions articulated in accordance with good practices in social science research. I appreciate your time taken to respond to the questionnaire below. Thank you.

#### **PART A:**

##### **RESPONDENT BIODATA:**

Name of Respondent (optional) \_\_\_\_\_

Constituency \_\_\_\_\_ Ward \_\_\_\_\_

Sex \_\_\_\_\_

Age

- 18 – 25 years
- 26 – 30 years
- 31 – 35 years
- 36 – 40 years
- 41 – 45 years
- Above 45 years

District \_\_\_\_\_ Province \_\_\_\_\_

Date of interview \_\_\_\_\_ Time of interview: From \_\_\_\_\_ To \_\_\_\_\_

#### **PART B: ELECTORS' UNDERSTANDING OF THE ROLE OF AN MP**

1. Have you ever voted for an MP in this constituency?

Yes	1
No	2

2. Please indicate if you voted in the following elections

Year	Yes	No
1997		
2002		
2007		

3. If yes proceed with the interview

4. Thinking about why you elected your MP in any Elections above, please tell me SIX things you would want him/her to do as your representative [RECORD VERBATIM].

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

5. Among the roles you have cited, which one do you consider as the most important?

\_\_\_\_\_

6. Please rank the other roles that you have identified in Q4 above in order of importance

1	
2	
3	
4	
5	
6	

7. Do you expect your MP to do certain things for you as an individual?

Yes	1
No	2

7 (a). If YES, please list them.

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

7 (b) If NO, please say why.

\_\_\_\_\_  
\_\_\_\_\_

8. Do you expect your MP to do certain things for your community?

Yes	1
No	2

8 (a) If YES please list them

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

8 (b). If NO, please say why.

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9. Looking at the following, do you think your MP should do any of the following for his constituents? Let's start with School fees: Do you think your MP should pay school fees for the children of his constituents? (Repeat for burial expenses, medical expenses, find employment opportunities etc.) Tick as appropriate

No	Item	Yes	No
1	The MP should pay school fees for the students of the constituents		
2	The MP should pay burial expenses for his/her constituents		
3	The MP should pay medical expenses for his/her constituents		
4	The MP should help constituents to find employment opportunities		
5	The MP should take part in fundraisings for various needs of constituents		

10. How many times did your MP visit your constituency last month? \_\_\_\_\_

11. How many times a month do you think your MP should visit the constituency? (Please tick)

Everyday	1
Once every week	2
Twice every week	3
Once every month	4

12. Are you satisfied with the number of times your MP visits your constituency?

Yes	1
No	2

12 (a). Please explain why to Q 12 above?

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13. [For constituencies that have had more than one MP since 1997, please probe what informed the choice of the MP in each of those elections]. What are the most important factors you considered while electing an MP in:

**1997**

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

**2002**

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

**2007**

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

**PART B: FACTORS THAT SHAPE ELECTORS' CHOICE OF MP**

14. Please list four things that you consider when voting for an MP

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

14(a) Of the factors you have listed, which is the most important to you?

\_\_\_\_\_

14(b). Please rank the other factors in order of importance from the most important to the least important

1
2
3
4

15. Some people consider different things as important when voting for an MP. Below is a list of things electors consider important. For each one of them, please tell us whether you consider it very important, important, not important at all in your choice of an MP. Let's start with wealth: Do you consider it very important, important or not important at all that the person you vote for should be wealthy? [Repeat the Questions for the other factors]

Important Factor	Very Important	Important	Not Important at all
1) Wealthy			
2) Educated			
3) Party affiliation			
4) Sex			
5) Ethnic group/clan			
6) religion			
7) Age			

16. How satisfied are you with the performance of your MP?

Very satisfied	1
Satisfied	2
Not satisfied at all	3

16(a) Please explain your answer to Q 16 above

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**PART C: FACTORS THAT INFLUENCE RE-ELECTION OF MP**

17. If elections were to be held today, would you vote for your current MP?

Yes	1
No	2

17 (a) If yes, give reasons

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17 (b). If No, give reasons

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18. If an MP does any of the following, does this increase a lot, a little or does not increase at all, his/her chances of re-election? Let's start with fundraising. If your current MP conducts

many fund raising events in the constituency, does this increase a lot, a little or does not increase at all his chances of re-election?

Action	Increase a lot	Increase a little	Does not increase at all
Fund raising			
Attend/contribute for funerals			
Good debater/ vocal in parliament			
Pays school fees for students of constituents			
Provides jobs for constituents			
Belongs to a particular party			
Pays medical expenses for the constituents			
Serves as a Minister in government			
Is closely linked to a party leader			
Vocal on political issues in the country			

19. What other factors would influence the re-election of the MP as far as you are concerned?

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20. If your preferred candidate was in the "wrong" party, how would you vote?

I would vote for him any way	1
I will vote for the candidate in my preferred party	2
I will not vote at all	3

21. If the party you prefer fielded a person you did not like to contest the elections, how would you vote?

I would vote for the candidate any way	1
I would vote for the candidate I like	2
I will not vote	3

22. If the person you wanted to vote for was defeated at the nomination stage, what would you do?

I will vote for anyone else whom the party nominates	1
I will encourage my candidate to defect to another party	2
I will demand that my party chooses him as the party's candidate anyway.	3
I will not vote	4

23. Have you tried to communicate with your MP?

Yes	1
No	2

24. Did you get him?

Yes	1
No	2

25. Have you or your family tried to present a problem to your MP?

Yes	1
No	2

26. Did he/she solve your problem?

Yes	1
No	2

27. Level of education of the respondent.

- Did not complete primary school
- Completed primary school
- Did not complete secondary school
- Completed secondary school
- Tertiary college
- Graduate
- Post graduate

**THANK YOU**

## **Annex 2: MP Interview Guide**

### **MEMBERS OF PARLIAMENT INTERVIEW GUIDE**

1. Duration of being in Parliament
2. Occupation before joining politics
3. Party leadership/ involvement before coming to parliament.
4. Motivation for joining elective politics
5. Cost of campaigns in Kenya (1997,2002,2007)
6. Sources of campaign financing
7. What is primary role of an MP with regard to representation according to you?
  - a. Local/ constituency level

**b. National level**

- 8. Is there a conflict between representing local and national interests? Explain.**
- 9. To have been elected severally, what have you done right?**
- 10. What the MP considered as the selling points**
  - a. 1997**
  - b. 2002**
  - c. 2007**
- 11. What are some lessons you have learnt so far in the legislative career- Word of advice for those who want to join this career?**
- 12. How often do you visit your constituency? When parliament is in session or when not in session.**
- 13. How much time do you spend on an average in each visit? Is it adequate?**
- 14. How much money do you spend when you visit the constituency?**

15. What percentage goes to personal needs?
16. What percentage goes to community development projects?
17. Do you find this burdensome?
18. What avenues do you use to consult with your constituents?
19. How many consult you in a week?
20. What is the nature of their demands? Personal or community related.
21. What are some challenges you face in relating to constituents
22. Is there a discrepancy between promises versus reality in representative politics?
  - a. Achievability of campaign promises
  - b. Individual legislator expectations of parliament/ being an MP?



23. If you were to rate yourself, how well/badly have you performed as an MP? Explain.

24. What advice would you give to other MPs who fail re-election

25. What are some of the benefits/ costs of being an MP?

a. Benefits

b. Costs

26. How do you rate the following factors that electors value in their choice of an MP

No	Factor	Very Important	Important	Not Important
1	Paying school fees			
2	Attending burial / paying funeral expenses			
3	Paying medical expenses			
4	Providing jobs			
5	Party affiliation			
6	Age			
7	Conducting harambees			
8	Being in Cabinet			

9	Accessibility			
10	Visits to constituency (How often)			
11	Proper Management of CDF			
12	Wealth			
13	Level of education			
14	Clan/ethnic group			
15	Religion			
16	Being vocal in parliament			
17	Linkage to party leader			

27. If elections were held today would you be re-elected? Why?

28. Are you satisfied with the current salary as an MP?

- a. How about allowances for constituency work?
- b. Resources allocated to constituency offices?