

**Donors versus Dictators -- The Impact of Multilateral Aid Conditionality on Democratization: Kenya and Malawi in Comparative Context, 1990-2004**

by

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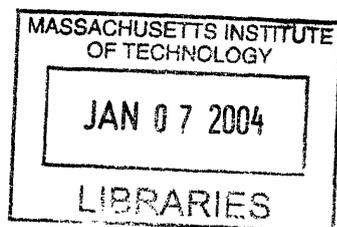
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Submitted to the Department of Political Science  
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**ABSTRACT**

*Donors versus Dictators* examines the “exporting democracy debate” and the related issue of “nation-building” as manifested in the foreign aid relationship in the post-Cold War era. This dissertation centers on two in-depth case studies of countries where all major donors froze aid on a multilateral basis in order to pressure authoritarian regimes to legalize opposition parties and hold democratic elections. Through careful historical process-tracing, hypotheses drawn from both sides of the debate and from the academic literatures on democratization, aid and economic sanctions are assessed with respect to the attempts at democratization in Kenya and Malawi from 1989 to 2003. Conclusions include the finding that aid conditionality is generally effective in producing multiparty elections and pushing the reform process forward in aid-dependent countries where incumbent regimes have historically been pro-Western and desire to remain engaged in the global economy. However, the ultimate effectiveness of donor policy in producing democratization in these cases has been limited by the patterns of ethnic cleavage within the recipient countries and the relative ability of the emerging constitutional and electoral systems to channel ethnic and clientelist politics in democratic directions, factors which have so far been beyond the scope and level of coherence of donor policy.

**Thesis Supervisor: Stephen W. Van Evera**  
**Title: Professor of Political Science**

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Last, but far from least, I dedicate this dissertation to my parents – David Eddy Clinkenbeard and Barbara Garland Clinkenbeard – to whom I owe so much. SC

For any readers of this work who would like to contact me, I should be reachable via email at : [clink@alum.mit.edu](mailto:clink@alum.mit.edu)

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## **Chapter 1. Introduction & Literature Review:**

# **The "Exporting Democracy" Debate, the Study of Democratization and Aid Conditionality as a Prodemocratic Foreign Policy**

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## Donors Versus Dictators and Conditionality - A Gallery of Quotations

“To determine the pattern of rulership in another country requires conquering it.... The idea of using commercial restrictions as a substitute for war in getting control over somebody else’s country is a persistent and mischievous superstition in the conduct of foreign affairs.”

Dean Acheson, 1969 <sup>1</sup>

“Multilateral aid, like unilateral official aid, has been the subject of considerable controversy.... One controversial issue is conditionality, that is, the imposition by lenders on borrowers of certain conditions for receipt of assistance, such as the reduction of budget deficits and currency devaluation. The developed countries regard conditionality as necessary to ensure efficiency in the use of aid and, in some cases, to achieve political objectives such as the Carter Administration promotion of “basic human rights” or the Reagan Administration promotion of “free enterprise.” The recipients, especially in the less developed countries, denounce conditionality as imperialist interference in their internal affairs, especially when required to take restrictive economic measures that are politically dangerous. Conditionality will remain a highly explosive issue.”

Robert Gilpin, *The Political Economy of International Relations*<sup>2</sup>, 1987

“Linking economic support to broader political liberalization can be a dangerous and destructive approach to forcing desirable changes in African societies because, thus far, it is so poorly thought out on both sides, because foreign officials are not well positioned to advise Africans on effective political changes, and because Africans, in desperation to obtain additional concessional resources, may agree to changes which in reality they cannot or will not implement, or which implemented will prove unsustainable and generate further economic and political instability.”

Carol Lancaster, “Reform or Else?” (1990)<sup>3</sup>

“ The new development in this area (external intervention in democratization) is conditionality, especially when practised through multilateral diplomacy and international organizations. Here, the idea is to use the fulfillment of stipulated political obligations as a prerequisite for obtaining economic aid, debt relief, most-favoured nation treatment, access to subsidized credit or membership in coveted regional or global organizations.... Moreover, a judicious application of it could be useful in the especially difficult context in which several institutional transformations are simultaneously clamouring for attention. By providing incentives to tackling certain issues first - say, holding elections before removing price controls or privatizing state holdings - the external conditioners could help to ensure a more orderly transition. This assumes, of course, that they have an adequate theoretical understanding of the

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<sup>1</sup> As cited in Chas. W. Freeman, Jr., *The Diplomat’s Dictionary* (1st ed.) (Washington, DC: National Defense University Press, 1994), p. 340.

<sup>2</sup> Robert Gilpin, *The Political Economy of International Relations* (Princeton University Press, 1987) p.313.

<sup>3</sup> Carol Lancaster, “Reform or Else?”, *Africa Report* July/August 1990: pp. 43-6.

situation to enable them to determine what should precede what; and that the external institutions at different levels and functional domains are not pushing different priorities and emitting contradictory signals.”

Philippe C. Schmitter, “The Influence of the International Context upon...Neo-Democracies,” 1991<sup>4</sup>

“Perhaps the most complicated moral and practical question in the economic relations between the advanced industrial states and the developing world centers on the question of conditionality: the exchange of aid for reform.”

Stephan Haggard, in *Ethics and International Affairs*, 1994<sup>5</sup>

“A sophisticated literature on democracy promotion would explore the relationship of structure and agency not only within political systems, but also between them. It would focus, that is, on how one country’s agency could affect another country’s structure. Both exemplars and crusaders, activists and academics, would benefit from good work along these lines. It is a research program, in short, that could not only provide the basis for more effective policies, but also bring the subfields of political science together in the sort of challenging and useful endeavor they seem to have lost interest in long ago.”

Gideon Rose, “Democracy Promotion and American Foreign Policy,” (2000)<sup>6</sup>

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<sup>4</sup> Philippe C. Schmitter, “The Influence of the International Context upon the Choice of National Institutions and Policies in Neo-Democracies,” pp. 26-74, in Laurence Whitehead, ed., *The International Dimensions of Democratization: Europe and the Americas* (Oxford: Oxford University Press, 1996) (written 1991; to press 1994)

<sup>5</sup> Stephan Haggard, Review of The Conditionality Series (Overseas Development Council) in *Ethics and International Affairs*, Vol. 8 (1994).

<sup>6</sup> Gideon Rose, “Democracy Promotion and American Foreign Policy; A Review Essay” *International Security* Vol.25, No.3 (Winter 2000/2001): pp. 186-203, at 203.

## Chapter 1. Introduction & Literature Review: The "Exporting Democracy" Debate, the Study of Democratization, and Aid Conditionality as a Prodemocratic Foreign Policy

### *I. Introduction and Chapter Overview*

Ever since the American Revolution, exporting democracy has been a recurrent theme of debate in American foreign policy: should the U.S. actively promote democracy in the world, or simply lead by example while avoiding involvement in the internal politics of other countries?<sup>7</sup> More broadly, can democracy be "exported"? Can established democracies such as the United States and the countries of Western Europe engage in foreign policies which effectively promote, assist or "enforce" democratization in the rest of the world? Or will the "naive idealism" of a "crusade" for democracy not only fail in its objective, but also have perverse effects by destabilizing states and producing greater conflict internally and internationally? In the broadest terms, world politics in the 20th century is often seen as dominated by the ideological, military

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<sup>7</sup> For historical views of this theme, see Tony Smith, *America's Mission: The United States and the Worldwide Struggle for Democracy in the Twentieth Century* (Princeton: Princeton University Press, 1994); Walter A. McDougall, *Promised Land, Crusader State: The American Encounter with the World since 1776* (Boston: Houghton Mifflin, 1997); H.W. Brands, *What America Owes the World: The Struggle for the Soul of Foreign Policy* (New York: Cambridge University Press, 1998); Arthur M. Schlesinger, Jr. *The Cycles of American History* (Boston: Houghton Mifflin, 1986), Parts I & II; and Frank L. Klingberg, *Positive Expectations of America's World Role: Historical Cycles and Realistic Idealism* (Lanham, MD: University Press of America, 1996). Many acknowledge that the U.S. did not become a full-fledged democracy by current "liberal" standards until legislation in the 1960s guaranteed the civil and political rights of African Americans. Left critics of the elitist or inegalitarian nature of American democracy typically reject the notion that either side of the exporting democracy debate as conventionally conceived (i.e. export vs. example), is meaningful, rather than disingenuous, self-serving or even delusional: e.g., see the political works of Noam Chomsky, such as *Deterring Democracy* (London/NY: Verso, 1991), as well as other citations below. For an argument on the phases of the U.S.'s democratic evolution and its attainment of "liberal democracy" status, see Henry R. Nau, "America's Identity, Democracy Promotion and National Interests: Beyond Realism, Beyond Idealism", pp.127-148: especially 136-8 in Michael Cox, G. John Ikenberry and Takashi Inoguchi, eds., *American Democracy Promotion: Impulses, Strategies, and Impacts* (Oxford: Oxford University Press, 2000).

and economic struggle between liberal democracy, on the one hand, and first monarchism (or absolutism), then fascism, then communism, on the other. This struggle culminated in the end of the Cold War and the apparent triumph of democracy in the rapid transitions of Eastern Europe and later Russia. On a slightly different timetable, it could also be said to have produced what analysts have christened as “the Third Wave” of democratization, in which dozens of countries have made the transition to a democratic form of government since 1974.<sup>8</sup> While one might assume this triumph has ended the exporting debate with a resounding “Yes”, in fact, it has only shifted the terms. Analysts continue to warn of the fragile or even illusory nature of many recent democratic transitions and of the possibility of a “Third Reverse Wave” of countries reverting back to authoritarianism as many did after the two earlier waves of transitions.<sup>9</sup> Others point to the eruption of violent ethnic conflict, war, and even genocide following liberalization and tentative attempts at ethnic self-determination, secession and/or democratization in countries such as Rwanda, Burundi, Yugoslavia and its successor states. They argue that misguided international efforts at democracy promotion or economic liberalization deserve large parts of the

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<sup>8</sup> The various waves and reverse waves of democratization were first posited and named by Samuel P. Huntington in *The Third Wave: Democratization in the Late Twentieth Century* [Norman, OK: University of Oklahoma Press, 1991, paperback edition 1993]: See Table A in Appendix A for an updated overview of the “Historical Waves of Democratization and Reverse Waves.” For a cogent critique of Huntington’s approach which finds no strong evidence of a Second Reverse Wave and therefore questions the use of the wave metaphor, see Renske Doorenspleet, “Reassessing the Three Waves of Democratization,” *World Politics*, 52 (April 2000): pp. 384-406. Ideological views of 20th century political history are more common among historians and the educated public than among political scientists, perhaps because the sub-discipline of International Relations is dominated by “realists” who focus on great powers and often have little use for ideology or great ideas. Francis Fukuyama is probably the most well-known exception, but his approach is more of a Hegelian philosophy of history than an analysis of ideology in 20th century history: see “The End of History?,” *The National Interest* 16 (Summer 1989): pp. 3-18 (and see responses in volumes 16-18) and *The End of History and the Last Man* (New York: Free Press, 1992). For one historian’s perspective, see Alan Cassels, *Ideology and International Relations in the Modern World* (NY:Routledge, 1996).

<sup>9</sup> The literature on the recent history and oscillations of the exporting democracy debate will be cited below. On the possibilities of a Third Reverse Wave, see Larry Diamond, “Is the Third Wave Over?,” *Journal of Democracy* vol.7, no.3 (July 1996): pp. 20-37, and “Is Pakistan the (Reverse) Wave of the Future?,” *Journal of Democracy* vol.11, no.3 (July 2000): pp. 91-106. According to Huntington, the earlier reverse waves occurred in approximately 1922-1942 (1st Reverse Wave) and 1958-1975 (Second Reverse Wave): see Table A in Appendix A and

blame for these catastrophes.<sup>10</sup> The debate then divides into those who advocate a redoubling of effort to better support or manage difficult democratic transitions versus those who argue that such efforts at “nation-building” are probably futile, premature or even counterproductive.<sup>11</sup> These critics argue that a foreign policy focus on democracy promotion results not only in perverse consequences in terms of democratization, but also in avoidable tradeoffs in terms of other more traditional or realist foreign policy interests (such as power and influence, peace and stability, and economic interests.)

This dissertation will examine one key issue in this debate: the use of economic leverage or pressure as a policy to coerce reluctant authoritarian regimes to democratize. It will do so by focusing on the specific policy of political conditionality in which donors attach political reform conditions to foreign aid or concessional finance. Political conditionality can be viewed as a form of economic sanction and as a policy which extends both the practice of economic policy conditionality and structural adjustment by the multilateral international financial institutions (IFIs) - the International Monetary Fund (IMF) and the World Bank (and by most bilateral aid donors and creditors) - and the practice of human rights conditionality by some bilateral donors.<sup>12</sup>

Doorenspleet, op.cit. Huntington posited the idea in 1990 that a Third Reverse Wave might already have begun then, but subsequent trends do not support that hypothesis.

<sup>10</sup> Peter Uvin, *Aiding Violence: the Development Enterprise in Rwanda* (West Hartford, CT: Kumarian Press, 1998); Regine Andersen, “How Multilateral Assistance Triggered the Conflict in Rwanda”, *Third World Quarterly* vol.21, no.3 (June 2000): 441-456; and Alan Kuperman, “The Other Lesson of Rwanda: Mediators Sometimes Do More Damage Than Good”, *SAIS Review* vol.16, no.1 (1996): 221-240; Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict* (New York: W.W. Norton, 2000); Susan Woodward, *Balkan Tragedy* (Washington, DC: Brookings, 1995). Some would add Russia to the list of botched external efforts at “dual liberalization”: see Janine R. Wedel, *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe 1989-1998* (New York: St. Martin's Press, 1998) and Stephen F. Cohen, *Failed Crusade: America and the Tragedy of Post-Communist Russia* (New York: W.W. Norton, 2000).

<sup>11</sup> Since September 11<sup>th</sup>, 2001, these critics point in particular to the fragility of U.S.-led “nation-building” efforts in Afghanistan and Iraq along with the apparent necessity for cooperation in the war on terrorism with non-democratic regimes in Pakistan and Central Asia.

<sup>12</sup> See footnotes 46 and also 41, 50, 65-67, 72 on the political conditionality literature, fns. 53-55, 57 and 36-37 on the sanctions literature, fn. 39 on the economic conditionality and structural adjustment literature, and fn. 12 on the human rights conditionality literature.

In this new millennium, where economic globalization, financial integration and liberalized trade are commonly seen as major forces shaping political as well as economic realities, can economic sanctions, foreign aid, political conditionality and, more broadly, economic leverage become effective tools for democracy promotion? Or, as some argue, are economic sanctions such as conditionality usually ineffective or even counterproductive and immoral in that they usually harm the innocent? This dissertation attempts to answer these questions, and thus to shed some light on the broader questions that precede it.

After first giving a summary preview of the findings of the dissertation as a whole, this introductory chapter goes on to provide an overview of the dimensions of the democracy promotion debate (to answer the questions, “why democracy?” and “what is at stake?”) and of the different policies that can be used for democracy promotion (“why political conditionality?”) The chapter then considers existing analytic approaches and the modest research currently available on the specific issue of political conditionality, including the related debates over the general effectiveness of economic sanctions. Next, it outlines a methodological rationale for focusing on two in-depth case studies - Kenya and Malawi from roughly 1990 to the year 2003 - as being rich ground, indeed as critical cases, for assessing the impact of political conditionality on democratization. These countries were the first, and arguably are still among the clearest cases, in which virtually all aid donors agreed multilaterally to freeze significant amounts of aid with resumption conditional upon democratization, political reform and improvements in human rights. Yet democratic outcomes in these two cases diverged significantly in the short term. The introductory chapter then provides a capsule overview of the relevant histories of the two countries and of how they have been variously viewed in the academic and policy literatures. It concludes with a roadmap to the other chapters of the dissertation.

## *2. A Summary of the Argument*

In the chapters that follow, I argue that the cases of Kenya and Malawi show that political conditionality can "work": under the right conditions and with some real limitations, aid donors can use the economic leverage of aid to advance the process of democratization in aid recipient countries. However, conditionality does not in and of itself produce "democracy": democratization and especially the "consolidation" of democracy as a functioning set of institutions and a political culture of norms and expectations is a very complex process involving multiple causal factors or variables. Conditionality is never sufficient, nor is it in all cases a necessary factor in democratization, for clearly most successful cases of democratization have occurred without explicit aid conditionality. Although they have some historical precursors, the multilateral conditionality policies considered here are an innovation of the post-Cold War era, and in these initial cases they have been decisive (and thus in a sense necessary) in breaking through some key bottlenecks or potential impasses confronting democratization attempts and thus tipping the balance of power within target countries in favor of democratization. They have then evolved after some fits and starts into an ongoing policy of pressure that seeks (not always successfully) to continue to promote continued movement towards further democratization.<sup>13</sup>

Most dramatically, proactive conditionality policies were decisive in moving the established authoritarian regimes in both countries to legalize opposition parties and hold elections that, while flawed in some important respects (especially in Kenya in 1992 and 1997),

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<sup>13</sup> The development of aid conditionality policies thus parallels that of another major prodemocratic policy – "political aid" (defined later in this chapter) – which a major analyst has described as moving up a "learning curve": see Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington, DC: Carnegie Endowment for International Peace, 1999.) Officials in the target regimes of conditionality policies have repeatedly complained of

were also to significant degrees competitive and representative and constituted steps forward in democratization. As both countries subsequently moved into intermediate stages of “multiparty authoritarianism” (Kenya) or unconsolidated and fragile democracy (Malawi), a less obvious anti-backsliding conditionality prevented both a return to overt authoritarianism and many (but not all) of the more egregious types of abuse of power by the now elected governments. (The various forms of conditionality will be defined more precisely later in this chapter.)

At the same time, the related structural adjustment and economic conditionality agenda took a more political turn as the 1990s wore on and came to increasingly focus first on “good governance” and then more specifically on issues of corruption. While not focused on overtly democratic objectives, this type of conditionality was used quite politically by donors to maintain economic and political pressure on incumbent governments and to deny them full legitimacy in international and domestic opinion despite their apparent electoral successes and often only half-hearted steps towards democratic reform. Corruption-related conditionality can be viewed as simply a form of economic policy conditionality (and the IMF and World Bank typically frame it as such), but in fact it goes to the heart of the political economy of patrimonial and clientelistic regimes, namely the political role of the state in distributing patronage and illicit resources to maintain a power base of support. Anti-corruption conditionalities thus push for a more transparent and accountable state, characteristics essential to democratic consolidation, and they attack the abuse of state resources by clientelist governments seeking to maintain power and support through extra-legal means. All three forms of conditionality – proactive, anti-backsliding and anti-corruption – prove to be major external forces shaping the political realities of the democratic transition and consolidation attempts in the two case studies. Proactive and

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donors “moving the goal posts” or escalating the demands of conditionality, and this is another indication of

anti-corruption conditionalities can move the democratization process forward, while anti-backsliding, as its name implies, works (albeit imperfectly) to preserve democratic gains.

The evidence from the case studies supporting these claims comes in two major forms. First, historical process tracing reveals sequences of action and reaction, stimulus and response, including most importantly aid donor actions (conditionality) and domestic actor response (the target/aid recipient government in most cases). The temporal sequence allows for reasonable inference of causality given the absence of compelling alternative explanations. Second, these inferences are further supported by the general congruence of actor statements when available that shed light on the decision-making process driving the reactions in question: such statements cannot immediately be taken at face value, but critical interpretation based again on competing possible explanations provides a basis for reasonable inference that conditionality has played a decisive role. An additional form of evidence for the operation of conditionality on democratization in the two cases is found through hypotheses on three specific mechanisms of conditionality impact (defined in Chapter 2): direct economic effects, signaling effects and legitimacy effects. Evidence on the first of these mechanisms is readily available through relatively standard economic data. While direct evidence for the second and third mechanisms is more elusive, impact can often be traced through the various media that constantly attempt to interpret the signals of key actors and the norms or normative context that constrain or support those actors.<sup>14</sup>

In Kenya, the evidence on the impact of proactive conditionality is reasonably strong and clear: the Kenyan government led by President Moi responded almost immediately and directly

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movement on the learning curve.

<sup>14</sup> Public opinion polls would be useful forms of evidence to track legitimacy and to a lesser extent signaling effects, but they are not developed and readily available in the less developed countries of the world.

to donor conditions, citing donor pressure as its reason for acting to legalize opposition parties. In Malawi, the linkage between donor action and dictator reaction was less clear in that President –for-Life Banda took several months to decide to comply with donor and opposition demands, but compliance was forthcoming nonetheless. Concrete evidence related to the impact of anti-backsliding conditionalities is difficult to specify because this is essentially a deterrence policy the success of which produces non-events. However, given the tendencies towards some authoritarian behavior by elected governments in both countries, the facts that such behavior was limited, that governments responded to donor attention and criticism, and that it did not threaten the fundamental earlier democratic gains of legalized opposition parties and multiparty elections, all do provide support for inferring a positive impact. Finally the evidence relating to anti-corruption conditionality shows both that target governments will respond to aid freezes with legislation and institutional reform efforts demanded by donors, but that no important government figures will be prosecuted (at least so far in the short to medium term). The political and economic impacts of these anti-corruption policies are more significant than the legal impact: the economic costs and disruption and the somewhat public wrangling with the donors over corruption undermine the government's performance and legitimacy.

Further logical support for the claims made above comes from counterfactual reasoning: considering the hypothetical questions of what might have occurred had no aid conditionality been introduced does not provide empirical evidence, but it can clarify the causal logic presumed to be in operation. If aid donors had not introduced political conditionality when they did in Kenya and Malawi, it is reasonable to assume that, given their pre-existing records of the use of repression against the domestic movements for democratization, both the Moi and Banda regimes would have been free to indulge that preference and would have gone to greater lengths

to squelch the movements through violence. Whether they would have been entirely successful is not clear, but certainly the possibility that the other alternative could have been some degree of civil war would have increased. Given a regional trend towards forms of multi-partyism in Sub-Saharan Africa (a trend conditionality probably helped create), each country could have eventually evolved towards some accommodation with the prodemocratic movement. However, without a clear intervention by the donors to support the movement and change the balance of power, such an accommodation would have been much more on the terms of the incumbent regimes than the actual outcomes observed given the imposition of conditionality.

This dissertation pursues multiple objectives in developing its two case studies. First and fundamental to the other objectives, it develops political narratives of the transition attempts in two countries: while much of the historical data for such narratives is readily available, no such narratives exist for the entire transition history through 2003. The second objective is policy evaluation : what was the impact of aid conditionality and donor policy in general on democratization in the two case countries? The answer offered is that conditionality played a decisive role in causing the legalization of opposition parties and the commitment to multi-party elections, but that beyond determining the timing and fashion in which this key threshold was crossed, conditionality then played a more diffuse role as constraint and recurrent pressure that helped preserve and advance democratic gains without crossing major and dramatic thresholds. As the first and longest-running cases of the multilateral aid conditionality strategy of external democracy promotion, the case narratives then become data and reference points for the third and fourth objectives: theory testing and theory construction. Despite considerable skepticism that aid sanctions could affect something as fundamental as regime type, despite increasing disarray and reformulation in theoretical approaches to democratization in general, I attempt to

distill key hypotheses from the relevant literatures (including hypotheses bearing on antecedent conditions) and to test their usefulness in explaining these particular cases.<sup>15</sup> In the process I make a few additions that seem appropriate and also attempt to remain open to factors that emerge as important from the historical narratives themselves, thus constructing some new theory. Given the generalized form of the hypotheses considered, this dissertation thus conducts very limited tests of the validity of these hypotheses which can be of value in considering whether and how to further test them against a wider universe of cases.

The factors or variables which emerge as most important from the historical narratives in Chapter Four and Five and from the systematic consideration of the hypotheses in Chapter Six include ethnic and regional cleavages, succession crises and the politics of personal ambition within clientelist political parties, the spread of democratic norms internationally and domestically, aid dependency, and the instrumentalism of supposedly prodemocratic political leaders. Cleavages, norms and aid dependency operate as more structural constraints on political actors, but all three are still subject to agency and choice by those actors that can determine how these unavoidable realities impact domestic politics in the case countries. The politics of personal ambition and the related instrumentalist lack of commitment to democratic norms and consolidation are both key elements of political culture, which is an area of both conflict and constrained choice for political elites. Overall, the obstacles to democratization and democratic consolidation appear to lie more in the realm of the political culture of elites than in the dire poverty of the majority of voters in Kenya and Malawi.

The tests for the major hypotheses are moderately strong. The pro-democratic impact of conditionality in the two cases first passes what has been termed a hoop-test: some

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<sup>15</sup> On recent controversy in democratization theory, see Thomas Carothers, "The End of the Transition Paradigm"

democratization occurs and persists in both case countries after the introduction of conditionality.<sup>16</sup> If no net democratization occurred, then there would be no clear basis for claiming that conditionality had a definite prodemocratic effect or had at least contributed as one factor in a multi-causal process. The impact of conditionality in Kenya in 1991 achieves that status of a “smoking gun” test: the causal linkage as manifested in both the quick reaction of the Kenyan government and their accompanying statements leave little room for doubt as to the decisive impact of the aid freeze. The causal linkage in Malawi in 1992 is less direct and less transparent given both the opaqueness of MCP decision-making due to Banda’s still central role, but also his declining and increasingly erratic capacities, and given the consequent five month delay in deciding to comply with donor demands. Nonetheless, the impact of conditionality seems inescapable: in predicting that aid conditionality would produce significant compliance by the Banda regime, the test is passed for it is difficult to ascribe such compliance solely or even primarily due to the power of the domestic prodemocratic movement.

### *3. The Stakes in the Exporting Democracy Debate in the Post-Cold War Era -*

#### *Democratization, Human Rights, Peace, Markets, and Economic Development*

There are both policy debates over exporting democracy as a foreign policy and typically more academic debates that attempt to rigorously and theoretically examine the empirical record

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and subsequent responses in the *Journal of Democracy*, 2002, nos. 1 & 3.

<sup>16</sup> Stephen Van Evera, *Guide to Methods for Students of Political Science*, (Ithaca: Cornell University Press, 1997), p. 31-3.

in order to explain the what, how, and why of democratization and factors that can affect it.<sup>17</sup>

The focus of the policy debate on whether democracy *should* be promoted necessarily implicates the prior question of whether it *can* be promoted: for many in the debate, the normative or policy question depends heavily and quite pragmatically on the practical question. For others, normative or political concerns may trump practical considerations to a large degree.<sup>18</sup> Given the present focus on the impact of political conditionality policies in particular, these questions cannot be thoroughly explored or resolved within the limits of this dissertation, but neither can they be ignored. The analytic approach to the practical question of whether democracy can be promoted, and the slightly larger rubric of the role of international factors in democratization as an academic question, will be addressed in the fifth section of this chapter, but first the dimensions of the policy debate will be outlined in this section (the third section) to highlight the stakes that make the more analytic concerns worth pursuing. The range of possible democracy promotion policies will then be considered in Section Four.<sup>19</sup>

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<sup>17</sup> The two discourses (or literatures) do overlap to some degree: the gap most commonly bemoaned as being lamentably and inexcusably wide is that between democracy promotion “practitioners” and academic analysts of democratization: see Kevin F. Quigley, “Political Scientists and Assisting Democratization: Too Tenuous Links,” *PS: Political Science and Politics* vol. 30, no. 3 (September 1997): pp. 564-7; and Thomas Carothers, “Democracy Assistance: The Question of Strategy,” *Democratization* vol. 4, no. 3 (Autumn 1997): pp. 109-132, 117. For a more general approach to this issue, see Alexander George, *Bridging the Gap: Theory and Practice in Foreign Policy* (Washington, DC: U.S. Institute of Peace, 1993.) For older critiques of the discipline of political science in relation to its practical value for democracy and normative democratic concerns, see David Ricci, *The Tragedy of Political Science: Politics, Scholarship and Democracy* (New Haven: Yale University Press, 1984); and Robert A. McCaughey, *International Studies and Academic Enterprise: A Chapter in the Enclosure of American Learning* (NY: Columbia University Press, 1984).

<sup>18</sup> The contrast is perhaps more properly between those who lean towards principled or deontic reasoning versus those who emphasize pragmatic or consequentialist arguments. For an unexpected example of the former, Schweller, as a realist critic of “democratic peace” security rationales for democracy promotion, argues that “even if it were clearly shown that the spread of democracy will not produce a more peaceful world - that democracies are in fact more war-prone than non-democratic regimes - the US should still promote democracy abroad simply because it is an intrinsic American value that people be able to decide who governs and how.” Randall Schweller, “Democracy Promotion: Realist Reflections,” pp. 41-62 in Cox, et al., eds., *American Democracy Promotion*: p.60.

<sup>19</sup> The recent history of the reemergence of democracy promotion policies and the related oscillations of the exporting democracy debate has been ably covered by several authors and will not be repeated here: in addition to citations in fn.1, see Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington: Carnegie Endowment for International Peace, 1999), ch. 2 and *In the Name of Democracy: U.S. Policy towards Latin America*

Why promote democracy abroad? This question is both the center of a policy debate and an analytic puzzle for scholars of foreign policy. Focusing on the first form of the question, democracy can be deemed worthy of promotion (or not) for what I will term intrinsic reasons and for extrinsic reasons. Intrinsic reasons are typically normative and/or pragmatic, while extrinsic reasons typically include economic and security rationales.<sup>20</sup> At the risk of stating the obvious,

*in the Reagan Years* (Berkeley, CA: University of California Press, 1991); Peter Burnell, "Democracy Assistance: Origins and Organizations," pp.34-64 in Burnell, ed., *Democracy Assistance: International Cooperation for Democratization* (London/Portland, OR: Frank Cass, 2000); William I. Robinson, *Promoting Polyarchy: Globalization, US Intervention, and Hegemony* (Cambridge: Cambridge University Press, 1996), ch.2; Larry Diamond, *Promoting Democracy in the 1990s* (New York: Carnegie Commission on Preventing Deadly Conflict, 1995); Abraham F. Lowenthal, ed., *Exporting Democracy: The United States and Latin America* (Baltimore: Johns Hopkins University Press, 1991); Katarina Tomasevski, *Between Sanctions and Elections: Aid Donors and Their Human Rights Performance* (London/Washington: Pinter, 1997); Howard Wiarda, *Cracks in the Consensus - Debating the Democracy Agenda in U.S. Foreign Policy* (Westport, CT: Praeger/CSIS, 1997), ch.1; George Soros, *Underwriting Democracy* (NY: Free Press, 1991.) For the most programmatic entries into the recent debate (all on the advocacy side), see Gregory Fossedal, *The Democratic Imperative: Exporting the American Revolution* (New York: New Republic/Basic Books, 1989); Joshua Muravchik, *Exporting Democracy: Fulfilling America's Destiny* (Washington, DC: AEI Press, 1991); Graham T. Allison, Jr. and Robert P. Beschel, Jr., "Can The United States Promote Democracy?" *Political Science Quarterly* vol.107, no.1 (Spring 1992): pp.81-98; and James Robert Huntley, *Pax Democratica: A Strategy for the 21st Century* (NY: St. Martin's/Palgrave, 1998). For examples of earlier literature on the debate, see Ralph M. Goldman, "The Democratic Mission: A Brief History," in Goldman and William A. Douglas, eds. *Promoting Democracy* (New York: Praeger, 1988); William A. Douglas *Developing Democracy* (Washington DC: Heldref, 1972); Edward S. Herman and Frank Brodhead, *Demonstration Elections - U.S. Staged Elections in the Dominican Republic, Vietnam and El Salvador* (Boston: South End Press, 1984); Robert A. Packenham, *Liberal America and the Third World: Political Development Ideas in Foreign Aid and Social Science* (Princeton: Princeton University Press, 1973); Edward G. McGrath, ed., *Is American Democracy Exportable?* (Beverly Hills: Glencoe Press, 1968) and Theodore P. Wright, Jr., *American Support for Free Elections Abroad* (Washington, DC: Public Affairs Press, 1964.) See also the literature on the Alliance for Progress (U.S. policy in Latin America in the 1960s.) For perspectives on Africa in particular, see Todd Moss, "U.S. Policy and Democratization in Africa: The Limits of Liberal Universalism", *Journal of Modern African Studies* Vol.2, no.33 (1995): pp.189-211; and John W. Harbeson, "Externally Assisted Democratization: Theoretical Issues and African Realities," pp.235-259 in Harbeson and Donald Rothchild, eds., *Africa in World Politics: The African State System in Flux*, 3rd Ed. (Boulder: Westview, 2000); David Gordon, "On Promoting Democracy in Africa: The International Dimension", pp.153-163 in Marina Ottaway, ed. *Democracy in Africa: The Hard Road Ahead* (Boulder: Lynne Rienner, 1997). Given its focus on the impact of prodemocratic policies, this dissertation will not attempt to systematically present a theory of the genesis or incidence of such policies, even though elements of answers to such questions are noted. The issue will be addressed to some degree in the conclusion with regards to the future of political conditionality policies and democracy promotion in general.

<sup>20</sup> The meanings and consequences that have been ascribed to democratic government have varied across time and space. The technical definitions of democracy and democratization used in this dissertation are addressed in chapter 2 and generally follow the conventions of empirically focused political science (or, more specifically, of the largely American and English-speaking subdiscipline of comparative politics.) I will also try to improve them marginally and to acknowledge the importance for transitional politics of dimensions of democracy (such as substantive outcomes, social and economic inequality and the policies that are entailed in the idea of "regime performance")

democracy is viewed not only by many philosophers and theorists, but also by many non-specialists around the world, as the normative and practical political system most able to promote and protect justice, human freedoms and rights, and to uphold fundamental political equality before the law as well as in the voting booth.<sup>21</sup> Critics typically reject normative justifications for democracy promotion with alternative normative arguments appealing to sovereignty and nonintervention, to peace and stability, and/or economic development and the need to focus on more basic human needs. Or they advance cultural arguments that reject the universalism of the Western conception of liberal democracy and see promotion efforts as often violent and disruptive forms of cultural imperialism. Others make skeptical arguments that democracy simply cannot be exported or imported but rather must be purely home-grown if it is to be authentic and functional.<sup>22</sup> Advocates of human rights protection have also come to question

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beyond those of democratic or electoral procedures. For introductions to debates over the meaning and value of democracy see: David Held, *Models of Democracy*, 2nd ed. (Stanford: Stanford University Press, 1996); Robert Dahl, *Democracy and its Critics* (New Haven, CT: Yale University Press, 1989); Takashi Inoguchi, et al., eds. *The Changing Nature of Democracy* (Tokyo: U.N. University Press, 1998). See also David Collier and Steven Levitsky, "Democracy with Adjectives: Conceptual Innovation in Comparative Research", *World Politics*, Vol.49 (April 1997), pp. 430-51.

<sup>21</sup> The development of the argument for democracy in modern Western political philosophy is usually tracked through such major figures as Rousseau, Locke, Bentham, James Mill and John Stuart Mill. For contemporary views, in addition to the work of Held and Dahl cited above, see C. B. MacPherson, *The Life and Times of Liberal Democracy* (Oxford: Oxford University Press, 1977). On the emergence of democracy as an international norm, see Thomas Franck, "The Emerging Right to Democratic Governance," *American Journal of International Law* Vol. 86 (1992). See Samuel Barkin, "Legitimate Sovereignty and Risky States", pp. 16-36 in Gerald Schneider and Patricia Weitsman, eds. *Enforcing Cooperation: Risky States and Intergovernmental Management of Conflict* (London: Macmillan Press, 1997) for an argument that a new era of legitimate sovereignty based on human and civil rights has emerged with the end of the Cold War; and Barry Holden, ed., *Global Democracy: Key Debates* (NY: Routledge, 2000). See also, Boutros Boutros-Ghali, *An Agenda for Democratization* (NY: United Nations, 1996) and Marc Weller, ed., *Fostering Good Governance: The Emerging International Democratic Standard*, International Documents and Analysis Series, vol.16 (Cambridge, UK: Documents and Analysis, forthcoming.)

<sup>22</sup> On sovereignty and non-intervention, peace and stability, see Ian Forbes and Mark Hoffman, *Political Theory, International Relations and the Ethics of Intervention* (NY: St. Martin's, 1993) and, as partial counterpoint, Laura W. Reed and Carl Kaysen, *Emerging Norms of Justified Intervention* (Cambridge, MA: American Academy of Arts and Sciences, 1993.) For important perspectives on the normative dimensions of post-Cold War international relations, including sovereignty, intervention and (at times only by implication) democracy promotion, see Lea Brilmayer, *American Hegemony: Political Morality in a One-Superpower World* (New Haven: Yale University Press, 1995) and Andrew Linklater, *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era* (London: Polity/University of S. Carolina Press, 1998.) On economic development, see Adrian Leftwich, "Governance, Democracy and Development in the Third World", *Third World Quarterly* Vol.14 (1993):

what they see as an overly facile equation of electoral democratization with the fulfillment of human rights goals.<sup>23</sup>

Pragmatic reasons for democracy promotion echo Churchill's oft-quoted pronouncement that democracy is the worst form of government except for all the rest.<sup>24</sup> Whether democracy actually succeeds in achieving lofty normative goals or not, it nevertheless can solve some basic political problems. Politics is portrayed as inherently conflictual and democracy as the best way to tame or channel that conflict in nonviolent and more predictable ways. Democracy is also

pp.605-24 and Leftwich, ed., *Democracy and Development* (Cambridge, UK: Polity, 1996) especially Introduction and Conclusion. On cultural arguments, see Bhiku Parekh, "The Cultural Particularity of Liberal Democracy", pp.156-175 in David Held, ed., *Prospects for Democracy: North, South, East West* (Cambridge, UK: Polity Press, 1993); Samuel Huntington, "The West: Unique, Not Universal", *Foreign Affairs* Vol.75, no.6 (Nov./Dec.1996): pp.28-46 and *The Clash of Civilizations and the Remaking of World Order* (NY: Simon & Schuster, 1996); Bertrand Badie, *The Imported State: The Westernization of the Political Order* (Stanford: Stanford University Press, 2000 - orig. French, 1992); Katherine Fierlbeck, *Globalizing Democracy: Power, Legitimacy and the Interpretation of Democratic Ideas* (Manchester: Manchester University Press, 1998); Frederic Schaffer, *Democracy in Translation: Understanding Politics in an Unfamiliar Culture* (Ithaca, NY: Cornell University Press, 1999); Daniel T. Osabu-Kle, *Compatible Cultural Democracy: The Key to Development in Africa* (Peterborough, Ontario: Broadview Press, 2000) and as one counterpoint, Raul S. Mangalpus, *Will of the People: Original Democracy in Non-Western Societies* (New York: Freedom House, 1987.) The "home-grown democracy" argument is commonplace, but a systematic exposition in a purist, generic, normative or pragmatic (as opposed to cultural) form and in opposition to efforts at democracy promotion is currently lacking.

<sup>23</sup> See David Beetham, *Democracy and Human Rights* (Cambridge, UK: Polity Press, 1999); Thomas Risse, Stephen C. Ropp and Kathryn Sikkink, eds., *The Power of Human Rights: International Norms and Domestic Change* (Cambridge, UK: Cambridge University Press, 1999); Patricia J. Campbell and Kathleen Mahoney-Norris, eds., *Democratization and the Protection of Human Rights: Challenges and Contradictions* (Westport, CT: Praeger, 1998); and Mahmood Monshipouri, *Democratization, Liberalization & Human Rights in the Third World* (Boulder: Lynne Rienner, 1995);. On the aid and foreign policy dimension, see David P. Forsythe, ed., *Human Rights and Comparative Foreign Policy* (Tokyo/N.Y./Paris: United Nations University Press, 2000); Rein Mullerson, *Human Rights Diplomacy* (London: Routledge, 1997); and Katarina Tomasevski, *Between Sanctions and Elections: Aid Donors and Their Human Rights Performance* (fn. 19, 1997), and *Development Aid and Human Rights Revisited* (NY: Pinter / St. Martin's 1993); and Sara Steinmetz, *Democratic Transitions and Human Rights: Perspectives on U.S. Foreign Policy* (Albany: SUNY Press, 1994) For entry points to the extended research tradition on the impact of human rights on aid allocations, the use of human rights conditionality and its impact on human rights performance, see Clair Apodaca and Michael Stohl, "United States Human Rights Policy and Foreign Assistance," *International Studies Quarterly* Vol.43 (1999): pp. 185-198; and Patrick Reagan, "U.S. Economic Aid and Political Repression," *Political Research Quarterly* vol.48, n.3 (Sept. 1995): pp.613-28, which argues that bilateral conditionalities have produced negligible improvement in human rights. See also Glenn S. Hodes, "Linking Human Rights and U.S. Security Assistance: A Policy Analysis," paper presented to the Northeast Political Science Association, November, 1997, which argues that "relatively fixed implementation obstacles" yield low effectiveness.

<sup>24</sup> Churchill quote: "No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time." House of Commons, November 11, 1947.

seen as the system which makes representation of most political interests possible, and which prevents the worst excesses of concentrated political power, while also constituting sufficient legitimacy and authority for government to function in a variety of ways and to achieve stability.<sup>25</sup> Critics of these pragmatic arguments argue that while democracy may solve political problems in some cases, it fails in many others. They further argue that democracy promotion typically is not based on sufficient knowledge of the target society or the general preconditions of democratization, and will thus fail or even make matters worse.

In seeking to engage and counter some of the critical attacks just noted, as well as to build broader coalitions in favor of democracy promotion, politicians, policy entrepreneurs, and analysts have moved beyond democracy for its own sake to extrinsic rationales. These arguments claim that a more democratic world will be better for the democracy exporter (and for the world) both economically and in terms of security. The argument that liberal politics (defined in the classical sense primarily as limited government, the rule of law and the establishment of individual rights) and liberal economics (free markets) require each other has a history almost as long as the term liberalism itself. The subsequent equation of liberal politics with democracy emerged more slowly. The most common version of this argument is simply

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<sup>25</sup> Joseph Schumpeter was the great demystifier of 'normative' democracy and initiator of procedural definitions of democracy (or "empirical democratic theory" as it is called within political science, in contrast to normative democratic theory and political philosophy): see his *Capitalism, Socialism and Democracy* (London; Allen and Unwin, 1961; orig. published 1942) which ironically demystified democracy in order to reconcile capitalists and democrats to the inevitability of socialist democracy. See also Larry Diamond and Marc F. Plattner, eds., *Capitalism, Socialism and Democracy Revisited* (Baltimore: Johns Hopkins Press, 1993); Held, *Models of Democracy* (fn.20 above, 1996), chs. 5-7; Ian Shapiro, "Democratic Innovation: A South African Perspective on Schumpeterianism", pp.79-108 in his *Democracy's Place* (Ithaca, NY: Cornell University Press, 1996); and Quentin Skinner, "The Empirical Theorists of Democracy and Their Critics: A Plague on Both Their Houses," *Political Theory* 1,3 (1973):pp.287-305. For an illustration of contemporary minimalism in defining democracy, see Samuel Huntington, "The Modest Meaning of Democracy," in Robert A. Pastor, ed., *Democracy in the Americas: Stopping the Pendulum* (New York: Holmes and Meier, 1989), and for a current overview of the minimalism versus broader normative debate, see Ian Shapiro and Casiano Hacker-Cordon, eds., *Democracy's Value* (Cambridge, UK: Cambridge Univ. Press, 1999) and *Democracy's Edges* (Cambridge, UK: Cambridge University Press, 1999).

that economic development (or more specifically, liberal free market or capitalist development) will foster or give rise to liberal democracy either because it will produce a middle class that will demand it, or because a free market economy demands political as well as economic liberty and a free market-style competition for political ideas, policies, and superior leadership.<sup>26</sup> A less common variant is that democracy and/or political liberalism are good for economic growth and development. In policy debates, this grand convergence fell on hard times from the early to mid-1960s (i.e. the start of a perceived second reverse wave of reversions to authoritarianism) through the success of the mostly non-democratic East Asian “Tiger” economies in the 1980s. The triumphalism of the end of the Cold War has resurrected the dual liberalization argument as an article of faith, and the Clinton administration emphasized the promotion of “market democracies” abroad as the shorthand for U.S. policy objectives. Economic liberalization has even been invoked as a policy for promoting democratization when other policies are ineffectual or costly and dangerous (i.e. in the case of China, but not of Cuba). Despite this argument, which puts economics before politics, an extrinsic logic that is also invoked is that successfully promoting democracy abroad will promote the domestic political foundation for economic growth and free trade in other countries. It will thus help build the stable international context, i.e., a community of liberal free trade democracies and a growing world economy, which provides the optimal external environment for the democracy exporter’s own economic growth

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<sup>26</sup> The former variant is usually associated with Seymour Martin Lipset, “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* Vol.53, no.1 (1959): pp.69-105 and the latter with Friederich von Hayek (*The Road to Serfdom* (Chicago: University of Chicago Press, 1944)) and to a degree with Milton Friedman (*Capitalism and Freedom* (Chicago: University of Chicago Press, 1962.)) For recent entry points to subsequent debates, see Adam Przeworski, Michael E. Alvarez, Jose Antonio Cheibub and Fernando Limongi, *Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990* (Cambridge, UK: Cambridge University Press, 2000); Surjit S. Bhalla, “Freedom and economic growth: a virtuous cycle?,” pp. 195-241 in Axel Hadenius, ed., *Democracy's Victory and Crisis* (Cambridge, UK: Cambridge University Press, 1994); and Dietrich Rueschemeyer, Evelyne Huber Stephens and John D. Stephens, *Capitalist Development and Democracy* (Chicago: University of Chicago Press, 1992.)

and efficiency (while also helping produce a more humane world as a normative bonus.) A more technocratic and ostensibly depoliticized version of this logic is advanced by the IFIs, institutions that are officially restricted from intervening in the internal politics of aid recipient or debtor countries, and this version focuses on “good governance” as the policy foundation for growth and market success. While in theory applicable to any type state, many of the tenets of the good governance perspective - the rule of law, transparency, government accountability, and checks and balances against corruption - have a stronger affinity with democracy than with most authoritarian regimes.<sup>27</sup>

There are at least two major types of critics of this dual liberalization logic. Those primarily on the right include proponents of an arguably faster growing and more stable East Asian-style authoritarian developmental state - i.e., liberal economic development without liberal democratic or “populist” politics. Critics primarily on the left argue that unfettered economic globalization is seriously eroding domestic sovereignty in terms of governments’ abilities to manage their economies, especially in the economically weaker countries of the Third World. They charge that globalization is thus emptying the practice of democracy of much of its policy and political substance (producing “low intensity democracy.”) They also typically argue that globalized free trade is even undermining welfare and public goods provision, workers rights and environmental regulation in the advanced democracies. They argue for “more democracy” in the sense of more democratic control of markets. For the first set of critics, democracy promotion is either an ethnocentric failure to fully appreciate the virtues and (at one time) apparently superior

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<sup>27</sup> World Bank, *Governance and Development* (Washington, DC: World Bank, 1992) and *Governance: the World Bank's Experience* (Washington, DC: World Bank Operations Policy Department, 1994); IMF, *Good Governance: The IMF's Role* (Washington, DC: IMF, 1997); for secondary literature, see fn. 54 below. See also Devesh Kapur and Richard Webb, *Governance-Related Conditionalities of the IFIs*, G-24 Discussion Paper no.6 (NY:UNCTAD/Harvard Center for International Development)

economic accomplishments of Asian values or a general failure to appreciate the proper sequence of "development first, democracy second."<sup>28</sup> For many of the second set, promoting "market" democracy internationally is simply an effort to secure both political legitimation at home and a form of political neutralization and stabilization abroad to better facilitate policies of extending "free trade" and a liberal economic hegemony favoring the world's economic powers.<sup>29</sup>

The extrinsic argument for democracy promotion in terms of security interests is currently found in the "democratic peace hypothesis." This hypothesis points to a strong empirical record of democracies not engaging in war with other democracies (a record which "comes as close as anything to an empirical law in international relations," according to hypothesis advocates.<sup>30</sup>) It argues that a more democratic world will be a more peaceful world and that successful democracy promotion will therefore enhance the promoting country's

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<sup>28</sup> For a now somewhat dated overview of the East Asian Miracle in comparative context, see inter alia Stephen Haggard, *Pathways from the Periphery: the Politics of Growth in the Newly Industrializing Countries* (Ithaca, NY: Cornell University Press, 1990). There is a considerable literature debating the lessons of the East Asian "model" which cannot be adequately referenced here. Given that three of the most successful Asian Tiger economies have now democratized (South Korea, Taiwan and Thailand) over the course of the 1990s the argument over democracy versus Asian values has focused on Singapore, China (a special case however) and to some extent Malaysia. See Daniel A. Bell, *East Meets West: Human Rights and Democracy in East Asia* (Princeton: Princeton University Press, 2000); Peter van Ness, ed. *Debating Human Rights: Critical essays from the United States and Asia* (London/NY: Routledge, 1999); the debate on 'Asian democracy' between Lee Kwan Yew and Kim Jae Dung in *Foreign Affairs* (November-December 1994); Miyume Tanji and Stephanie Lawson, "'Democratic Peace' and 'Asian Democracy': A Universalist-Particularist Tension", *Alternatives* Vol.22(1997): pp.135-155; and Edward Friedman, *The Politics of Democratization: Generalizing East Asian Experiences* (Boulder, CO: Westview, 1994).

<sup>29</sup> In addition to Chomsky (fn.1), Robinson and Tomasevski (both in fn.19), see Jochen Hippler, ed., *The Democratization of Disempowerment - The Problem of Democracy in the Third World* (London: Pluto Press, 1995), and Barry Gills, Joel Rocamora and Richard Wilson, eds., *Low Intensity Democracy: Political Power in the New World Order* (London: Pluto Press, 1993). See also essays by Steve Smith, Robinson, Gills and (as partial counterpoint) Jason Ralph in Cox, et al., eds., *American Democracy Promotion* (2000, in fn.1.) For a different critical approach that highlights the problem of increasing inequality due to globalization and the threat it poses to democratization (but not from a particularly leftist point of view), see Ethan B. Kapstein and Dimitri Landa, "Democracy and the Market: The Case of Globalization", pp. 23-33 in Adrian Karatnycky, ed., *Freedom in the World 1999-2000* (New York: Freedom House, 2000.)

<sup>30</sup> Jack S. Levy, "Domestic Politics and War" *Journal of Interdisciplinary History* Vol.4 (Spring 1988): pp.661-2.

security.<sup>31</sup> Critics have questioned the empirical and theoretical basis for the hypothesis in numerous ways. The most cogent critique of the democratic peace hypothesis in relation to the policy of democracy promotion has argued that the historical record shows democratizing states to be more likely to fight wars than stable states of any type, and that ethnic or nationalist violence is a particular danger.<sup>32</sup> The statistical evidence for this so-called “dangerous democratization” counter-hypothesis has been the subject of some dispute.<sup>33</sup> However, even the

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<sup>31</sup> The literature on the democratic peace debate is by now quite vast. Some key works include: Bruce Russett, *Grasping the Democratic Peace - Principles for a Post-Cold War World* (Princeton: Princeton University Press, 1993); James Lee Ray, *Democracy and International Conflict* (Columbia, SC: University of South Carolina Press, 1995); Michael E. Brown, Sean M. Lynn-Jones, and Steven Miller, eds., *Debating the Democratic Peace* (Cambridge, MA: MIT Press/CSIA, 1996) and Miriam Fendius Elman, ed., *Paths to Peace: Is Democracy the Answer?* (Cambridge, MA: MIT Press/CSIA, 1997); Spencer R. Weart, *Never at War: Why Democracies Will Not Fight One Another* (New Haven, CT: Yale Univ. Press, 1998); and Joanne Gowa, *Ballots and Bullets: The Elusive Democratic Peace* (Princeton, NJ: Princeton University Press, 1999). Like the economic community argument before it, the democratic peace hypothesis finds its origin in the work of Immanuel Kant: see Michael w. Doyle, “Liberalism and World Politics Revisited” pp.83-103 in Charles Kegley, ed. *Controversies in International Relations Theory: Realism and the Neoliberal Challenge* (New York: St. Martin’s Press, 1995) and Lars-Erik Cederman, “Back to Kant: Reinterpreting the Democratic Peace as a Macrohistorical Learning Process,” *American Political Science Review* Vol.95, no.1 (March 2001): pp. 15-31. On liberalism as applied to international theory more broadly, see Andrew Moravcsik, “Taking Preferences Seriously: A Liberal Theory of International Politics,” *International Organization* Vol.51, no.4 (Autumn 1997): pp. 513-553; and Mark W. Zacher and Richard A. Matthew, “Liberal International Theory: Common Threads, Divergent Strands” pp. 107-150 in Kegley, *op.cit.* Earlier historical versions of a security rationale for democracy promotion focused more on democratic solidarity, i.e. a natural alliance of democracies against their ideological enemies, and thus on helping to “make the world safe for democracy” (Woodrow Wilson in his call for a declaration of war in 1917.) This rationale assumes the inter-democratic peace hypothesis: the difference is one of emphasis. An important footnote to the question of war between democracies relates to the history of subversion and overthrow of one democratic or semi-democratic government by another through covert action, “psychological warfare” or indirect/proxy military force: the U.S. role in the overthrow of governments in Guatemala, Iran and Chile during the Cold War are the most obvious examples. See David P. Forsythe, “Democracy, War and Covert Action,” *Journal of Peace Research* Vol.29 (1992), pp. 385-395; Spencer Weart, *Never at War*, ch.13 on “Imperialist Aggression by Democracies”; and Noam Chomsky, *Detering Democracy*, inter alia.

<sup>32</sup> Edward D. Mansfield and Jack Snyder, “Democratization and the Danger of War,” *International Security* Vol.20, no.1 (Summer 1995), pp.5-38.

<sup>33</sup> Michael D. Ward and Kristian S. Gleditsch “Democratizing for Peace” *American Political Science Review* Vol.92, no.1 (March 1998), pp. 51-61; See also Havard Hegre, Tanja Ellingsen, Scott Gates and Nils Petter Gleditsch, “Toward a Democratic Civil Peace? Democracy, Political Change, and Civil War, 1816-1992,” *American Political Science Review* Vol.95, no.1 (March 2001): pp.33-48; William R. Thompson and Richard Tucker, “A Tale of Two Democratic Peace Critiques” and responses, *Journal of Conflict Resolution*, Vol.41, no.3 (June 1997), pp. 428-477; Reinhard Wolf, et al. “Correspondence: Democratization and the Danger of War”, *International Security*, Vol.20, no.4 (Spring 1996), pp.176-207, especially Andrew J. Enterline, “Driving While Democratizing”, pp.183-196; Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict* (2000, fn.10). See Nils Peter Gleditsch and Havard Hegre, “Peace and Democracy: Three levels of Analysis,” *Journal of Conflict Resolution* Vol.41, no.2 (April 1997), pp.283-310 for argument and some evidence that at the global level, the relationship between democratization and war is parabolic - initially democratization leads to more war

original proponents of this critique do not advocate that foreign policy engagement in democratization should be abandoned, although “naive enthusiasm” that it will spread peace should be avoided. Rather, given that the Third Wave of democratization appears to continue, they argue that “the international community needs a strategy not so much for promoting or reversing democratization as for managing the process in ways that minimize its risks and facilitate smooth transitions.”<sup>34</sup>

As this dissertation will demonstrate, the issues and themes raised in the policy debates described above - democracy, economic growth and development, peace, stability and security, nationalism and sovereignty - do in fact resonate with many, if not all actual cases of democratization. For possible promotion policies, they result in a some crucial questions. How can policy simultaneously promote democracy, development and peace? What are the tensions and possible tradeoffs between these goals, and how can they be managed? Is there some optimal sequence, either in general or for particular types of countries, to make them converge as quickly as possible? The fundamental analytic and policy question of how far external actors can go morally and practically in intervening to support democratization remains unanswered in many respects. The themes of the debate become real in actual cases of democratization, and the cases in turn can provide the empirical basis for trying to resolve these debates. Democratization and the promotion of democracy have been tied to a broad range of policy issues, including

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internationally, but begins to produce peace once a threshold of total democracies is reached. Likewise, Karatnycky argues that overall conflict has fallen since 1992 and that this correlates with the spread of democracy: see Adrian Karatnycky, “The 1999-2000 Freedom House Survey of Freedom: A Century of Progress”, pp. 5-14, at 12 in Karatnycky, ed., *Freedom In the World 1999-2000*.

<sup>34</sup> Mansfield and Snyder, p. 36. Hegre, et al. (2001, fn.17, p.44), while supporting the dangerous democratization thesis in terms of higher incidence of civil wars in intermediate or semi-democratic states, conclude that “The most reliable path to stable democratic peace in the long run is to democratize as much as possible.” Their data also

military grand strategy (via the democratic peace hypothesis), conflict resolution and humanitarian intervention, international aid and finance, environmental protection and sustainable development, and membership requirements for various international organizations (most notably the European Community and the Organization of American States.)<sup>35</sup> Proponents of democracy promotion have argued that promotion policies have had increasing impact in the later cases of transition in the Third Wave, have thus extended the wave, and may even hold the promise of preventing its reversal.<sup>36</sup>

However, the realities of the often difficult struggle for democracy in many countries during the 1990s have fueled a resurgence of skepticism and of new versions of perennial positions opposing the "democratic crusade" as misguided, naive, unrealistic, even arrogant and moralistic, or, alternately, insincere and deceptive. The debate has reemerged as, in the words of one analyst, "the worldwide democratic revolution has cooled considerably," with a common

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suggests that conflict starts to decline as soon as the half-way point in terms of their autocracy/democracy scale is reached - which could be interpreted as being as soon as a country has crossed into properly democratic territory.

<sup>35</sup> On conflict resolution in particular, see Kumar Rupesinghe, "The Disappearing Boundaries between Internal and External Conflicts," pp.1-26, especially p. 22 in Rupesinghe, ed., *Internal Conflict and Governance* (NY: St. Martin's Press, 1992); Timothy D. Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (Washington, DC: Carnegie Commission on Preventing Deadly Conflict/U.S. Institute of Peace, 1996); Timothy Sisk and Andrew Reynolds, eds., *Elections and Conflict Management in Africa* (Washington, DC: U.S. Institute of Peace, 1998); and Krishna Kumar, ed., *Postconflict Elections, Democratization and International Assistance* (Boulder: Lynne Rienner, 1998) and Kumar and Marina Ottaway, *From Bullets to Ballots: Electoral Assistance to Post-Conflict Societies* (Washington, DC: USAID, 1997.) As a partial counterpoint, see also Pauline H. Baker, "Conflict Resolution Versus Democratic Governance: Divergent Paths to Peace?", pp. 563-571 in Chester A. Crocker, Fen Osler Hampson and Pamela Aall, eds., *Managing Global Chaos: Sources of and Responses to International Conflict* (Washington, DC: U.S. Institute of Peace, 1996.) On sustainable development, see, inter alia, Philip Shabecoff, *A New Name for Peace: International Environmentalism, Sustainable Development, and Democracy* (Hanover, NH: University Press of New England, 1996) and Konrad Gunther, Erik Denters and Paul de Waart, eds., *Sustainable Development and Good Governance* (Dordrecht/Boston: Nijhoff/Kluwer, 1995.)

<sup>36</sup> Huntington, *The Third Wave*: 104-107, 281-290; Diamond, "Is the Third Wave Over?", p.35 and "Is Pakistan the (Reverse) Wave of the Future?", p.105. Schmitter supports the first element of this argument - that the international context in general has an increasing impact as a democratization wave proceeds due to demonstration effects (also called diffusion or snow-balling), emerging multilateral institutions, NGOs and transnational private activity supporting democratization, and to increasing legitimacy for prodemocratic action - but does not directly address the second or third element: see Philippe C. Schmitter, "The Influence of the International Context upon the Choice of National Institutions and Policies in Neo-Democracies," pp.27-54, in Laurence Whitehead, ed., *The International Dimensions of Democratization: Europe and the Americas* (Oxford: Oxford University Press, 1996).

perception that the number and success rate of democratic transitions was declining.<sup>37</sup> Some analysts have even voiced the concern that Western-style democracy is being exported just as it is suffering a deepening crisis of apathy, loss of direction, discontent and delegitimation at home.<sup>38</sup> On the other hand, the 1990s has been the decade when the 50% threshold of countries of the world with at least nominally democratic governments was definitely crossed. Furthermore, if one counts not simply the clear cases of successful transition, but rather also includes the countries which are in the midst of an uncertain attempt at transition, then there have been more countries involved in the struggle for democracy during the 1990s and into the 21st century than during the early phase of the Third Wave (1974-1990).<sup>39</sup>

At the extremes, the stakes in the exporting democracy debate appear quite significant. If the most severe critics are right, embarking on a full-fledged crusade to push democratization world-wide will not only fail, but will actually backfire significantly, generating domestic

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<sup>37</sup> Thomas Carothers, "Democracy Without Illusions", *Foreign Affairs*, Vol.76, no.1 (Jan/Feb. 1997), pp. 85-99.

<sup>38</sup> This tension was the ostensible theme of a 1994 Nobel Symposium, the substance of which was published as Axel Hadenius, ed., *Democracy's Victory and Crisis* (Cambridge, UK: Cambridge University Press, 1997). See also Robert D. Kaplan, "Was Democracy Just a Moment?", *Atlantic Monthly*, December, 1997, reprinted in *The Coming Anarchy: Shattering the Dreams of a Post-Cold War World* (NY: Random House, 2000); Thomas Carothers, "Promoting Democracy in a Post-Modern World", *Dissent*, Spring 1996: pp.35-40; Susan Pharr and Robert Putnam, eds., *Disaffected Democracies: What's Troubling the Trilateral Countries* (Princeton: Princeton University Press, 2000); Robert Putnam, *Bowling Alone: the Collapse and Revival of American Community* (NY: Simon & Schuster, 2000) (plus his earlier book, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton Univ. Press, 1993)); and Pippa Norris, ed., *Critical Citizens: Global Support for Democratic Governance* (NY: Oxford University Press, 1999.) From a more psychological perspective, see Robert E. Lane, *The Loss of Happiness in Market Democracies* (New Haven: Yale University Press, 2000). In a more philosophical vein, see April Carter and Geoffrey Stokes, eds., *Liberal Democracy and Its Critics* (Cambridge, UK: Polity Press, 1998); Michael Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, MA: Harvard/Belknap, 1996; and Anita Allen and Milton Regan, Jr., eds., *Debating Democracy's Discontent* (Oxford: Oxford Univ. Press, 1998). See also Graham E. Fuller, *The Democracy Trap: The Perils of the Post-Cold War World* (NY: Dutton/Penguin, 1991.) The prolonged uncertainty over the outcome and ultimately questionable legitimacy of the U.S. November 2000 presidential elections can only have heightened the tension over American democracy's performance at home versus its export abroad. The impact of these elections on the promotion of democracy abroad remains to be seen.

<sup>39</sup> See Table A in Appendix A including comments - paragraphs 2 & 3. Compare columns for 1974-1990 versus 1991-2001. The transition rate including only "successful" transitions (i.e. through row/category N) are 37 in 16 years for the '74-'90 period (or 2.2/year) versus 19 in 10 years (1.9/yr.) for '91-'00 (a difference of approx. 14%). Including the 25 countries in categories O and P pushes the number of countries in democratic transition in the '90s

conflict in the target countries, international animosity, and a disinclination for cooperation between democracies and non-democracies on other foreign policy goals, hence significant trade-offs and missed opportunities. If the advocates of exporting are correct, but the critics win the policy debate, then an important opportunity to help advance democracy and reap a host of synergistic positive effects in terms of peace, human rights, economic development and general human progress will be passed over. In such debates, it is often tempting to assume that the answer may lay somewhere in the middle: away from either extreme, the promotion of democracy may be a difficult but in some cases feasible proposition with an inevitably mixed record of success, especially at first. As such, there would be lessons to be learned, capacities to be developed and both costs and benefits to be weighed. Democracy promotion would then probably be simply one of several often competing policy objectives, rather than the centerpiece of a crusade.<sup>40</sup> Such a complex answer, which does not partake of either unabashed crusading idealism or knee-jerk cynicism, is not always favored in the rough and tumble of policy debate with its tendencies to portray a black-and-white world. Yet the reality of democratization and the role of international actors within it may prove to be more complex.

#### ***4. Why Aid Conditionality? - The Democracy Promotion Policy Spectrum***

The debates on democracy promotion turn in part on issues of what policies are used in the effort to assist democratization. Even strong proponents of exporting might acknowledge that a policy of declaring war on all authoritarian regimes would carry the “crusade” parallel too far and contradict a “democratic peace” rationale for achieving a more peaceful world. On the

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up to 45. Also several of the ‘problem’ cases from pre-1991 finally made apparently successful transitions in the 1990s: see categories F, I and Jb.

other hand, isolationists have argued that simply being a successful example of democracy at home is an increasingly effective policy for promotion abroad. Few in today's debate seem likely to object to quite modest aid programs that respond to requests for assistance from fledgling democracies. The spectrum of possible democracy promotion policies can span all the potential "tools" or media used in foreign policy from information and argumentation to economic aid or leverage to military force. The following table illustrates the range of potential democracy promotion policies<sup>41</sup>:

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<sup>40</sup> Such a "modest" or "realistic" advocate position is in fact advanced by some of the major scholars in the field in their analysis (i.e. not by simple prudent assumption): these would include Thomas Carothers.

<sup>41</sup> For an argument that the four categories of policy used here can be adequately exhaustive and mutually exclusive, see David A. Baldwin, *Economic Statecraft* (Princeton: Princeton University Press, 1985), pp.12-15. For a more extensive menu approach to both friendly/persuasive and hostile/coercive foreign policy "tools", one with 130 options geared particularly to U.S. foreign policy, see Advisory Committee on International Economic Policy, Sanctions Working Group, *U.S. Foreign Policy Tools: An Illustrative Matrix of Selected Options* (Washington: World Perspective, Inc., 1998), as cited and abbreviated in Joseph J. Collins and Gabrielle D. Bowdoin, *Beyond Unilateral Sanctions: Better Alternatives for U.S. Foreign Policy* (Washington: Center for Strategic and International Studies, 1999), pp.20-23. A more nuanced matrix might distinguish between overt and covert policies and between those that target an authoritarian state versus those that seek to affect civil society, or even to manipulate market forces or information flows.

**Table 1.1. Policy Options for Promoting Democratization**

<i>Medium of Policy</i>	<i>Policies</i>	<i>Examples and Cases</i>
Conventional Diplomacy/ Crisis Diplomacy	<ol style="list-style-type: none"> <li>1. Persuasion, Bargaining &amp; Negotiation of transitions, pacts</li> <li>2. Signaling/threats of other policies, of escalation</li> <li>3. Use of Int'l Org./Regime legitimacy/censure procedures: "mobilization of shame" &amp; membership sanction/ostracism</li> <li>4. Providing Incentives to dictators</li> </ol>	<p>Philippines: Marcos persuaded Arias Plan in Central America</p> <p>UN Human Rights Comm., Council of Europe, OAS, int'l election monitoring</p> <p>"Golden parachutes": safe exit and exile opportunities, negotiated amnesty.</p>
Information, Public Diplomacy & Propaganda	<ol style="list-style-type: none"> <li>1. Public statements and issue framing: public persuasion</li> <li>2. Mass Media Information &amp; propaganda</li> <li>3. Cultural exchange, norm dissemination and opinion leader socialization</li> </ol>	<p>Radio Free Europe, Radio Marti</p> <p>USIA, educational exchanges and scholarship programs</p>
Economic power & Statecraft	<ol style="list-style-type: none"> <li>1. Positive Conditionality/ Sanctions: political aid, democratic aid/trade bonuses</li> <li>2. Negative Conditionality/ sanctions: aid freezes, reductions, trade sanctions, other sanctions</li> </ol>	<p>USAID, NED aid programs trade MFN/democracy linkages</p> <p>Kenya, Malawi, Haiti, Rwanda, Benin, Mali</p>
Military power & Statecraft	<ol style="list-style-type: none"> <li>1. Indirect/Proxy deployment: arming the democratic opposition internally or in exile</li> <li>2. Coercive Diplomacy/show of force</li> <li>3. Direct military intervention</li> <li>4. Democratization as part of conflict resolution/humanitarian intervention/peace keeping</li> <li>5. Extended military occupation</li> </ol>	<p>(claimed justification of "the Reagan Doctrine")</p> <p>Haiti, Panama, Grenada Namibia, Mozambique, Cambodia, Angola, Liberia, Bosnia, Kosovo, Burundi, Rwanda West Germany, Japan</p>

Military force or external military pressure may be crucial factors in cases of possible democratization that also involve security crises (i.e., any perceived major threats that cross borders) or the resolution of wars (civil or interstate.) It may also be crucial in cases of massive internal humanitarian crisis such as genocide.<sup>42</sup> However, this use of military power is likely to remain exceptional, especially where democratization is the primary objective. On the contrary, democratization is likely to be seen as a policy to help solve such crises, rather than the use or threat of force being the first-choice policy for promoting democratization. The crises of failed states, civil wars and humanitarian disasters cause the most suffering and rightly grab the lion's share of media, public and academic attention. However, the more “normal” politics of aid, diplomacy and finance may exert a more pervasive influence over a greater number of countries in the post-Cold War world.

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<sup>42</sup> For evaluations of the mixed record of military intervention or war and democratization, see Mark Peceny, *Democracy at the Point of Bayonets* (University Park, PA: Pennsylvania State University Press, 1999); Karin von Hippel, *Democracy By Force: U.S. Military Intervention in the Post-Cold War World* (Cambridge, UK: Cambridge University Press, 2000); and Francois Prikic, “Military Intervention as the Transnationalization of Democratization; The Case of West Africa,” pp.106-119 in Jean Grugel, ed., *Democracy Without Borders: Transnationalization and Conditionality in New Democracies* (London: Routledge, 1999.) See also the extensive literature on the post-WWII occupation and democratization of West Germany and Japan. Some critics of US intervention (military or non-military) have generally discounted the possibility that democratization in any form could be one of the objectives or byproducts of U.S. military intervention, but much of this analysis either predates the end of the Cold War or assumes complete continuity between Cold War and post-Cold War policy: see e.g., Stephen R. Shalom, *Imperial Alibis: Rationalizing U.S. Intervention After the Cold War* (Boston: South End Press, 1993): pp.7, 193-197; and David N. Gibbs, *The Political Economy of Third World Intervention: Mines, Money and U.S. Policy in the Congo Crisis* (Chicago: University of Chicago Press, 1991): pp.10-12. For critical views that do not assume continuity, see Robinson, *Promoting Polyarchy*, and citations in fns. 19 & 29. The Cold War period was also one of considerable debate over the antidemocratic influence of international actors (both the US and USSR) and of other factors (e.g., international capitalism/markets.) For somewhat sympathetic treatment of U.S. policy dilemmas in ‘managing’ non-democratic Cold War allies and in encouraging political reform, see: Douglas J. MacDonald, *Adventures in Chaos: American Intervention for Reform in the Third World* (Cambridge: Harvard University Press, 1992), Daniel Pipes and Adam Garfinkel, eds., *Friendly Tyrants: An American Dilemma* (NY: St. Martin’s, 1991), and John David Orme, *Political Instability and American Foreign Policy: the Middle Options* (NY: St. Martin’s Press, 1989). The more polemical U.S. conservative approach to these Cold War issues is Jeane Kirkpatrick, *Dictatorships and Double Standards: Rationalism and Reason in Politics* (NY: Simon & Schuster, 1982.) As counterpoint, see in addition to critics cited above (fns. 19 & 29), Michael D. Shafer, *Deadly Paradigms: The Failure of U.S. Counterinsurgency Policy* (Princeton: Princeton University Press, 1988), and Michael Klare and Peter Kornbluh, *Low Intensity Warfare: Counterinsurgency, Proinsurgency and Antiterrorism in the Eighties* (N.Y.: Pantheon, 1988.)

Economic power is an obvious candidate to be the currency or medium for more normal policies of democracy promotion (as opposed to 'crises'.) The provision of aid to explicitly assist with liberalization and democratic reform - so-called political aid or political development assistance in contrast to the more traditional economic development aid - is one major category of prodemocratic policy utilizing economic power. It can be viewed as a “positive” sanction or incentive that can both assist and reward steps toward democratization, but, as currently practiced, it constitutes a quite modest financial flow within the larger economic picture.<sup>43</sup> Moreover, it is likely to be most effective as a policy towards states that are already committed to democratization: in the case of recalcitrant authoritarian regimes, such aid is unlikely to provoke serious change and, if given to such a regime, may be subject to diversion and forms of moral hazard.<sup>44</sup> There are definite political limits to the degree to which donors and external actors in general can offer dictators incentives without being criticized for cooperating with an antidemocratic state and implicitly condoning or rewarding its behavior. In such cases, the policy challenge is how to influence an authoritarian regime to do what it prefers not to do - how

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<sup>43</sup> Thomas Carothers, *Aiding Democracy Abroad* (1999) and *Assessing Democracy Assistance: The Case of Romania* (Washington, DC: Carnegie Endowment for International Peace, 1996) and Carothers and Marina Ottaway, eds., *Funding Virtue: Civil Society Aid and Democracy Promotion* (Washington, DC: Carnegie Endowment for International Peace, 2000); Peter Burnell, ed., *Democracy Assistance: International Cooperation for Democratization* (London/Portland, OR: Frank Cass, 2000); see also Michael Pinto-Duschinsky, “The Rise of ‘Political Aid’ ”, pp.295-324 in Larry Diamond, et al., eds., *Consolidating the Third Wave Democracies* (Baltimore, MD: Johns Hopkins Press, 1997).

<sup>44</sup> According to Carothers, political aid programs “may reach many of the elites. They do not, however, fundamentally reshape the balances of power, interests, historical legacies, and political traditions of the major political forces in recipient countries. They do not neutralize dug-in antidemocratic forces. They do not alter the basic economic level or direction of the countries.” (*Aiding Democracy Abroad*, p. 305) A possibly important exception is political aid which is directed to organizations in the civil society of authoritarian states, rather than to the state itself, but authoritarian regimes are likely to limit or prohibit any such aid that appears to pose a clear threat to the regime: see Ottaway and Carothers, *Funding Virtue*.

to pressure or coerce it to democratize. While this can involve positive sanctions, it virtually requires some form of negative or punitive sanction to make the status quo untenable.<sup>45</sup>

The most explicit form of economic pressure is the use of economic sanctions, and sanctions typically come in the form of trade sanctions or of aid and financial sanctions. These can affect much larger economic transactions or flows and thus go beyond the current limitations of political aid.<sup>46</sup> However, we live in an era of increasing international cooperation for trade liberalization as exemplified by the creation of the World Trade Organization (WTO), and by a concomitant effort to "depoliticize" trade issues, to make free trade a universal norm and to oppose at least unilateral trade sanctions as a deviation from that norm. The option of using

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<sup>45</sup> I approach the use of political aid conditionality at least initially as the coercive use of a sanction to enforce a relatively clear norm of democracy by compelling democratization, rather than as simply one issue within a broader ongoing bargaining process over aid and finance. This is in part because I focus on the more challenging cases of authoritarian regimes that clearly resist democratization, rather than cases of regime-led reform (or claims of reform). The coercive diplomacy and bargaining approaches do converge in many respects (addressed in subsequent chapters), but the coercive approach arguably better captures the degree of confrontation involved. Political or human rights conditionality applied to development aid or finance can be viewed as a case of cross-issue linkage between what are conventionally separated as economic and political realms. For a sophisticated approach to bargaining and linkage in international political economy, see Kenneth A. Oye, *Economic Discrimination and Political Exchange* (Princeton: Princeton Univ. Press, 1992), especially ch. 3. Given the complexity of donor motivations in giving aid, in Oye's linkage typology, political conditionality could often be classified as a case of "explanation" rather than the more clearly coercive "extortion." See also William J. Long, *Economic Incentives and Bilateral Cooperation* (Ann Arbor: University of Michigan Press, 1996); Ernst Haas, "Why Collaborate? Issue-Linkage and International Regimes," *World Politics*, Vol.32 (April 1980); and Arthur A. Stein, "The Politics of Linkage," *World Politics*, Vol. 33 (October 1980.) For a step beyond bargaining to a contractarian perspective on political conditionality, see Geoffrey Hawthorn and Paul Seabright, "Governance, Democracy and Development: A Contractualist View," pp.74-93 in Adrian Leftwich, ed., *Democracy and Development* (fn.21.)

<sup>46</sup> As Gideon Rose argues in "Democracy Promotion and American Foreign Policy: A Review Essay" *International Security*, Vol. 25, no.3 (Winter 2000/2001): pp.186-203: "(G)iven the inherent limitations of standard democracy aid, those truly interested in transforming other countries' political development need to hunt for bigger game. The basic problem with most activist democracy promotion is that it floats on the surface of current politics, never affecting the broader structural tides beneath.... (F)ocusing on the real obstacles standing in the way of consolidation makes it possible for would-be crusaders to understand what the scale and nature of a serious democracy promotion effort would look like. It would have to employ not just a few million dollars in grants here and there, but the major tools of American foreign and economic policy. It would use conditionality to leverage the power of bilateral relationships and multilateral institutions to shift the incentive structure facing foreign actors, coordinate security and trade policies with political conditions, and generally make development a major foreign policy priority. Crusaders, in other words, should care at least as much about the World Trade Organization as they do about sponsoring journalistic watchdog groups; they should debate sanctions policy or NATO and European Union admission with the same fervor that they bring to election monitoring." (pp. 200-201)

economic leverage is therefore likely to focus on aid and financial sanctions.<sup>47</sup> In the realm of aid and finance, in contrast to trade, norms of discretion, discrimination and free choice in terms of who to do business with remain stronger. In the case of aid or Official Development Assistance (ODA) and of multilateral aid or finance, decision-making is typically centralized and routinely reviewed by donor governments. Governments may try to influence private capital investment decisions, but are not likely to formally or unilaterally restrict private financial flows except in the most politically serious cases, because, as with unilateral trade sanctions, they face arguments that market forces will make it likely that other international investors will come forward to negate any economic impact on the target. Can aid and financial sanctions therefore be effective and even become leading policies to help export democracy?

The policy options listed in Table 2 can be and typically are combined, but given the political limitations on both the use of military force and trade sanctions, aid sanctions are likely to represent a maximum threshold of pressure or coercion for “normal” policies of democracy promotion. Aid sanctions are distinctive in comparison to other sanctions because they can be relatively well targeted and, if imposed by a broad enough coalition of donors, are not susceptible to being undermined by market forces. In some cases of combined policies, aid sanctions may not be the leading or most high-impact policy for influencing democratization, and unilateral aid sanctions may be ineffectual except as steps towards more effective multilateral aid freezes. However, these questions are best determined empirically and may vary

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<sup>47</sup> On the growing opposition to U.S. unilateral economic sanctions, see fn. 65. A slightly different taboo exists with regard to another category of economic sanctions: currency manipulation and the use of monetary power. The gyrations of currency markets are already a fixture of the “globalized” economy, but the notion that exchange rates and currency values could be deliberately manipulated for political ends undermines the free market doctrine that rates should be determined by the impersonal market, a key argument for convincing countries to liberalize their currency exchange in the first place: see Jonathan Kirshner, *Currency and Coercion: The Political Economy of International Monetary Power* (Princeton: Princeton University Press, 1995)

from case to case. Given the growing awareness of the importance of targeting sanctions as directly as possible on decision-makers and their supporting coalitions on the one hand, and the norms of a liberal global economy on the other, sanctions policies may focus increasingly on aid sanctions, multilateral finance via the IFIs (which as concessionary or sub-market loans are also a form of aid), asset freezes and travel or participation sanctions.<sup>48</sup>

Negative aid conditionality can come in a variety of forms. It can be formal or public, on the one hand, or informal and either secret or widely known but not formally acknowledged. It can be unilaterally imposed by a single donor or multilateral involving many donors. Prodemocratic policies in general tend to respond to conditions and events in a target country. Conditionality can be proactive or reactive in intention depending on the phase of the democratization process in which it is deployed. Conditionality that threatens to freeze aid or does so in order to *compel* an authoritarian regime to liberalize or to democratize and hold election is proactive, whereas a conditionality policy towards an already democratizing state that seeks to deter any democratic “backsliding” or antidemocratic reversion toward authoritarianism is thus reactive.

Within this set of characteristics, the most potent and most confrontational form of aid conditionality is typically formal, multilateral and proactive. Formal conditionality publicly commits donors to the policy and creates a degree of political investment in it which informal conditionality does not. Multilateral conditionality typically affects a greater portion of total aid and thus exerts more leverage than most unilateral policies. Proactive conditionality faces a

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<sup>48</sup> On asset freezes, see Mahvash Alerassool, *Freezing Assets: The USA and the Most Effective Economic Sanction* (London: Macmillan's/St. Martin's Press, 1993). On targeting and the concept of 'smart sanctions', see discussions and documents at <[www.smartsanctions.ch](http://www.smartsanctions.ch)> and <[www.fourthfreedom.org](http://www.fourthfreedom.org)>, and see Elizabeth D. Gibbons, *Sanctions in Haiti: Human Rights and Democracy Under Assault* (Westport, CT: Praeger/CSIS, 1999), Ch.5 - "Conclusions and Policy Recommendations."

more confrontational and difficult task in seeking to compel new steps towards democratization - to change the status quo - rather than merely deter a reversion to the status quo ante.

Some analysts have argued that a brief post-Cold war “era” of political conditionality and proactive or confrontational prodemocracy policies has already come and gone due to a variety of reasons.<sup>49</sup> These include increasing concerns with possible destabilization (the “dangerous democratization” hypothesis) and with preserving international or regional cooperation around existing humanitarian crises or conflicts, and declining overall levels of bilateral aid (because of “aid fatigue”, the end of the Cold War and increasing fiscal pressures in donor countries due in part to globalization.) A growing sense that democratic consolidation is proving more difficult, lengthy and perilous has dampened enthusiasm and shifted focus to supporting transitions already underway. Others point to an “overloading” of the conditionality agenda as a variety of other issues (environmental protection, military spending, pro-poor social policies) have been raised as deserving candidates. Meanwhile economic conditionality and structural adjustment - the original versions of conditionality - continue to struggle to deliver on their promise of growth and development in many countries, whether due to political obstacles and incomplete implementation or to flawed policy design.<sup>50</sup> Also, the simple fact that the Third Wave of

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<sup>49</sup> David Gordon, “On Promoting Democracy in Africa: The International Dimension”, pp.153-163 in Marina Ottaway, ed., *Democracy in Africa: The Hard Road Ahead* (Boulder: Lynne Rienner, 1997), p.160.

<sup>50</sup> Joan Nelson and Stephanie Eglinton, *Global Goals, Contentious Means: Issues of Multiple Aid Conditionality* (Washington: Overseas Development Council, 1993). On the current fate of structural adjustment program (SAP) conditionality, see: Paul Collier, “The Failure of Conditionality”, in C. Gwin and Joan Nelson, eds., *Perspectives on Aid and Development* (Washington, DC: Overseas Development Council, 1997) and “Conditionality, Dependence and Coordination: Three Current Debates in Aid Policy”, pp.299-324 in Christopher L. Gilbert and David Vines, eds., *The World Bank: Structure And Policies* (Cambridge: Cambridge University Press, 2000) (and other essays by various authors in Part II of this volume); Tony Killick, *Aid and the Political Economy of Policy Change* (London: Overseas Development Institute, 1998); World Bank, *Assessing Aid: What Works, What Doesn't and Why*, Policy Research Report, Development Research Group (Washington, DC: World Bank, 1998); and Devesh Kapur, “The New Conditionalities of the International Financial Institutions,” pp.127-38 in *International Monetary and Financial Issues for the 1990s*, Vol. VII (New York/Geneva: United Nations, 1997). For background, see Paul Mosley, Jane Harrigan and John Toye, *Aid and Power - The World Bank and Policy-based Lending*, 2nd ed. (London: Routledge, 1995) 2 Vols.; Barbara Stallings, “International Influence on Economic Policy: Debt, Stabilization and Reform,” pp.

democratization has continued through the 1990s (contrary to some predictions circa 1990), even if it has slowed down, means that there are fewer authoritarian regimes that are candidates for proactive conditionality (but conversely, more candidates for reactive or anti-backsliding conditionality policies addressed to countries in democratic consolidation phases).<sup>51</sup>

Policymakers have called for a broad shift in aid programs towards democracies (so-called allocative conditionality) and away from authoritarian regimes. If this has in fact occurred<sup>52</sup>, then in even fewer of the remaining authoritarian regimes do donors have the degree of aid

41-88 and Miles Kahler, "External Influence, Conditionality, and the Politics of Adjustment," pp. 89-136, both in Stephen Haggard and Robert R. Kaufman, eds., *The Politics of Economic Adjustment: International Constraints, Distributive Conflicts, and the State* (Princeton University Press, 1992.) As an early attempt to model the conditionality process which had only modest empirical corroboration, Paul Mosley, "On Persuading a Leopard to Change his Spots: Optimal Strategies for Donors and Recipients of Conditional Development Aid", pp.47-79 in Robert H. Bates, ed., *Toward a Political Economy of Development: A Rational Choice Perspective* (Berkeley, CA: University of California Press, 1988). The broader literature on debates within development economics (including over whether it should really be a distinct field within economics), on the political economy of development, and on the role and effects of the IFIs and structural adjustment, is quite vast, so once again the treatment here must necessarily be quite selective, but hopefully not unduly so. One key signpost in the debates was the UNICEF Report by Giovanni Cornia, Richard Jolly and Frances Stewart, *Adjustment with a Human Face: Protecting the Vulnerable and Promoting Growth* (Oxford: Clarendon Press, 1987), which played an important role in focusing attention on the often negative social consequences of adjustment. The "mainstream" literature within American political science or political economy includes Joan Nelson, ed., *Fragile Coalitions: the Politics of Economic Adjustment* (New Brunswick, NJ: Transaction Books, 1989) and ed., *Economic Crisis and Policy Choice: The Politics of Adjustment in the Third World* (Princeton: Princeton University Press, 1990), Stephan Haggard and Robert R. Kaufman, eds., *The Politics of Economic Adjustment* (Princeton University Press, 1992), and *The Political Economy of Democratic Transitions* (Princeton University Press, 1995); and Haggard and Steven B. Webb, eds., *Voting for Reform: Democracy, Liberalization and Economic Adjustment* (NY: Oxford University Press/ World Bank, 1994) and Robert H. Bates and Anne O. Krueger, *Political and Economic Interactions in Economic Policy Reform* (Cambridge, UK: Blackwell, 1993.) Most of this literature focuses on the degree of economic adjustment as its dependent variable, and often assumes the external pressure from the IFIs for structural adjustment is relatively uniform and constant (the orthodoxy of "the Washington consensus".) This literature then concentrates on the institutional and structural variables, primarily domestic, which act as constraints within which more contingent political variables operate to determine policy response to internal and external pressures. The exception, which focuses more clearly on democratic transition as a dependent rather than an intervening variable, is Haggard and Kaufman's *Political Economy of Democratic Transitions*. See also Luis Carlos Bresser Pereira, Jose Maria Maaval, and Adam Przeworski, *Economic Reform in New Democracies: A Social-Democratic Approach* (NY: Cambridge University Press, 1993), and James F. Hollifield and Calvin Jillson, eds., *Pathways to Democracy: The Political Economy of Democratic Transitions* (NY: Routledge, 2000.)

<sup>51</sup> For an argument in favor of a relatively non-confrontational approach to authoritarian states focused particularly on East Asia and the Middle East, see Catharin E. Dalpino, *Deferring Democracy: Promoting Openness in Authoritarian Regimes* (Washington, DC: Brookings, 2000.)

<sup>52</sup> For an assessment of "allocative conditionality" in U.S. aid (albeit for only a brief timespan), see Steven W. Hook, " 'Building Democracy' through Foreign Aid: the Limitations of United States Political Conditionalities, 1992-96," *Democratization* Vol.5, no.3 (Autumn, 1998): pp.156-80, which concludes based on statistical analysis

leverage required for effective conditionality. Finally, given the possible role of precedents and “demonstration effects” (sometimes referred to as “snowballing”) in the Third Wave, some aid-recipient authoritarian regimes may have engaged in degrees of liberalization and democratization as a form of anticipatory adjustment before they became the focus of proactive conditionality.

These issues regarding the current and future scope of political conditionality will be addressed in the concluding chapters of this dissertation. Assuming for the moment that all of these constraints apply and that the scope of conditionality is consequently restricted, the lessons from the cases considered here may nevertheless have broader application to other types of democracy promotion and to other forms of economic sanctions and attempts at international influence or norm enforcement. The conditionality agenda may also be shifting in ways that preserve the importance of politics and democratization in an increasingly market-driven world: the IFI focus on “governance” and on combating government corruption is already arguably the point where economic leverage and conditionality are increasingly applied.<sup>53</sup> This focus is viewed by some as a thinly veiled version of democracy promotion (albeit often of a technocratic or elite conception of democracy, although norms of “participatory development” are also often referenced by the World Bank.) Alternately, it is seen as an uneasy compromise between the IFI need to address the political obstacles to economic liberalization and development and the IFI charters, which officially prohibit interference in the domestic politics of member or recipient

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that the U.S. has not shifted its aid allocations towards democratizing countries and that security concerns and economic self-interest continue to be primary determinants of aid allocation as they were during the Cold War.

<sup>53</sup> The literature on corruption has recently undergone tremendous growth: see inter alia, Alan Doig and Robin Theobald, eds., *Corruption and Democratisation*, special issue of *Commonwealth and Comparative Politics* Vol.37, no.3 (November, 1999.)

states.<sup>54</sup> There is some chance that the thrust of IFI policy could be expanded or recast in more explicitly democratic directions: the IFIs are under pressure to become more transparent, accountable and in this sense “democratic” themselves, to better incorporate non-market and normative concerns such as worker rights, poverty, environmental protection, national sovereignty and human rights. This pressure comes not just from the anti-globalization protesters and NGOs of Seattle and elsewhere, but also in some ways from the U.S. Congress.<sup>55</sup>

Furthermore, the alternative of continuing to finance and work with authoritarian regimes is fraught with potential public relations problems (as the comments above on the limits of positive sanctions suggest.) Autocratic leaders who are clearly benevolent despots when it comes to

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<sup>54</sup> On both views, see: R.A.W. Rhodes, “Governance and Public Administration”, pp. 54-90: p.57; and Paul Hirst, “Democracy and Governance”, pp.13-35, both in Jon Pierre, ed. *Debating Governance* (Oxford: Oxford University Press, 2000); Adrian Leftwich, “Governance, Democracy and Development in the Third World” *Third World Quarterly*, Vol.14 (1993): pp.605-624; Susan George, “The World Bank and its Concept of Good Governance”, pp.205-209 in Jochen Hipler, ed. *The Democratisation of Disempowerment* (London: Pluto Press, 1995.) Moises Naim, “Fads and Fashion in Economic Reforms: Washington Consensus or Washington Confusion?,” *Third World Quarterly*, Vol.21, no.3 (June 2000): pp.505-528, argues that “For much of this last decade the sustainability of market reforms was a main concern. Now the concern is about the sustainability of democracy in many reforming countries, from Russia to Peru and from Indonesia to Venezuela.” (521)

<sup>55</sup> L. David Brown, et al. “Globalization, NGOs, and Multisectoral Relations”, pp.271-296 in Joseph S. Nye Jr. and John D. Donahue, eds., *Governance in a Globalizing World* (Washington: Brookings, 2000); Jonathan A. Fox and L. David Brown, eds., *The Struggle for Accountability: NGOs, Social Movements, and the World Bank* (Cambridge: MIT Press, 1998); and Robert O’Brien, Anne Marie Goetz, Jan Aart Scholte, and Marc Williams, *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* (Cambridge: Cambridge University Press, 2000). The most recently created international development bank, The European Bank for Reconstruction and Development (EBRD), has the promotion of democracy and political conditionality for membership mandated in its charter: see Adam Bronstone, *The European Bank for Reconstruction and Development* (New York: Manchester University Press, 1999.) As one indicator of a possible NGO agenda, The National Summit on Africa, a grassroots and NGO policy forum of some 2,300 delegates elected nationwide in the U.S. and 7,500 total attendees (including President Clinton) held in Washington, DC, February 16-20, 2000, issued as one of its ten priority recommendations the following: “To promote African democracy and human rights in this era of globalization, the United States government should require U.S.-based corporations and international financial institutions, particularly the World Bank, International Monetary Fund and World Trade Organization, to advance these goals in policy and practice.... The charters of the international institutions should be amended so that they can no longer offer support and legitimacy to illegitimate governments, and to democratize the institutions to allow for more African representation.” - *The National Policy Plan of Action for U.S.-Africa Relations in the 21st Century* (Washington, DC: National Summit on Africa, 2000): p. xiii. On democratization and the World Bank, see also, Christopher L. Gilbert and David Vines, eds., *The World Bank: Structures and Policies* (Cambridge University Press, 2000) especially Joseph E. Stiglitz, “Introduction”, pp.1-9 at 4-5, and essays by Woods, by Hopkins, et al. and by Collier. See also Huntington, *The Third Wave*, p. 289. As a partial counterpoint, see Bartram S. Brown, *The United States and the Politicization of the World Bank* (London/NY: Kegan Paul Int’l., 1992). Two of the arguably

guiding their countries on successful developmental trajectories or fully supporting the structural adjustment and good governance formulas of the IFIs are likely to be scarce. For every Lee Kwan Yew of Singapore, there are likely to be several Mobutus of Zaire, or many more subtle kleptocrats and corrupt, “crony capitalist” rulers. Also, the so-called CNN effect suggests that whenever and wherever authoritarian regimes actively suppress large prodemocratic movements or engage in massive human rights abuses, international and domestic public opinion will put significant pressure on both bilateral donors and the IFIs to suspend business as usual.

The policy debates over democracy promotion in part reflect different normative commitments or policy priorities, but they also rest in part on assumptions about the empirical realities of democratization and on interpretations of the historical record. In this dissertation, I seek to clarify those realities and a part of that record and to do so in a theoretically informed way which may contribute to moving the debate forward, to building an agenda for further empirical research and even to improved policy. I focus on political conditionality as the policy tool that exerts the greatest potential leverage or pressure for democratization short of military force. Empirically and methodologically, I focus on in-depth case studies of two countries where aid donors imposed significant multilateral punitive aid freezes with relatively explicit political and human rights reform conditions for aid resumption: Kenya in 1991 and Malawi in 1992. The questions I seek to answer include, first and foremost: Can aid conditionality promote democratization? Did it do so in Kenya and Malawi or elsewhere? Also: What other factors affect the impact of conditionality policies? Did the policies have any important unintended consequences? Moving beyond a relatively straightforward analysis of the record to more

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most effective forms of conditionality in recent memory are the “dues conditionality” and “recapitalization

speculative issues and deeper or broader lessons that may be inferred, other questions include: If the impact of the policy appears to have been unsuccessful or limited, were the limits inherent in either the foreign policy process of aid donors or the process of democratization? Are any such limits susceptible to manipulation and transcendence? Can the policy of prodemocratic aid conditionality be improved or should it be abandoned as ineffectual or counterproductive or too costly? What can the historical experience, especially in the post-Cold War period, and the theoretical analysis of political conditionality tell us about the promotion of democracy through other means or the process of democratization more generally? Or, most broadly, about the political possibilities for the kind of world we may inhabit in the near future?

### ***5. The Theoretical Agenda : Integrating Comparative Politics and International Relations***

This dissertation will develop theoretical hypotheses that can guide an assessment of the two most prominent cases of multilateral proactive conditionality for democratization - Kenya and Malawi - as well as other cases of conditionality and democracy promotion. It will draw those hypotheses from and attempt to make contributions to three relevant policy and analytical debates: the exporting democracy debate itself, broadly conceived; the debate within the comparative literature on democratization and the role of external factors in transitions; and the debates within international relations and foreign policy literature on the efficacy of economic sanctions and, more broadly, on theories of foreign influence on domestic politics.<sup>56</sup> It seeks to

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conditionality” practiced by the U.S. Congress vis a vis the United Nations and the IFIs respectively.

<sup>56</sup> The literature of the exporting democracy debate has been cited above, especially in fn.19. The comparative politics literature on democratization and, more specifically, on the role of international or external factors in

extend current analysis of political conditionality theoretically by engaging theories of democratic transition and of international influence in a deeper and more systematic fashion than has been done in the modest literature on the topic to date.<sup>57</sup>

In doing so, it confronts considerable skepticism and a theoretical puzzle. The two cases to be examined in depth are typically considered cases in which conditionality has had some real impact, despite the fact that Kenya from 1991 up until the end of 2002 is also usually considered a case of failed democratic transition overall and even a case of a wily dictator outfoxing the donors. However, in contrast to optimistic liberal ideology and official prodemocratic pronouncements, many or even most existing academic theories argue against the likelihood of external factors being critical factors in democratization. Likewise the majority of theoretical

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democratization are cited below (fns. 58-61). I focus here only on the general (or "classic") theoretical literature. The more regional or area-specific literature on democratization, conditionality and "dual liberalization" in Africa that relate to my two case studies is largely covered in subsequent chapters. The literature on economic sanctions, coercive diplomacy and foreign influence on domestic politics is covered in fns. 62-67, & 47-48.

<sup>57</sup> Joan Nelson and Stephanie Eglinton, *Encouraging Democracy: What Role for Conditioned Aid?* (Washington: Overseas Development Council, 1992) and *Global Goals, Contentious Means: Issues of Multiple Aid Conditionality* (Washington: ODC, 1993); Sabine Krings, Claudia Albrecht, Philip Eguaseki, eds., *The New Political Conditionalities of Development Assistance: Human Rights, Democracy and Disarmament*, Conference Report Vienna, April 23-25, 1992 (Vienna: Institute for Development and Cooperation, 1993); Mick Moore, ed., *Good Government?*, *IDS Bulletin* Vol.24, no. 1, January 1993; Georg Sorenson, ed., *Political Conditionality* (London: Frank Cass in association with EADI, 1993) which reprints the contents of *European Journal of Development Research*, Vol.5, no.1, June 1993; Andrew Clayton, ed., *Governance, Democracy and Conditionality: What Role for NGOs?* (Oxford: INTRAC, 1994); Mark Robinson, ed., *Towards Democratic Governance*, *IDS Bulletin* Vol.26, no.2 April 1995; and Olav Stokke, ed. *Aid and Political Conditionality* (London: Frank Cass in association with EADI, 1995 - EADI Book Series 16/Norwegian Foreign Policy Studies series No.82, Norwegian Institute of International Affairs, Oslo). Detailed analysis of this literature is beyond the scope of the dissertation, but I argue that all of this literature (which is largely the product of development policy think-tanks) either fails to make a sufficient engagement with potentially relevant theory or, especially in the case of the earlier works, lacks an empirical basis. More recent works cited below (Crawford; Hook; and Halperin and Lomasney) provide important empirical analyses, but are still theoretically limited. Most recently, new works have been published which address conditionality: Jean Grugel, ed., *Democracy without Borders: Transnationalization and Conditionality in New Democracies* (London: Routledge, 1999) obviously features it in its title, but with the partial exception of the essay by Geoffrey Pridham, "The European Union, Democratic Conditionality and Transnational Party Linkages: The Case of Eastern Europe." (pp.59-75), does not address it in any systematic fashion; by contrast, Milton J. Esman and Ronald J. Herring, eds., *Carrots, Sticks and Ethnic Conflict: Rethinking Development Assistance* (Ann Arbor: Univ. of Michigan Press, 2001) addresses conditionality throughout and even advances a concept of "ethnic conditionality." However, it does not maintain a focus on democratization per se (and despite its publication date, some of the essays were originally written in 1995 and were not revised.) The most sustained exploration of conditionality post-1995 is found in the work of Gordon Crawford addressed below.

opinion in international relations casts doubt on the success of coercive attempts at international influence using economic leverage and sanctions. While the exporting democracy debate is clearly divided as noted above, even many proponents argue primarily or even solely for non-confrontational democracy promotion strategies that focus on positive inducements ("positive conditionality" in contrast to punitive, "negative" aid freezes.)

Within the academic analysis on transitions to democracy that has been primarily the province of comparative politics scholars, the mainstream of theory discounted the importance of international factors until after the fall of the Berlin Wall.<sup>58</sup> Those that did address the theoretical

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<sup>58</sup> The classic example here is perhaps the most cited text of the early (pre-1990) democratization literature, Guillermo O'Donnell and Philippe Schmitter, *Tentative Conclusions About Uncertain Democracies*, the concluding volume of O'Donnell, Schmitter and Laurence Whitehead, eds. *Transitions from Authoritarian Rule: Prospects for Democracy*, 4 Vols. (Baltimore MD: Johns Hopkins University Press, 1986). Despite the fact that international factors are introduced ad hoc in many of the case studies by various authors, often at key points in a democratization narrative, O'Donnell and Schmitter argue that are almost always secondary, and that "domestic factors play a predominant role." External factors are then left largely untheorized (p.19.) The primary exception to this trend was an acknowledgment of the role of U.S. and allied occupation in democratizing West Germany and Japan after WWII, but these were seen as extreme cases where the line between international/external vs. domestic/internal was blurred if not temporarily erased. In their focus on their project's recent cases from Southern Europe and Latin America, O'Donnell and Schmitter were thus to a degree downplaying the broader historical analyses of their contributors Alfred Stepan, in "Paths toward Redemocratization: Theoretical and Comparative Considerations", (pp.64-84 in O'Donnell, Schmitter and Whitehead, eds. *Transitions from Authoritarian Rule - Comparative Perspectives* volume) and Laurence Whitehead in "International Aspects of Democratization" (pp.3-46 in *ibid.*). Both of these contributions note that the majority of democracies exist thanks to transitions in which international factors such as war, conquest and decolonization played a major part (Stepan: p.65; Whitehead: p.165, fn.1 citing Robert Dahl's *Polyarchy*.) The other magnum opus of democratization studies from the late 1980s- Larry Diamond, Seymour Martin Lipset and Juan Linz, eds., *Democracy in Developing Countries*, 4 Vols. (Boulder CO: Lynne Rienner, 1988-1990) addressed international factors explicitly and cogently, but was much less influential because it had a "laundry list" approach to factors influencing democratization, rather than an integrated theoretical model (see *idem.*, "Building and Sustaining Democratic Government in Developing Countries" *World Affairs* Vol.150,no.1 (Summer 1987):5-19 and "Comparing Experiences with Democracy", ch. 1 in *Politics in Developing Countries: Comparing Experiences with Democracy* (abridged 1 vol. textbook edition, Boulder CO: Lynne Rienner, 1991): pp.31-34. Going back to an earlier generation of classic texts, Robert Dahl acknowledges wide latitude for the influence of foreign actors and factors in democratization: see ch. 9, "Foreign Control" in his *Polyarchy: Participation and Opposition* (New Haven: Yale University Press, 1971), especially pp.189-192. See also Dankwart A. Rustow, "Transitions to Democracy: Toward a Dynamic Model", *Comparative Politics*, April 1970, 337-363: 348. Other "classic" works on democratization through 1991 include: Adam Przeworski, *Democracy and the Market* (Cambridge: Cambridge University Press, 1991); and Guiseppe Di Palma, *To Craft Democracies* (Berkeley: University of California Press, 1991). These both acknowledge roles for international actors, but do not place them any theoretically specific framework. (These issues are addressed further in Ch. 2.) The post-1991 democratization literature is voluminous and mostly regionally if not country specific, and it is perhaps best tracked via synoptic review articles: see, e.g., Daniel Levine, "Paradigm Lost: Dependence to Democracy", *World Politics*, Vol.40 (1988):377-94; Doh Chull Shin, "On the Third Wave of Democratization: A Synthesis and Evaluation of Recent

issue of external factors or promotion policies were pessimistic in the face of “our lack of knowledge about the long causal chains running from outside help to internal conditions to changes of regime.”<sup>59</sup> Since then democratization theory has acknowledged a role for international variables, typically a modest one. The exceptions where international factors have been granted a major weight tended to focus on three areas: the disappearance of antidemocratic international pressures associated with the Cold War (i.e. Soviet domination in Eastern Europe and U.S. support for right-wing authoritarianism), the economic "magnet effect" of possible European Union membership as an incentive for democratization and good behavior in Southern

Theory and Research", *World Politics* Vol.47 (October 1994), pp.135-70; Philippe Schmitter, "Transitology: The Art or Science of Democratization?", pp.11-41 in Joseph Tulchin and Bernice Romero, eds., *The Consolidation of Democracy in Latin America* (Boulder CO: Lynne Rienner, 1995.) One early effort to bring together many of the key journal articles is Geoffrey Pridham, ed., *Transitions to Democracy: Comparative Perspectives from Southern Europe, Latin America and Eastern Europe* (Aldershot, UK/Brookfield, Vt.: Dartmouth, 1995), which includes a section on "The International Context of Democratization." By comparison, a more recent volume - Lisa Anderson, ed., *Transitions to Democracy* (NY: Columbia University Press, 1999) - attempts to offer an overview of the field and includes a bibliographic overview (Elke K. Zuern, "The Genealogy of Democratization," pp.284-304) which almost completely ignores the role of international factors and major scholars addressing them (i.e. Whitehead, Pridham, Carothers: see fn. 60 below), despite the fact that three of the articles in the volume do address them directly (Huber, et al.; Joseph; Waterbury.) See also Tony Smith, "Notes on the Study of the International Origins of Democracy," Appendix, pp.346-368 in *America's Mission* (1994,fn.1) for a critique of realism in international relations, of comparative political development, and of Marxist approaches in relation to their failure to address international factors in democratization. Jean Grugel, ed., *Democracy without Borders: Transnationalization and Conditionality in New Democracies* (London: Routledge, 1999) includes Hans Peter Schmitz and Katrin Sell, "International Factors in Processes of Political Democratization: Towards a Theoretical Integration," (pp.23-41) which surveys much of the same ground covered here. For one recent effort at synthesis, see Stein Ugelvik Larsen, ed., *The Challenges of Theories on Democracy: Elaborations over New Trends in Transitology* (Boulder/N.Y.: Social Science Monographs /Columbia, 2000.) On the earlier academic theories of political development that at times influenced policy or at least policy debates, specifically the clash between modernization theory and dependency theory, see the left/radical or Marxian critiques of modernization theory and of its alleged link to elitist conceptions of democracy: Irene L. Gendzier, *Managing Political Change: Social Scientists and the Third World* (Boulder, CO: Westview, 1985) and Paul Cammack, *Capitalism and Democracy in the Third World: The Doctrine of Political Development* (London: Leicester Univ. Press, 1997). See also the mainstream critique of dependency theory, Thomas Packenham, *The Dependency Movement* (Cambridge, MA; Harvard Univ. Press, 1992), plus for more historical background see his earlier pre-dependency theory book, *Liberal America and the Third World* (1973, fn.19). For an attempt at an empirical exploration of US aid and democracy in this debate, see Edward N. Muller, "Dependent Economic Development, Aid Dependency on the U.S. and Democratic Breakdown in the Third World," *International Studies Quarterly* Vol.9, no.4 (1985).

<sup>59</sup> Dahl, *Polyarchy*, pp 209-210. Also cited and emphasized in Rose, "Democracy Promotion and American Foreign Policy," p.191 & 202: "The final conclusion concerns the depressing resiliency of Dahl's thirty-year-old argument that a central obstacle to effective democracy promotion is our lack of knowledge about the basic causal connections involved....(T)hinking about the subject seriously requires immersing oneself in both theory and practice, and indeed

and Eastern Europe (with Yugoslavia clearly excepted), and the impact of political conditionality on aid-dependent sub-Saharan Africa (although the latter is debated.)<sup>60</sup> By the end of the 1990s, works focusing on the international dimensions of democratization have appeared for most regions of the globe, although many of these are fairly atheoretical or theoretically narrow.<sup>61</sup> The

multiple kinds of theory and practice, in a way that has become deeply unfashionable both inside the academy and out." (202)

<sup>60</sup> Much of the existing theory on the international factors in democratization emphasizes the regional or international organizational membership or "magnet" effect: based largely on the analysis of cases in Southern and Eastern Europe that completed or began transitions before the general declaration of political conditionality as an aid policy, Pridham et al., Whitehead, and Schmitter all argue that "membership conditionality" (my term), involving the requirement that members of the European Community be democracies, exerted a strong influence on domestic actors in transitions in those regions by giving strong long-term economic and, to a lesser extent, security incentives to democratize in order to be able to attain membership. See Geoffrey Pridham, "International Influences and Democratic Transition," pp. 1-30 in Pridham, ed., *Encouraging Democracy - The International Context of Regime Transition in Southern Europe* (NY: St. Martin's Press, 1991); Laurence Whitehead, "Concerning International Support for Democracy in the South," pp.243-273 in Robin Luckham and Gordon White, eds., *Democratization in the South: The Jagged Wave* (Manchester: Manchester University Press/St. Martin's, 1996); and Whitehead, "Three International Dimensions of Democratization," pp. 3-25, and Philippe Schmitter, "The Influence of the International Context upon the Choice of National Institutions and Policies in Neo-Democracies," pp. 26-54, both in Whitehead, ed. *The International Dimensions of Democratization: Europe and the Americas* (Oxford: Oxford University Press, 1996.) The latter two generally assign less weight to international influences in the transitions of Latin America due in large part to the changing or ambiguous role of the United States as a regional hegemon. The U.S. arguably became prodemocratic during the Carter years, but then became at best mixed during the Reagan Administrations (Here they both appear to agree with the conclusions of Lowenthal et al. (*Exporting Democracy*) and Carothers (*In the Name of Democracy*) cited above, fn.19.) Recent initiatives of the Organization of American States (OAS) to defend democracy in the hemisphere signal that it too may become an important regional institution for democratization: see Tom Farer, ed., *Beyond Sovereignty: Collectively Defending Democracy in the Americas* (Baltimore: Johns Hopkins, 1996.) For an additional perspective on "membership conditionality" as a general means of preventive diplomacy and international influence beyond its effect in democratization, see George E. Shambaugh, IV, "Threatening Friends and Enticing Enemies in an Uncertain World," pp. 234-61 in Schneider and Weitsman, eds. *Enforcing Cooperation.: Risky States and Intergovernmental Management of Conflict* (NY: St. Martin's, 1997.) Aid conditionality can also be viewed as an emerging form of membership conditionality for the international aid and concessional finance regime. The approaches of Pridham and Schmitter readily allow for the potential impact of aid conditionality via a balance of power model as developed in this dissertation, but only Schmitter addresses aid conditionality explicitly. His definition of conditionality is ambiguous, however: he adds conditionality as a fourth international dimension - "the most recent and the most rapidly expanding" - to the three that Whitehead outlines (contagion, control and consent), but defines it formally as multilateral coercion even though he later acknowledges that conditions can be applied bilaterally as well ("The Influence..." , pp. 30, 41-2). The definition commonly used in analyses of conditionality allows for either bilateral or multilateral policies. Of these three authors, only Schmitter advances clear general hypotheses regarding international factors in democratization (pp.46-49), but only a few of these relate to conditionality and potentially include aid conditionality. These are incorporated in the hypotheses outlined below and in Ch.2.

<sup>61</sup> E.g., in addition to works already cited in fn.50 by Pridham and Farer: Geoffrey Pridham, E. Herring, and G. Sanford, eds., *Building Democracy? The International Dimensions of Democratisation in Eastern Europe* (Leicester: Leicester University Press, 1994); Karen Dawisha, ed., *The International Dimension of Post-Communist Transitions in Russia and the New States of Eurasia* (Armonk, NY: M.E. Sharpe, 1997; Tommie Sue Montgomery, ed., *Peacemaking and Democratization in the Western Hemisphere* (Miami: North-South Center Press, 2000). In the case of sub-Saharan Africa, where there has been extensive discourse on the role of international factors and of

theoretical integration of internal and external dimensions of possible models of democratic transition, and thus of what are conventionally international relations and comparative politics approaches, is largely still a work in progress.<sup>62</sup>

Finally, despite some initial post-Cold War optimism on the potential for economic sanctions, the earlier academic consensus that "sanctions don't work", or more accurately that

political conditionality in the democratization process (which will be reviewed in subsequent chapters), one of the major comparative works on democratization - Michael Bratton and Nicolas van de Walle, *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective* (Cambridge, UK: Cambridge University Press, 1997) - seems to be devoted to refuting the argument that international factors can have a major role in democratization in order to instead argue for the importance of institutional legacies of past regimes (see pp.27-33, 219-20). However, in their own statistical test of their hypotheses, the level of foreign aid is the most significant structural factor determining democratization: it is more important than any domestic structural or institutional variable, but less significant than contingent domestic factors such as military intervention or political protest (pp.221-223.) For alternatives which embrace the importance of international factors, contrast Bratton and van de Walle with Christopher Clapham, *Africa and the International System: The Politics of State Survival* (Cambridge, UK: Cambridge University Press, 1996), ch. 8 and with Richard Joseph, "Africa, 1990-1997: From Abertura to Closure," *Journal of Democracy*, Vol.9, no.2 (April 1998.) Other significant post-1991 multi-regional analyses of democratization do grant explicit theoretical roles for international factors: Rueschemeyer, et al.'s *Capitalist Development and Democracy* (1992, fn.13) identify both economic and geopolitical or military "transnational structures of power" as well as transnational cultural flows as potentially significant factors (pp.69-75). Juan J. Linz and Alfred Stepan in *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (Baltimore: Johns Hopkins, 1996) identify foreign policies as contextual factors for transitions, including military occupation, subversion and incentive/disincentive structures, democratic *zeitgeist* (i.e. democracy as the dominant ideology in the international community in a given era) and diffusion effects including learning, rapid communication, and changing expectations and perceptions of political alternatives (pp.72-6.)

<sup>62</sup> For diverse efforts in this direction, see: Robert Pahre and Paul Papyoanou, eds., *New Games: Modeling Domestic-International Linkages*, special issue of *The Journal of Conflict Resolution*, Vol. 41, no.1 (February 1997); James Caporaso, "Across the Great Divide: Integrating Comparative and International Politics", *International Studies Quarterly*, Vol.41 (1997): pp.563-592; John Kurt Jacobsen, "Are All Politics Domestic? Perspectives on the Integration of Comparative Politics and International Relations Theories", *Comparative Politics* (October 1996): pp.93-115; Ronen Palan and Barry Gills, eds., *Beyond the Global - State Divide: A Neo-Structuralist Approach* (Boulder: Lynne Rienner, 1994); Robert Putnam "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organization* Vol.42, no.3 (Summer, 1988): pp.427-460; Peter Evans, Harold Jacobson, and Robert Putnam, eds., *Double Edged Diplomacy: International Bargaining and Domestic Politics* (Berkeley: University of California Press, 1993); Gabriel Almond, "The International-National Connection", *British Journal of Political Science*, Vol. 19 (April, 1989): pp.237-59; Aristide Zolberg, "Beyond the Nation-State: Comparative Politics in a Global Perspective", pgs. 42-69 in Jan Berting and Wim Blockman, eds. *Beyond Progress and Development: Macro-political and Macro-Societal Change* (Aldershot: Avebury/Gower, 1987); Peter Gourevitch, "The Second Image Reversed: the International Sources of Domestic Politics," *International Organization* Vol.32, no.4 (Autumn, 1978): pp.881-912; Robert Keohane and Joseph Nye Jr., *Power and Interdependence* 2nd edit. (Harper Collins, 1989) and eds., *Transnational Relations and World Politics* (Cambridge: Harvard University Press, 1972); James Rosenau, *Linkage Politics - Essays on the Convergence of National and International Systems* (NY: Free Press, 1969); R. Barry Farrell, ed., *Approaches to Comparative and International Politics* (Evanston: Northwestern University Press, 1966.)

they are rarely effective, still counts many adherents and perhaps majority support.<sup>63</sup> A recent broadside on the issue finds fault with the codings in the major database used in sanctions research and argues that the success rate has been 5%, rather than 34% as the authors of the database claimed and as subsequent researchers typically assumed.<sup>64</sup> One relatively widely

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<sup>63</sup> For one relatively optimistic perspective which critiques the pessimistic biases of the existing literature, argues for changes due to the end of the Cold War, and also supports increased effectiveness for sanctions, see Elizabeth R. Rogers, "Economic Sanctions and Internal Conflict," pp.411-434 in Michael E. Brown, ed., *The International Dimensions of Internal Conflict* (Cambridge, MA: MIT Press/CSIA, 1996), also in *Security Studies* Vol.5, no.4 (Summer 1996): pp.43-72. For other recent assessments and analysis of sanctions, see Steven Chan and A. Cooper Drury, eds., *Sanctions as Economic Statecraft* (NY: St. Martin's 2000); David Cortright and George A. Lopez, *The Sanctions Decade: Assessing U.N. Strategies in the 1990s* (Boulder: Lynne Rienner, 2000) and Cortright and Lopez, eds., *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* (Boulder: Westview, 1995); Daniel W. Drezner, *The Sanctions Paradox: Economic Statecraft and International Relations* (Cambridge, UK: Cambridge University Press, 1999), "Conflict Expectations and the Paradox of Economic Coercion," *International Studies Quarterly*, Vol.42 (1998): pp.709-731, and "Serious About Sanctions," *The National Interest* (Fall 1998): pp.66-74; George E. Shambaugh, *States, Firms and Power: Successful Sanctions in United States Foreign Policy* (Albany: State University of N.Y. Press, 1999); Richard N. Haass, ed., *Economic Sanctions and American Diplomacy* (N.Y.: Council on Foreign Relations, 1998); Jonathan Kirshner, "The Microfoundations of Economic Sanctions" *Security Studies* Vol.6, no.3 (1997): pp.32-64; T. Clifton Morgan and Valerie L. Schwebach, "Fools Suffer Gladly: The Use of Economic Sanctions in International Crises," *International Studies Quarterly* Vol.41 (1997): pp.27-50. The two "classic" texts on economic sanctions at this point are: David A. Baldwin, *Economic Statecraft* (Princeton: Princeton University Press, 1985) and Gary Clyde Hufbauer, Jeffrey J. Schott and Kimberly Elliot, *Economic Sanctions Reconsidered*, 2 vols., 2nd ed. (Washington, DC: Institute for International Economics, 1990). See also Lisa L. Martin, *Coercive Cooperation; Explaining Multilateral Economic Sanctions* (Princeton: Princeton University Press, 1992.) For citations to the pre-1990 literature, see the works already cited. On the slightly broader framework of coercive diplomacy that can include both military and economic policies, see Brian M. Pollins, "Cannons and Capital: The Use of Coercive Diplomacy by Major Powers in the Twentieth Century," pp.29-54 in Frank W. Wayman and Paul F. Diehl, eds., *Reconstructing Realpolitik* (Ann Arbor: University of Michigan Press, 1994) and Alexander L. George, *Forceful Persuasion: Coercive Diplomacy as an Alternative to War* (Washington, DC: U.S. Institute of Peace Press, 1991). For an historical perspective on aid suspensions as a type of economic sanction, see James A. Blessing, "The Suspension of Foreign Aid: A Macro-Analysis," *Polity* Vol.8 (1981): pp.524-535 and "The Suspension of Foreign Aid by the United States, 1948-1972" (Ph.D. dissertation, State University of New York at Albany, 1975).

<sup>64</sup> Robert Pape, "Why Sanctions Do Not Work," *International Security* Vol.22, no.2 (Fall 1997): pp.90-136. See also Kimberly Ann Elliot, "The Sanctions Glass: Half Full or Completely Empty?," pp.50-65 and Robert Pape, "Why Economic Sanctions Still Don't Work", pp.66-76 in *International Security*, Vol.23, no.1 (Summer 1998); and David Baldwin, "Evaluating Economic Sanctions", pp.189-195 and Robert Pape's reply, pp.195-198 in *International Security*, Vol.23, no.2 (Fall 1998). Another trend is a campaign against the unilateral use of economic sanctions by the US which includes academic, policy and political efforts, all arguing that unilateral sanctions are ineffective, costly to American business and therefore to the consumer public, and generally harmful to ultimate foreign policy interests: see Jesse Helms, "What Sanctions Epidemic? - US Business' Curious Crusade," *Foreign Affairs* Jan/Feb. 1999; the website of USA Engage - <[www.usaengage.org](http://www.usaengage.org)> - the business lobby against unilateral and subnational (i.e. local government) sanctions; Joseph J. Collins and Gabrielle D. Bowdoin, *Beyond Unilateral Sanctions: Better Alternatives for U.S. Foreign Policy* (Washington: Center for Strategic and International Studies, 1999); Douglas Johnston Jr. and Sidney Weintraub, *Altering U.S. Sanctions Policy: Final Report of the CSIS Project on Unilateral Economic Sanctions* (Washington: CSIS, 1999); and Ernest H. Preeg, *Feeling Good or Doing Good with Sanctions: Unilateral Economic Sanctions and the U.S. National Interest* (Washington: CSIS, 1999.)

acknowledged exception to the generalization of sanction ineffectiveness is the case of South Africa and sanctions against apartheid. However, it is often argued that South Africa is an exceptional case because sanctions were broadly multilateral and were supported by a strong international normative consensus against racism and against colonialism (apartheid being viewed as a remnant of colonial domination.)<sup>65</sup> This argument has potential relevance to the prodemocratic use of sanctions, such as aid conditionality, because there is arguably an emerging normative consensus in favor of democracy, which could translate into increasingly broad coalitions for multilateral intervention.<sup>66</sup> However, the proposed use of sanctions to promote democratization must address and resolve the renewed moral critique against sanctions in general on the basis of the harm they may inflict on innocent civilian populations.<sup>67</sup>

Looking beyond the use of economic sanctions, several major cases of post-Cold War humanitarian intervention or international mediation which included elements of democratization or political reform strategies have been widely viewed either as failures or as producing very problematic democracy. Somalia, Sierra Leone, Angola and Rwanda fall into the former

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<sup>65</sup> See Neta C. Crawford and Audie Klotz, eds., *How Sanctions Work: Lessons from South Africa* (NY: St. Martin's Press, 1999) and Audie Klotz, *Norms in International Relations: The Struggle Against Apartheid* (Ithaca: Cornell University Press, 1995.) See also Norman Etherington, "Is It Too Soon to Start Devising Historical Explanations for the End of Apartheid?", ch.5, pp. 101-119 in Paul B. Ruch, ed., *The Dynamics of Change in Southern Africa* (St. Martin's Press, 1994).

<sup>66</sup> For recent work on norms in international relations, in addition to Klotz, op.cit., see Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization*, Vol.53, (Spring 1999): pp.379-408; Leonard J. Schoppa, "The Social Context in Coercive International Bargaining," *International Organization*, Vol.53, no.2 (Spring 1999): pp.307-342; Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization*, Vol.52, no.4 (Autumn 1998): pp.887-917; Andrew P. Cortell and James W. Davis, Jr., "Understanding the Domestic Impact of International Norms: A Research Agenda," *International Studies Review* Vol.2, no.1 (Spring 2000): pp.65-87; and Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999). On the specific emergence of an international norm of democracy, see citations in fn. 21.

<sup>67</sup> In addition to Elizabeth Gibbons, *Sanctions in Haiti* (fn. 48), see Thomas G. Weiss, David Cortright, George A. Lopez and Larry Minnear, eds., *Political Gain and Civilian Pain: The Humanitarian Impacts of Economic Sanctions* (Boulder: Rowan and Littlefield, 1997) and the exchange between Joy Gordon and George Lopez on "The Ethics of Economic Sanctions" in *Ethics and International Affairs* Vol.13 (1999): pp.123-150.

category, while Haiti, Cambodia, Bosnia, and Liberia fall into the latter.<sup>68</sup> The confrontation between cases and theory therefore has the potential to be particularly illuminating and productive regarding the value and limits of existing theory and, if conditionality does seem to "work", regarding the need for innovation or at least a new synthesis.

The external promotion of democracy stands squarely at the disciplinary intersection of international relations and foreign policy studies, on the one hand, and comparative politics on the other. In cases of multilateral conditionality such as those of Kenya and Malawi, the international dimension of the policy is fairly self-evident. Despite some donor denials to the contrary, this policy constitutes an intervention into the internal politics of the recipient countries and the dynamics of an attempted transition to democracy, typically the domain of the comparativist. The main approaches, schools of thought or paradigms in international relations at present are typically defined as neorealism, neoliberalism, and constructivism.<sup>69</sup> In

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<sup>68</sup> Some might argue that the latter cases are still relative successes in terms of ending civil wars or authoritarian rule in the case of Haiti. The Haitian case is also one in which economic sanctions are seen as having failed to promote democratization, forcing an escalation to military intervention. The case of Rwanda in particular is one in which aid conditionality figured prominently in international pressure on the Hutu President Habyarimana to accept the Arusha Accords in 1993 stipulating a quasi-democratic political resolution to the civil war that had prevailed since 1990. His ultimate acceptance of the Accords and their inadequate implementation were major factors in his assassination and the subsequent genocide in 1994. This record of failure and at best mixed success must also be weighed against some clearer cases of success such as Namibia, Mozambique, El Salvador, arguably Nicaragua and even Guatemala (see below, fn.79 on Guatemala). For evaluations of many of these cases, see Roland Paris, "Peacebuilding and the Limits of Liberal Internationalism," *International Security*, Vol.22, no.2 (Fall 1997): pp.54-89; and, with particular regard to cases of attempted state- or "nation-building" after military intervention (Panama, Somalia, Haiti, and Bosnia), Karin von Hippel, *Democracy By Force: U.S. Military Intervention in the Post-Cold War World* (Cambridge, UK: Cambridge University Press, 2000.) See also David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Pluto Press, 1999); and Gary T. Dempsey, *Fool's Errand: America's Recent Encounters with Nation-Building* (Washington, DC: Cato Institute, 2001).

<sup>69</sup> On this tripartite division, see Peter J. Katzenstein, Robert O. Keohane and Stephen D. Krasner, eds., *Exploration and Contestation in the Study of World Politics* (Cambridge, MA: MIT Press, 1999; reprinting *International Organization*, Vol.52, no.4 (Autumn 1998)). A decade ago, some version of Marxism would have probably replaced constructivism in this triad, and currently versions of World Systems theory and Gramscian approaches to international relations continue a Marxian or post-Marxian tradition: on World Systems theory, see Immanuel Wallerstein, *After Liberalism* (NY: The New Press, 1995); on Gramscian approaches, see Robert Cox, et al., eds., *The International Political Economy of the Future* (London: Zed Press, 1995) and Ankie Hoogvelt, *Globalization and The Postcolonial World: The New Political Economy of Development* (Baltimore, MD: Johns Hopkins University Press, 1997) and for a Gramscian approach to democracy promotion, see Robinson, *Promoting*

comparative politics, the commonly cited divisions in terms of approach or method are structuralism (or institutionalism), rational choice and cultural approaches.<sup>70</sup> This project for the most part avoids consideration of grand paradigmatic debates, and it attempts to do so not by adopting a particular paradigm, but rather by maintaining a focus at what can termed mid- or meso-level and, to a lesser extent, micro-level theory.<sup>71</sup> One common approach to theoretical proliferation and paradigmatic competition would be to construct different, but relatively "pure" paradigmatic or theoretical explanations of a phenomenon, and then compare the explanatory power of, say, a rational choice versus a cultural explanation of democratization and transition outcome. This project takes a different tack and, at least initially, focuses at the level of specific hypotheses that may be drawn from any theoretical tradition and applied or tested against empirical cases. It is thus eclectic, but also potentially synthetic, in that the best explanation for the case studies and for a broader set of cases may combine elements from different theoretical approaches in an additive or synergistic fashion. There are trade-offs inherent in this approach: it is admittedly less parsimonious than more paradigmatic approaches. However, given the

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*Polyarchy: Globalization, US Intervention and Hegemony* (fn.19). In *International Relations as a 20th century discipline, the exporting democracy debate could be seen as a key topic within the broader debate between realism and its main competitors, which are variously defined as idealism, liberalism, globalism or cosmopolitanism: see Charles W. Kegley, Jr., "The Neoidealist Moment in International Studies? Realist Myths and the New International Realities,"* *International Studies Quarterly*, Vol.37, no.2 (June 1993): pp.131-146, and Charles Kegley, ed. *Controversies in International Relations Theory: Realism and the Neoliberal Challenge* (New York: St. Martin's Press, 1995); Steve Smith, "The Self-Images of a Discipline: A Genealogy of International Relations Theory", pp.1-37 in Ken Booth and Steve Smith, eds., *International Relations Theory Today* (University Park, PA: Pennsylvania State University Press, 1995); and Alan Gilbert, *Must Global Politics Constrain Democracy?: Great-Power Realism, Democratic Peace and Democratic Internationalism* (Princeton, NJ: Princeton University Press, 1999). For an overview of approaches from the perspective of historians of American Foreign Policy, see Michael J. Hogan and Thomas Peterson, eds., *Explaining the History of American Foreign Relations* (Cambridge: Cambridge University Press, 1991).

<sup>70</sup> On approaches in comparative politics, see Mark I. Lichbach and Alan S. Zuckerman, eds., *Comparative Politics: Rationality, Culture, and Structure* (Cambridge: Cambridge University Press, 1996); Particular schools of thought that enjoyed prominence in earlier decades and that combined aspects of these approaches, such as modernization theory and dependency theory, could also be said to still influence the study of democratization.

<sup>71</sup> The relationship of these paradigmatic debates to the question of democracy promotion and to future research agendas regarding its impact will be reconsidered in the concluding chapter.

exploratory nature of the project and the lack of well-developed research traditions in this field, a less parsimonious approach is more able to avoid the potential problem of omitted variable bias or casting too small a net.

Nevertheless, as a central organizing principle, this project does attempt to develop what can be called a political process model of the application of political conditionality to a state facing a democratization challenge.<sup>72</sup> Such a model seeks to explain political events by allowing for both structural constraint and human agency or choice within those constraints. It does so by outlining a logical sequence of actions and the points at which structural factors, cultural or ideational factors and intersubjective or strategic factors defined by the actions of others can all constrain the choices that political actors make.<sup>73</sup> The results generated by such a model in terms of predictive theory are largely probabilistic rather than strictly determinate, but that is hardly unusual in the social sciences. This model is meant to be an abstract and plausible theory of conditionality impact that will then be applied to and tested on two empirical cases. Some elements of the model may prove useful while others are provisionally rejected, and the cases themselves may indicate some inductive modifications or additions resulting in a more broadly applicable model. Whether such an approach is successful is of course up to the reader to judge for him or herself.

In practice, this project will focus on a policy involving essentially a coercive demand or ultimatum and the targeted regime's decision on how to respond, whether to comply or not to.

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<sup>72</sup> On the desirability of a synthetic process model, see Frances Hagopian, Review of Lichbach and Zuckerman, eds., *Comparative Politics: Rationality, Culture and Structure* in *Comparative Political Studies*, Vol.31, no.5 (October, 1998): pp.662-69 at p.664.

<sup>73</sup> Such a model follows the call by Karl and Schmitter for a "structured contingency" model of democratic transitions, rather than models of pure contingency and strategic interaction, on the one hand, or structural overdetermination and no agency, on the other. See Terry Karl and Philippe Schmitter, "Modes of Democratic Transition in Latin America, Southern Europe and Eastern Europe," *International Social Science Journal*, Vol.128 (May 1991): pp.269-284.

This approach translates into positing three distinct mechanisms by which aid conditionality as a form of economic sanction could conceivably produce compliance, partial compliance, or indirectly promote the objective of democratization in the target country. These three mechanisms - direct economic effects, signaling effects and legitimacy effects - draw on structural, on rational choice (or psychology of decision-making) and on normative (or cultural and constructivist) hypotheses respectively. The regime's decision on compliance ranges from complete defiance to sham compliance to conversion to democracy on the part of members of the regime (both elite and rank & file or base.) For a prodemocratic opposition movement, responses to both conditionality and regime actions range from acquiescence to various degrees of nonviolent mobilization and protest to possible armed struggle on the part of members of the movement. However, many other factors influence such decision-making and the options for donor, regime and movement strategy. These factors are cast as antecedent and intervening variables with attendant hypotheses on their probable effect on democratization and/or the impact of conditional aid freezes.<sup>74</sup> All hypotheses are summarized very schematically and in name only in the following table and are developed in detail in Chapter 2.

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<sup>74</sup> One factor in particular - the "regime type" or form of authoritarianism of the target regime - is considered in Chapter 2 because it is assumed to be central to most historical institutionalist approaches and to hopefully encapsulate a range of characteristics from the form of elite decision-making to the mechanisms of regime cohesion to the prevailing political culture and the character of civil society. While it is not without value as a predictor of conditionality impact and of the mode and extent of democratic transition, this factor's utility is ultimately judged to be problematic compared to a more specific or fine-grained approach which disaggregates many of the regime characteristics assumed to be effectively aggregated in a regime typology.

## Table 1.2 Summary of Hypotheses in Chapter 2

### **The Primary Hypothesis (H1): Political conditionality applied to foreign aid can promote democratization.**

Specifically, by affecting the balance of power between authoritarian regime and prodemocratic movement (the existence of which is an antecedent condition for most cases of conditionality deployment and impact), proactive political conditionality can:

**H1a** - facilitate a democratic transition attempt where it otherwise would have been suppressed, and, more importantly, cause a successful transition where an attempt would otherwise have failed; and

**H1b** - accelerate and/or change the mode of a transition attempt.

**H1c** - In the absence of a significant prodemocratic movement, aid conditionality is likely to only be effective in cases of extreme aid dependence and crisis (e.g. Mozambique - a case of civil war leading to economic decline and approximately 70% of GNP from aid at the time.)

**H1d** - Absent a prodemocratic movement or extreme dependence on the part of a resistant authoritarian regime, external democracy promotion can only succeed via military intervention and victory or conquest.

### **Three Mechanism of Conditionality (or other prodemocratic sanction) Impact:**

**H2. Direct economic impact**

**H3. The Signaling Effect**

**H4. Legitimation Effects**

### **Regime Interests, Options and Decisions**

**H5. Alternative Interests Protected**

### **Hypotheses from the Skeptical Side of the "Exporting Democracy" Debate**

(designated "SK" for skeptical)

**SK1 - a) Lack of sufficient local political knowledge**

**b) An underestimation of the difficulty of the task**

**SK2 - Perverse effects**

**SK3 - Foreign policy "quagmire"**

### **General hypotheses from the Comparative Politics of Democratization - Intervening Variables for Conditionality Policy (designated "D"):**

**D1. The military/coercive institutions of the state**

**D2. Civil Society**

**D3. Cleavages and Social Identities**

**D4. Democratic History**

**D5. Economic Crisis**

**D6. Regime Type & Factionalism/Decay/Reform**

**D7. Regime Cohesion**

**D8. Trade Internationalism versus Protectionism**

## **Hypotheses on Conditionality Impact Grouped by Mechanism**

### **I. Direct Economic Effects** (hypotheses designated "E" for economic)

#### **A) Target Regime/Economy Variables**

##### **E1. Aid Dependency**

**E1a. Percentage of Aid Affected**

**E1b. Budgetary Dependency**

**E1c. Domestic Substitution**

#### **B) International Financial Context**

##### **E2. International or Transnational Substitution/Alternative Sources**

**E2a. Breadth of Conditionality Coalition**

**E2b. Cost of Finance Alternatives**

**E2c. Bloc Competition**

**E2d. Tradable Assets**

### **II Signaling Mechanism** (designated "S")

#### **A) Donor & International Society Variables**

**S1. Breadth of Conditionality Coalition**

**S2a & b. Competing Donor Interests**

a) (domestic) within donor polities or governments and/or

b) (international) between governments and institutions in a coalition

**S3. International Norms**

#### **B) Policy & Implementation Variables**

**S4. Intensity of commitment, Threat of Escalation and/or Deployment of a "Companion Policy"**

**S5. Intensity of Commitment and "Crafting"**

**S5a. Appropriateness of the Democratic Model & Strategic and Tactical Integration**

**S6. Intensity of Commitment and Patience/Duration of Sanction**

#### **C) International Audience Effects**

**S7. Crisis Perception and International Investor Confidence**

### **III. Legitimation Mechanism** ("L") Target Society Variables: Political Culture & History

**L1. National Political Culture and Nationalist Backlash**

**L2. National Political Culture and Instrumentalism**

Shifting from theoretical to policy terms, this dissertation also seeks to analyze and evaluate two comparable cases of donor policy to promote democratization: Kenya and Malawi. It therefore seeks to assess policy impact both in terms of intended and unintended consequences, to explain important differences in outcomes, and to use the benefit of hindsight to ask if more effective policies might have been devised where outcomes were less positive than hoped for.

## 6. Case selection and methodology: Kenya and Malawi as “Critical” Cases

Crawford (1997) has assessed the issue of political conditionality and its effectiveness in broad terms through the identification and analysis of 29 cases involving four donors (the U.S., the European Union [E.U.], United Kingdom [U.K.] and Sweden) during the post-Cold war period of 1990-96.<sup>75</sup> He finds that conditionality policies have been generally ineffective, having contributed to political reform in only 9 (or 31%) of these cases, and even then only clearly in 5 of those cases (17%.) Crawford argues, however, that further analysis shows that ineffectiveness "is accounted for more by the weakness of the measures imposed than by the strength of recipient governments, questioning the seriousness of donor intent in many cases." He extends his analysis to the question of donor consistency in applying conditionality and argues that the pattern of inconsistency that is revealed "not only undermines policy credibility and legitimacy, but also limits impact and effectiveness."<sup>76</sup> Crawford acknowledges some limitations to his analysis: while progress on democratization and human rights may be relatively clear (although this should not be overstated: debates and a lack of consensus do exist in many cases), the contribution of conditionality policies is not easily isolated. Evaluation inherently brings up issues of counterfactual assessment and making at best an informed judgment: he notes that "such an impact assessment can be undertaken most successfully and most thoroughly through detailed county case-studies, and the lack of depth of the global survey provided here is acknowledged."<sup>77</sup>

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<sup>75</sup> Gordon Crawford, "Foreign Aid and Political Conditionality: Issues of Effectiveness and Consistency," *Democratization*, Vol.4, no.3 (Autumn 1997):69-108.

<sup>76</sup> *Ibid.*, pp.69 and 73-80.

<sup>77</sup> *Ibid.*, p. 72-3. The counterfactual that must be assessed is what the likely political outcome would have been in the absence of donor conditionality. As with all counterfactuals, for which by definition there is no direct evidence, this involves essentially speculation and at best a type of disciplined and systematic extrapolation from the evidence

This dissertation seeks to provide an example of the type of in-depth case-study assessment Crawford calls for and to begin to develop a more systematic look at the impact of conditionality policies through an analysis of donor policy in Kenya and Malawi.<sup>78</sup> Both countries fall within Crawford's subset of cases in which conditionality appears to have had a positive impact: Malawi is one of his two unambiguous success cases, while he classifies Kenya as a case of "modest contribution."<sup>79</sup> The intent in the case studies is not to provide a general answer to the question of whether political conditionality has been effective, for clearly Crawford's approach of looking at the universe of cases is more suited to that question, however lacking in depth or capable of improvement it may be. To extrapolate broadly from the two cases in question would be subject to obvious criticisms such as selection on the dependent variable, possible omitted variable bias or spuriousness and simple lack of generalizability. Rather, given the murkiness of the causal link between conditionality and democratic transition

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at hand. It is worth noting that Crawford's method as presented is primarily correlational rather than causal: he does not spell out his rationales for his estimates of conditionality's impact in the successful cases, and reserves the use of "mini-case studies" to his evaluation of donor consistency in cases of weak or no conditionality policy. A full exposition of Crawford's analysis is found in his *Political Conditionality in Practice: Instrumental and Normative Issues* (Centre for Democratization Studies Working Paper, University of Leeds, 1997) and in *Foreign aid and political reform: a comparative analysis of democracy assistance and political conditionality* (New York: Palgrave, 2001). On the need for in-depth qualitative analysis, see also Carothers, *Aiding Democracy Abroad*, p.340 and Rose, "Democracy Promotion and American Foreign Policy," pp. 199-200. For a partial counterpoint arguing that analysis must be kept simple if it is to be policy-relevant and that a narrow focus on quality of elections is therefore acceptable, see Ben Hunt, "Democratization, International Relations, and U.S. Foreign Policy," pp.275-289 in Hollifield and Jillson, eds., *Pathways to Democracy* (2000, fn. 50). However, the simplicity or utility of the policy conclusions drawn from an analysis are potentially separable from the level of detail in the analysis and can only benefit from improved analytic quality.

<sup>78</sup> Kenya and Malawi get cited fairly frequently as examples of political conditionality, multilateral donor coordination or even preventative/proactive diplomacy, but there is not yet a proper comparative study or even tractable monographs or case studies of reasonable depth that look at these countries with a specific and somewhat systematic view to the impact of donor policy (as opposed to overall histories within a comparative politics tradition: i.e. David Throup and Charles Hornsby's magnum opus *Multi-Party Politics in Kenya* (London: James Currey, 1998), 660pgs. (written largely in 1992-4 but not published until 1998); see also John Lwanda, *Kamuzu Banda: A Study in Promise, Power and Paralysis* (Glasgow: Dudu Nsomba, 1993) and *Democratic Transition in Malawi (1961-1999)* (Glasgow: Dudu Nsomba, 1996); and Richard Carver, book on Malawi [forthcoming].)

<sup>79</sup> *Ibid.*, p. 80. The other success case is that of donor response to the "self-coup" (autogolpe) of Guatemala's President Serrano in May 1993, which was rapidly reversed by a combination of popular mobilization and response

outcomes, examining these two cases at greater depth will provide answers to the questions of whether the policy was in fact responsible to an important degree for any democratic progress, and how it interacted with other factors or actors in the transition attempt. Was conditionality in fact successful, and if so, how and why?<sup>80</sup> Determining why conditionality had the impacts it did in these two cases will provide a better basis for a refined theory that must then be tested against a larger sample of cases.

Crawford has argued that policy impact may have been in large part determined by the strength or weakness of the conditions imposed, the extent of aid affected and by the consistency and credibility of the policy. By these standards, Kenya and Malawi stand out as apparent *prima facie* strong cases simply by virtue of being cases of multilateral conditionality in which all major aid donors agreed to the imposition of conditions through the mechanism of the Donor's Consultative Group meetings chaired by the World Bank for the respective countries. They thus appear to clear one major hurdle in that Crawford and many other analysts argue that unilateral conditionality policies or other forms of unilateral economic sanctions are only rarely effective.<sup>81</sup> Kenya and Malawi are crucial cases for assessing the potential effectiveness of political conditionality because they both belong to the small set of apparent successes, albeit with important differences between them, and because they are both broadly multilateral. On the other hand, while they may be crucial cases for the set of aid conditionality cases, they may also enjoy the status of outliers or deviant cases for the set of sanctions as a whole, if recent criticisms

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by donors and the OAS that quickly eroded his support within the military and forced his resignation. The two other cases of modest but clear contribution, according to Crawford, were Zambia and Haiti.

<sup>80</sup> As Van Evera argues, "Overall, large-n methods tell us more about whether hypotheses hold than why they hold. Case studies say more about why they hold": see Stephen Van Evera, *Guide to Methods for Students of Political Science* (Ithaca: Cornell University Press, 1997), p.55.

<sup>81</sup> The increased effectiveness of multilateral as opposed to unilateral sanctions is actually the subject of considerable debate, and various efforts to operationalize and evaluate this variable have found that, despite

about the real effectiveness of sanctions are correct (i.e. they work less than 5% of the time, and existing theories are therefore wrong or mis-specified), and if they in fact prove to be cases of sanction success. They are also distinctive in being proactive cases in that the policies sought to induce well-established authoritarian regimes to democratize, rather than to react to instances of democratic backsliding by seeking to restore a democratic government that had just been overthrown or undermined. The proactive cases again provide the stronger test of the impact of conditionality because the backsliding cases arguably confront the easier task of restoring democracy in a country that had already crossed the democratic threshold.<sup>82</sup>

Methodologically, the examination of two cases displaying a common independent variable (political conditionality) and a sufficient degree of difference on the dependent variable (democratization) will broadly follow the form of controlled comparison described by J.S. Mill's "method of difference": the search is primarily for the intervening variables that determine whether, and if so how, conditionality is successful as a causal factor in democratization. In addition to the method of controlled comparison, the case studies will also employ the congruence and process tracing methods: both methods can help assess the explanatory hypotheses linking conditionality and democratic outcome and the hypotheses relating to

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apparently sound theoretical reasons for presuming their effectiveness, multilateral sanctions in general have been less effective. This controversy and how it relates to aid sanctions in particular will be explored below in ch. 2.

<sup>82</sup> For an assessment of international responses to democratic backsliding in the form of coups or renewed authoritarianism and failed transitions in the form of aborted or stolen elections, see Morton H. Halperin and Kristen Lomasney, "Guaranteeing Democracy: A Review of the Record," *Journal Of Democracy*, Vol. 9, no.2 (April, 1998): pp. 134-47.

The argument for the proactive cases being stronger tests follows this logic: in testing a hypothesis in which a higher value in an independent variable (IV) (e.g. conditionality) is posited to produce a higher value in a dependent variable (DV) (e.g. democracy), a test in which a high value IV is introduced to a low-value DV provides the strongest test. Tests of low or high IVs on already relatively high DVs have less range for potential effect and confront difficulty in sorting out the effect of the IV versus the factors that caused the already high DV. Tests of low-level IVs on low-level DVs can provide strong positive results if they produce a major increase in the DV, and the effects of the weak IV can be sorted out from other potential factors with confidence. Tests of high IVs on low DVs should produce the clearest test in terms of potential potency of the IV, greater range for potential effect in the

intervening and antecedent variables. Process tracing in particular will be key to explanation of the decision-making of political actors. Evidence will be drawn from interviews with the actors or contemporary close observers of the respective transition processes when available, supplemented by press accounts and other secondary sources. Counterfactual analysis, speculative yet disciplined in terms of plausible alternatives, will also be used to check for possible alternative explanations and hypotheses, and particularly to evaluate alternative policy choices. At the current largely exploratory stage, all these methods may fall short of the degree of methodological sophistication or data availability required for definitive test of theory at the case-study level.<sup>83</sup>

### ***7. The Cases: Kenya and Malawi - An Historical Overview, 1990-2000***

In December 1991 in the case of Kenya, and May 1992 in the case of Malawi, groups comprising virtually all major aid donors to these countries met at the respective donor Consultative Group (CG) meetings chaired by the World Bank in Paris. At these meetings, the donors declined to make new aid commitments as would have normally been expected. They explained their actions as due to concerns over the political and human rights situations in the prospective recipient countries (and in the Kenyan case, due to economic concerns involving structural adjustment as well).<sup>84</sup> These moves to "freeze aid" were both intended and widely seen as efforts to push the one-party regimes of presidents Daniel Arap Moi in Kenya and Hastings

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DV, and greater ease in separating the effect of the IV from other background or constant factors that had presumably caused a low DV.

<sup>83</sup> On case-study methodology, see Stephen Van Evera, *Guide to Methods for Students of Political Science* (Ithaca: Cornell University Press, 1997), chs. 1 & 2 and the extensive citations therein.

Kamuzu Banda in Malawi to stop the repression of pro-democracy movements and to initiate or allow processes of political reform leading to democratization in their countries. Both were widely seen as crucial to pressuring Moi to legalize opposition parties and hold competitive multiparty elections in December, 1992 and Banda to first hold a referendum on one-party rule in April, 1993, followed by multiparty elections in May of 1994.

Here the cases diverge. Moi and his party KANU won the '92 elections in Kenya with only 37% of the vote against a divided opposition. Banda and his Malawi Congress Party (MCP) were defeated in both the referendum and the elections and were peacefully succeeded by a new government under Bakili Muluzi and his United Democratic Front. Furthermore, in Kenya, the 13 month period between the legalization of the opposition and the elections were marked by the eruption of ethnic violence in the Rift Valley leading to 1,500 deaths and the displacement of some 300,000 people, violence that was widely understood to be instigated by KANU. The elections in both countries were accepted by international monitors and ultimately by the donors as being reasonably free and fair and as important first steps in the consolidation of democracy. However, in Kenya the opposition initially rejected the results as fraudulent, and was convinced or pressured into accepting the outcome in the interest of peace and stability by the donors and domestic actors such as the churches. Subsequent evidence and analysis suggest that while Moi may have won the Presidency by a slim plurality, KANU attained its parliamentary majority only thanks to fraud in a dozen or so key districts.

Politics in Kenya after the 1992 election were marked by continued significant ethnic violence that was widely seen as government-instigated, and relations between the KANU

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<sup>84</sup> CGs are in large part pledging and coordination sessions in functional terms: see World Bank Operational Directive on CGs and web source. Historical facts in the following summaries of events in Kenya and Malawi will not be referenced here: see the citations in the detailed case studies in chapters 3 and 4.

regime and the opposition continued to be very tense throughout Moi's five year term. Political violence erupted in 1997 as the government suppressed opposition demonstrations in Nairobi that called for a boycott of that year's elections unless they were preceded by legal and constitutional reforms to allow for fair competition. Ethnic violence by KANU supporters erupted in a new area of the country near Mombassa. The Moi regime's relations with donors were also tense before and after the 1992 elections, but aid began to flow again in late 1993 as the KANU regime adopted more elements of the structural adjustment agenda. Operations by the World Bank and IMF appeared to return to "normal" by 1995-96. However, in July 1997, simultaneous to the emerging political crisis over the elections, the IMF suspended its structural adjustment program for reasons of noncompliance with economic conditionalities and a failure to address corruption. This triggered the suspension of cofinancing arrangements with the World Bank and bilateral donors in what was widely seen due to timing and the issue of corruption as "political conditionality, round 2."

A coalition of civic groups continued to call for full constitutional reforms before any elections and they received inconsistent support from the opposition political parties. Donor governments, on the other hand, advocated for a minimum set of reforms needed for "free and fair elections" to proceed on schedule. Last-minute concessions by the KANU regime succeeded in splitting the opposition into radical or "purist" versus moderate factions and in satisfying donor countries: constitutional reforms were promised after the elections. This paved the way for elections in December 1997 which were once again won by Moi and KANU (Moi taking 40% of the presidential vote against an even more divided opposition than he confronted in 1992), and once again accepted with some hedging by the donor countries. But, also once again, evidence suggests that KANU maintained its parliamentary majority through carefully targeted

fraud in key districts. The constitutional reform promised for after the 1997 election had still not transpired by early 2001: since 1998, there have been several cycles of stalemate and apparent compromise over the process of revision only to reach new stalemates before any substantive progress has been achieved. Despite the "official" acceptance of the elections by both donors and opposition in 1992 and 1997, Kenya is often cited as a case of failed or, more precisely, coopted transition to democracy. Moi is seen as a wily authoritarian incumbent who has succeeded in manipulating the new rules of the game so as to both undermine and divide his domestic opposition and outwit the donors and the international community, while even enjoying a degree of new democratic legitimacy.

Malawi, by way of contrast, is on most every list of successful democratic transitions in Africa, including the shorter and more stringently qualified ones<sup>85</sup>. The relatively peaceful transition from what had been viewed as one of the most tightly-run authoritarian regimes in Africa during the Banda years (i.e. since independence in 1963) is often treated as a curious surprise when it is remarked upon specifically (which is rarely - good news seems to be no news for the most part.) Donor conditionality is usually seen as a key pressure in convincing Banda to hold a referendum on the future of one-party rule (a vote he apparently thought he would win), although some five months passed between the donors' Consultative Group and Banda's decision. However, as in Kenya, the voting pattern in Malawi revealed a country with profound cleavages and produced a divided opposition and ultimately a minority government. Whereas in Kenya voting split along predominately ethnic lines, in Malawi the split was along regional lines that don't fully correspond to ethnic divisions with the three major parties each dominating a region of the country. Banda's MCP won 35% of the vote and dominated the central region. The two

opposition parties, Muluzi's UDF (45% of the vote, dominating the South) and Chakufwa Chihana's AFORD (just under 20%, dominating the North) initially entered into a coalition government, but this arrangement then fell apart in 1996. These regional divisions have continued to drive Malawian politics and to complicate the consolidation of its new democracy. Having just drafted a new constitution in 1995 after the transition election, the parties in Malawi managed to find all the weak points in its provisions in a very short time and to produce a serious impasse involving an opposition boycott of Parliament and the manipulative use of the courts by the minority UDF in order to maintain a measure of legislative legitimacy and tactical advantage. Following Banda's death in 1997 and in the run-up to the June 1999 elections, the UDF then apparently used patronage and state resources to entice MCP parliamentarians to defect to the UDF. This patrimonialism plus the apparent politicization of the courts and the electoral commission through government manipulation were widely viewed as not boding well for democratic consolidation. Muluzi and the UDF went on to win the 1999 elections by the slimmest of margins (52% for Muluzi as president and initially only 93 parliamentary seats out of 193<sup>86</sup>), and the election was followed by minor opposition violence in which only two people were killed, but several mosques were destroyed. (Muluzi is a Muslim head of state in a 75% Christian country). In addition, there were unsuccessful opposition attempts to challenge the fairness of the election in the courts. Opposition parties, many sectors of civil society, and even a Supreme Court justice have called for constitutional reform.

The donors' response to the peaceful transition from Banda's one-party state to a democratically elected UDF government was extremely supportive and generous. The United

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<sup>85</sup> E.g., Bratton and van de Walle list to Joseph? compare with Freedom House?

Nations Development Program spearheaded an extensive dialogue with the new government in 1994-6 that produced an ambitious plan for democracy consolidation. By 1999, however, much of the consolidation plan remained unfulfilled (e.g. local district elections were repeatedly postponed) or had progressed at a snail's pace due either to lack of resources or lack of commitment or both. After four years of strong support for the UDF government, a degree of disillusionment set in, and donors began to rethink their strategy and to adopt a "wait and see" approach until after the elections. After the Muluzi victory, aid resumed and some very modest progress was arguably achieved: local elections were postponed again, but then finally held in April 2000 with a turnout of only 14%. This was a severe disappointment to both donor and civil society democratization promoters and a marked contrast to the 94% turnout for the national elections. Donor pressure was cited as largely responsible for President Muluzi's dismissal of his entire cabinet in December, 2000 due to corruption allegations. Three ministers were subsequently indicted, including the foreign minister who was widely viewed as the unofficial number two leader in the UDF party after Muluzi, and the remaining ministers were reappointed. Nevertheless, compared to the more problematic status of transition attempts in many neighboring countries, particularly Zambia and Zimbabwe, not to mention the disasters in Rwanda, Burundi and Congo/Zaire, Malawi remains a relative success story in terms of stability and nonviolence and is viewed by donors as a country making modest progress on the long road to democratic consolidation.

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<sup>86</sup> The opposition AFORD-MCP alliance initially won 95, independents won 4 seats and 1 seat election was postponed. The UDF did ultimately cobble together a slim 97 vote majority thanks to enlisting the support of some of the independents and winning several by-elections.

### 8. *The Cases in Policy Context and Academic Debate*

In broader comparative and policy contexts, the cases of Kenya and Malawi have been cited as examples of donor cooperation, of proactive policy and potential preventative diplomacy, and of two of the major types of transition outcomes in Africa - co-optation vs. success. To take one major recent example, the *Final Report of the Carnegie Commission on Preventing Deadly Conflict* published in December 1997, argues:

One particularly potent inducement for effective preventive action may be "conditionality," or the forging of links between responsible, nonviolent behavior and the promise of greater integration into the community of market democracies.... In several countries, for example Malawi and Kenya, bilateral and international financial aid was suspended for a time in an effort to promote democratization. Associating assistance with responsible government in this way may give the international community a powerful source of leverage with those who persistently use violent means to pursue their aims, provided that such policies are applied with consistency in similar situations.<sup>87</sup>

Kenya and Malawi are often cited in passing simply as examples of donor initiatives to promote democratization, but without any concern or question as to their effectiveness in doing

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<sup>87</sup> Carnegie Commission on Preventing Deadly Conflict, *Preventing Deadly Conflict: Final Report* (Washington, DC: Carnegie Commission on Preventing Deadly Conflict, December, 1997), p. 57. Unfortunately, their only reference to provide background or support to their advocacy of conditionality is to a 1994 paper that looks at the Kenyan case up until mid-1992 (i.e. after ethnic violence by the government had begun, and the opposition had splintered, but before the election), that is fairly skeptical about the likely effectiveness of conditionality to generate real democratization and that thus provides little if anything to support the Commission's argument (hence its ambiguous quality - strong, yet tentative). See *ibid.*, fn. 43, pp. 203-4 referring to David Gillies, "Human Rights, Democracy and Good Governance: Stretching the World Bank's Policy Frontiers.," pp. 101-141 in Jo Marie Griesgraber and Bernhard G. Gunter, eds. , *The World Bank - Lending on a Global Scale* (London/Chicago: Pluto Press/ Center of Concern, 1996), Vol. 3 in the Rethinking Bretton Woods series. The Report does also cite John Stremlau and Francisco Sagasti, *Preventing Deadly Conflict: Does the World Bank Have A Role?* (Washington, DC: Carnegie Commission on Preventing Deadly Conflict, 1998) now available at: <http://www.wilsoncenter.org/subsites/ccpdc/pubs/world/frame.htm>, but which adds no sustained discussion of the Kenya or Malawi cases, citing Gillies again.

so.<sup>88</sup> Alternately, they are cited as successful examples of donor pressure but without any analysis or empirical support for this claim.<sup>89</sup> However, as has already been noted above, Kenya is often cited as an example of a failed, manipulated or coopted transition or even as a case of donor acceptance of a fraudulent election in 1992<sup>90</sup>: there is thus some real debate over the nature of the Kenyan case.<sup>91</sup> Even within efforts to look at the Kenyan transition case in some detail, the role of donor policy is often simultaneously credited with being decisive in terms of the Moi regime's decision to legalize the opposition parties and left totally unanalyzed as an exogenous

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<sup>88</sup> E.g., Jochen Hippler, "Democratization of the Third World After the End of the Cold War," pp. 1-31: 22 and Basker Vashee, "Democracy and Development in the 1990s", pp. 195-204: p. 202, both in Jochen Hippler, ed. *The Democratisation of Disempowerment - The Problem of Democracy in the Third World* (London: Pluto Press, 1995.)

<sup>89</sup> E.g., John Harbeson, "Africa in World Politics: Amid Renewal, Deepening Crisis", pp. 3-20 in Harbeson and Donald Rothchild, eds., *Africa in World Politics: Post-Cold War Challenges*, 2nd ed. (Boulder: Westview, 1995): 11

<sup>90</sup> On Moi's success at manipulation, see Nicolas van de Walle, "The Politics of Aid Effectiveness," pp.-232-50 in Steve Ellis, ed., *Africa Now* (London/Hague: Dutch Ministry of Foreign Affairs/ James Currey, 1996); Thomas Callaghy, "Africa and the World Political Economy: Still Caught Between a Rock and a Hard Place," pp. 41-68: 61-2 in Harbeson and Rothchild *Africa in World Politics*.

<sup>91</sup> E.g. Richard Joseph, "Africa, 1990-1997: From Abertura to Closure", *Journal of Democracy* Vol. 9, no. 2 (April 1998): " In Kenya, President Daniel Arap Moi's resort to political violence as a means of retaining power while making piecemeal concessions to the opposition is well know. Therefore I shall discuss the lesser known but highly similar cases of Cameroon and Togo...." Joseph thus takes Kenya as a prime example of the cooptation of democratization into mere "virtual democracy" and of the trend which has "effectively dashed all hope for a deepening and broadening of the abertura" (democratic opening.) Compare with Joel Barkan and Njuguna Ng'ethe, "Kenya Tries Again" evaluating the 1997 elections in the same journal issue:

(The) stalemate (in Kenya) might now be broken, but it is hard to predict whether it will give way to an increasingly intense struggle between Moi and his opponents - possibly even leading to civil war - or to wide-ranging negotiations that establish the constitutional framework for democracy.... The elections were carried out in a more mature environment in 1997 than in 1992.... Prospects for a full transition to democracy will depend heavily on the Moi succession and constitutional reform.... Kenya may now have entered what Guillermo O'Donnell and Philippe Schmitter would describe as the "pact phase" of its democratic transition. What is different about Kenya, and other countries where incumbents have used multiparty elections to fend off donor pressure while staying in power, is that the negotiation process has come only after elections. The future of democracy in Kenya, as elsewhere, depends on more than electoral politics, important as elections might be to the transition. The agenda is much wider and deeper. But the protracted electoral process of 1996-97 has served as a welcome catalyst encouraging Kenyans to renew their pursuit of that agenda to its logical conclusion.

While it is important not to overstate the differences between these authors, for they agree on much, it is clear that Joseph sees the Kenyan case as fitting a pattern of the stalling and closure of democratization, while Barkan and Ng'ethe, despite some major uncertainties, see a strong possibility for Kenya's difficult transition to end in success. See also Joel Barkan and David F. Gordon, "Toward Democracy in Kenya," *Christian Science Monitor*, February 4, 1998, p. 20 and E. Gyimah-Boadi, "The Rebirth of African Liberalism" also in *Journal of Democracy* Vol.9,n.2.

factor that is somehow taken for granted<sup>92</sup>, while in others it is virtually ignored.<sup>93</sup> Malawi, on the other hand, has been cited as an example of good donor coordination in-country and as an exemplar of donor-government cooperation in the consolidation of the transition to democracy.<sup>94</sup> Finally, in much of the literature on political conditionality that was written in the early part of the decade when the concept first gained attention, predictions are made about the likely course of events in Kenya and/or Malawi which have simply been proven wrong in historical hindsight.<sup>95</sup> This diversity of interpretation of the two cases suggests that before deducing a theoretical explanation that can encompass the processes and outcomes they represent and that might then be generalizable to other cases, it is important to establish a sufficient empirical interpretation of the historical facts.

### ***9. Roadmap: An Overview of the Chapters of the Dissertation***

The chapters that follow will develop a theoretical framework for analyzing the Kenyan and Malawian cases, examine each case in depth, and consider the applicability of the findings for the theoretical framework and its hypotheses. Chapter 2 defines basic terms such as democracy and democratization, and outlines a model of the impact of aid conditionality on a

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<sup>92</sup> B.A. Ogot, "Transition from Single-Party to Multiparty Political System, 1989-93", pp. 239-61 in B. A. Ogot and W.R. Ochieng', eds., *Decolonization and Independence in Kenya, 1940-93* (London: James Currey, 1995): 245;

<sup>93</sup> E.g. Githu Muigai, "Ethnicity and the Renewal of Competitive Politics in Kenya," pp. 161-196 in Harvey Glickman, ed., *Ethnic Conflict and Democratization in Africa* (Atlanta: African Studies Association, 1995); S.N. Waruhiu, *From Autocracy to Democracy in Kenya* (Nairobi, 1994), pp. 97-8.

<sup>94</sup> See *Country Level Donor Coordination Process on Governance and Democratisation - The Case of Malawi* (Paris: OECD/DAC, November, 1995), *Malawi National Democracy Consolidation Programme* (Lilongwe: UNDP/Govt. of Malawi, draft May 10, 1997), *Final Report of the DAC Ad Hoc Working Group on Participatory Development and Good Governance, Part I* (Paris: OECD/DAC, 1997).

<sup>95</sup> E.g., Mark Robinson, "Will Political Conditionality Work?" in *IDS Bulletin* Vol.24, no. 1 (January 1993), 58-66. Regarding Malawi, he writes: "There is little as yet to inspire confidence among Western donors that the

transition attempt by developing hypotheses regarding the antecedent and intervening variables that affect the impact of conditionality and the outcome of the transition attempt. Chapter 3 outlines the political history of Kenya and Malawi from independence in the early 1960s up until immediately before the beginning of the democratization attempts starting in 1990. The chapter then analyzes the two case countries to determine their status or starting point for the hypotheses developed in Chapter 2: it develops a baseline portrait of each country including predictions for the likely impact of certain factors on the subsequent democratization attempt. Chapter 4 then examines the case of Kenya from approximately 1990 to 2004, while Chapter 5 considers Malawi over the same period. Chapter 6 concludes with a systematic assessment of the findings of the case studies for the theoretical hypotheses developed in Chapter 2 and “baselined” in Chapter 3. It also offers some concluding comments on the relevance of the findings to the exporting democracy debate as a whole and for future research on the wider universe of cases of conditionality and of potentially democratizing countries that are candidates for a conditionality policy.

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government will make decisive moves in favor of democracy, but while the Life President remains in power, many are pessimistic about the immediate prospects for any substantive political reforms." (p.65.)

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APPENDIX TO CHAPTER 1:  
HISTORICAL WAVES OF DEMOCRATIZATION AND REVERSE WAVES

A. TABLE: 127 Countries, 1828-2001

B. COMMENTS

C. FOOTNOTES

## A. HISTORICAL WAVES OF DEMOCRATIZATION AND REVERSE WAVES

Category	# of Countries (≈YRS.->)	FIRST WAVE 1828-1926	FIRST REVERSE 1922-42	SECOND WAVE 1943-62	SECOND REVERSE 1958-75	THIRD WAVE 1974-1990	THIRD:? EXTEND/ REVERSE 1990-2001
A	10						
B	1						
C	10						
D	5						
E	4						
F	3*						
G	9						
H	8						
I	2*						
J	2						
Jb	3*						
K	12						
L	4						
M	11						
N	9						
O	17						
P	7						
(Q	10)						
Democratic Countries		33 (max)	11 (min)	52 (max) <sup>1</sup>	30 (min)	67 (max)	87 (min)
Net Change		+ 33	- 22	+ 41	- 22	+ 37	+ 20

Total Countries = 93 through category N ( 117 through P; 127 through Q )

	Democratic or semidemocratic phases
	Nondemocratic phases of previously democratic countries
	Countries still in transition or struggle for democracy in 2001 – categories O & P
	Countries claiming adherence to democratic values - see category Q

#### Classification of Countries in Democratic Waves and Reverse Waves:

(\* designates a change from Huntington's 1990 classification for an individual country or an entire category)

- A) Australia, Canada, Finland, Iceland, Ireland, New Zealand, Sweden, Switzerland, United Kingdom, United States
- B) Chile
- C) Austria, Belgium, Colombia, Denmark, France, West Germany, Italy, Japan, Netherlands, Norway
- D) Argentina, Czechoslovakia, Greece, Hungary, Uruguay
- E) East Germany, Poland, Portugal, Spain
- F) Estonia\*, Latvia\*, Lithuania\* - (all three reached independence and democracy post-1991.)
- G) Botswana, Costa Rica<sup>2</sup>, Israel, Jamaica, Malaysia<sup>3</sup>, Malta, Sri Lanka, Trinidad and Tobago, Venezuela
- H) Bolivia, Brazil, Ecuador, India, South Korea, Philippines, Turkey, Cyprus (Greek section)\*<sup>4</sup>
- I) Nigeria\* (returned to democratic rule in 1999, but still transitional: FH rating 4, partly free), Peru\*<sup>5</sup>
- J) Burma/Myanmar, Lebanon (see below for category Jb)
- K) Bulgaria, Dominican Republic<sup>6</sup>, El Salvador, Guatemala, Honduras, Mongolia, Namibia, Nicaragua, Panama, Papua New Guinea, Romania, Senegal
- L) Congo/Brazzaville, Gambia\*, Sudan, Pakistan\* - <sup>7</sup>

#### *Transitions since 1990 -- Updating Huntington's 1991 Table in **The Third Wave**.*

##### **Jb) Redemocratizations:** Ghana\* (3), Guyana\* (2), Indonesia\* (3.5) -

All in category J in 1990, and all transitioning to elected governments in the late 1990s (2000 FH ave. score in parentheses), except Guyana arguably in 1992 (but with some instability since then).

**Other post-1990 Third wave redemocratizations** include categories F and I, where the entire original category has redemocratized since 1990, plus Suriname in category M. Earlier Third Wave redemocratizations are comprised by categories B, D, E, H.

##### **M) "New" Transitions:** Benin, Croatia, Mali, Mexico, Samoa, Slovakia<sup>8</sup>, Slovenia, South Africa, Suriname\*<sup>9</sup>, Taiwan, Thailand. -

(Freedom House designates as "Free", as electoral democracies and average FH score  $\leq 3$ .) None of these countries appeared on Huntington's 1990 chart except Suriname, although some of them have histories including periods of democratic or electoral government (notably Slovakia, South Africa - albeit racially restricted, and Thailand; see also footnote on Suriname) These countries clearly pass Freedom House's threshold for "free liberal" democracies.

**N) New and Unconsolidated Transitions:** Bangladesh, Central African Republic, Macedonia, Madagascar, Malawi, Moldova, Mozambique, Nepal, Paraguay.

(FH designates "Partly Free", electoral democracy, ave. FH score: 3 or 3.5.) These countries lack any history of democracy, but they stand at the cusp of FH's threshold for free liberal democracies, and thus clearly fall in the broad category of democracy.

**O) Contested or Partial Transitions:** Albania, Armenia, Cote D'Ivoire<sup>10</sup>, Djibouti, Fiji\*<sup>11</sup>, Georgia, Guinea-Bissau, Haiti\*<sup>12</sup>, Lesotho, Liberia, Niger, Russia, Sierra Leone, Tanzania, Ukraine, Yugoslavia, Zambia.<sup>13</sup>

(FH designates "Partly Free", most as electoral democracies (see footnotes), and ave. FH score from 4 to 5.)

**P) Contested or Stalled Transitions:** Bosnia (5), Gabon (4.5), Iran (6), Kenya (5.5), Kyrgyz Republic (5.5), Uganda (5.5), Zimbabwe (5.5) (2000 FH ave. score in parentheses)

**Q) Countries claiming adherence to democratic values:** Algeria (5.5), Azerbaijan (5), Burkina Faso (4), Egypt (5.5), Jordan (4), Kuwait (4.5), Morocco (4.5), Qatar (6), Tunisia (5.5), Yemen (5.5).

These countries sent official ministerial delegations to the June 5-27, 2000 conference "Towards a Community of Democracies" held in Warsaw, Poland, and signed the final declaration committing them to "respecting and upholding" a detailed list of "core democratic principles and practices." The participation of some of these states of dubious democratic credentials and commitment was a point of controversy at the conference, but at minimum their attendance can be taken as a sign of the desirability of claims to a prodemocratic reputation for the international legitimacy of states. [see *Journal of Democracy*, Vol.11, #4 (October 2000): pp.184-8.] All the states in this category can be described as engaged in attempts at very controlled liberalization from above including some electoral exercises of varying degrees of competitiveness (e.g. totally noncompetitive in Tunisia and Yemen, semi-competitive in Jordan and Egypt.)

**B. Comments:** This table is based on Samuel Huntington's 1990 table (from *The Third Wave: Democratization in the Late Twentieth Century* [Norman: University of Oklahoma Press, 1991, paperback edition 1993]: pp. 14-15.) In addition to updating and expanding it to include transitions (categories Jb, M, N) and events since 1990 (categories O-Q), it also inverts the presentation of categories to make for a visual sequence from earliest transitions to the most recent and even to some noteworthy non-transitions. This categorization represents an attempt to preserve the structure and, where still appropriate, the content of Samuel Huntington's 1990 table charting the Waves and Reverse Waves of Democratization, while also updating it using the best available data (Freedom House's annual survey through 2000 plus more recent events as the

author is aware of them). As such, it is an at times uneasy grafting of two different schemes and analytic intents<sup>14</sup>, but it nevertheless serves as a reasonable approximation for charting the status and progress of the Third Wave. Differences of opinion or of perspective arise over particular classifications or ratings by either Huntington or Freedom House, and I have attempted to address many of these in the classification notes or footnotes (e.g. Fiji in fn. 1, Malaysia in fn.3). More recent events may also make some of the Freedom House ratings out of date and suggest a reclassification for some countries (e.g., perhaps Yugoslavia or Cote D'Ivoire should be further upgraded, Columbia and Malaysia should be downgraded, etc.) Finally, despite serious efforts at methodological consistency over such a large survey, differences over FH ratings are probably inevitable, but they are not pursued here: given my knowledge of Kenya, for example, and given the strength of the democratic movement and of civil society, the role of opposition parties in Parliament, and even the quality of elections there, I find it hard to see how it deserves a significantly lower scoring than Gabon or Burkina Faso or Jordan.

Some general observations and conclusions can be drawn from the revised table. First, the trend since 1990 does not support Huntington's speculation that a Third Reverse Wave of authoritarian reversions could be developing (as noted in footnote 1). The 1990s witnessed not only the 19 new transitions of categories M and N (plus redemocratizing Suriname in M), but also the 8 redemocratizations in categories F, I, and Jb. This compares with only 4 clear cases of authoritarian reversion (category L, of which Sudan is actually pre-1990), only 2 remaining reversions from the Second Reverse wave (category J) that failed to redemocratize by 2000 (none remaining from the First Reverse Wave), and 2 cases of faltering, but not fully reverted transitions (Fiji and Haiti in category O). This is not to obscure the fact that many attempted transitions in the 1990s are either not fully consolidated or at best only partial: FH scores are used to provide a qualitative differentiation between countries in categories M through P in particular, and those in O, P and Q are not included in any of the tallies of democratic countries on the chart.

Second, democratization tipped the balance during the 1990s to make democracy, and even full-fledged "free" and liberal democracy as defined by Freedom House, the dominant form of political system on the planet. Whereas Huntington writing in 1990 when his tally of democracies and semi-democracies stood at 59 could state that "approximately two-thirds of the countries of the world did not have democratic regimes"<sup>15</sup>, by early 2001 democracies have come to predominate. In addition to the 87 countries tallied above, Freedom House also scores some 24 additional micro-states ranging from Andorra to Nauru to Vanuatu as electoral democracies with average scores of 3.5 or better (mostly 1s and 1.5s).<sup>16</sup> This yields tallies of 85 free countries, 60 partly free and 47 not free countries, along with a classification of 120 out of the 192 countries of the world (62.5%) as electoral democracies.<sup>17</sup> In terms of population, electoral

democracies were estimated to represent 58.2% of the world population, and free liberal democracies within that group some 38% of the population, versus authoritarian and totalitarian regimes in countries containing some 35.7% of the world population.<sup>18</sup>

### C. Footnotes:

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<sup>1</sup> This number is Huntington's tally from the revised 1993 paperback edition version of the table and does not correspond to the tally from this chart (50). This is because three countries have been shifted to other categories for reasons of economy or logic: Pakistan was in category H in 1990 and is now in category L rather than occupying a category by itself that would properly reflect its Second Wave democratic or semidemocratic experience; Gambia likewise was G, is now L and would also deserve its own pattern/category; and Fiji was J, is now O, plus I have recategorized it as a Third wave transition given that independence occurred in 1970 (not really in either wave chronologically, but closer to the Third). This recategorization is balanced out by the fact that one country has also been added: Cyprus in category H (see below fn.4.) These shifts also affect the tally for the Second Reverse Wave: the chart above tallies only 29 because it omits Gambia (which should still be in category G at this point), and the tally of 30 agrees with Huntington's 1993 tally (thanks to the Cyprus/Fiji swap). The Third Wave 1974-1990 tally of 67 above diverges from both Huntington's 1993 tally of 65 and a straight tally from this chart (also 65) because an accurate tally of countries that had made a transition to democracy between 1974 and 1990 (even if later reversed) involves both the addition of both Greek Cypres and Fiji (versus Huntington), the addition of Haiti and Suriname (versus my categorizations from a 2001 point of view and plus Fiji again), and the subtraction of Congo/ Brazzaville (transition in 1992, but in category L for reasons of economy; versus my chart tally.) The pre-1990 peak of democratization could arguably be pushed further given that a range of other countries had brief periods of democratization or semi-democratic liberalization: these include Bangladesh, Burkina Faso, Djibouti, Ghana, Guyana and Thailand. The tally of 87 and a net change of +20 for the 1990-2001 period of the Third Wave (counting only up through category N) clearly indicates that the wave has been extended. This compares to Huntington's 1993 tally of 61 for a net change of -4 which supported an argument that the Third Reverse Wave may have started in 1990. Despite 4 Third Wave transitions that have clearly reverted (category L), 2 that have destabilized (Fiji and Haiti) and another 22 attempted transitions of uncertain outcome (the rest of categories O and P), this argument has largely been invalidated by the intervening years of transitions.

<sup>2</sup> Costa Rica was one of three countries omitted in the original Huntington table for the 1991 hardcover edition of *The Third Wave* that were added to the version in the 1993 paperback edition - see footnote 6 below on the other two in category K. Haiti was also reclassified from category K to L for the 1993 version.

<sup>3</sup> Huntington's inclusion of Malaysia may not accord with most analysts' definitions of democracy or with the character of the other countries on the chart, but he did intend to include "semidemocratic" countries as well as properly democratic ones, despite the fact that this quickly leads into gray areas and marginal cases. Malaysia was considered "partly free" by Freedom House (FH) in 2000 with a dominant party regime (not considered an electoral democracy) and an average FH score of 5. Freedom House scores countries on two 7 point scales - one representing Political Rights, the other Civil Liberties - with 1 being the highest or most free, and 7 being the lowest. All scores in this table are averages of these two scores for 2000 (from *Freedom in the World 2000-2001* (NY:FH, 2001) unless otherwise noted as being from previous years.

<sup>4</sup> Cyprus was omitted from Huntington's 1990 chart perhaps due to a short-lived coup and the division of the island in 1974, but the Greek section of the island and its internationally recognized government should continue to qualify. Greek Cyprus has had the highest FH rating (1, free) since 1989. The Turkish section of Cyprus is classified as a disputed territory by FH and a 3 ave.FH score in 2000.

<sup>5</sup> Peru\* (4.5) had both undemocratic elections and then the fall of the Fujimori govt. in 2000, followed by apparently fair elections in 2001; it was in category H in 1990. Its classification as a redemocratization may be premature (as of 4/2001.)

<sup>6</sup> Dominican Republic and Papua New Guinea were omitted in the 1991 version of the table and added to the 1993 paperback version.

<sup>7</sup> Category L has actually been transformed into a residual category for countries that democratized during the Third Wave (or were democratic in 1990 in the case of Gambia) and then reverted to authoritarianism post-1989. Gambia was in the G category in 1990 (coup in 1994), Pakistan was in the H category (coup in 1999), and Sudan had already achieved category L status following a coup in 1989. Congo /Brazzaville was not on the 1990 chart, made a short-lived transition in 1992 that fell to a coup in 1997. Congo/Brazzaville's current ruler has promised open and fair elections in 2001, and unlike the other countries in this category, it rose to a "partly free" classification (FH ave score 5) in 2000. Gambia (6, Not free) has likewise scheduled elections for late 2001, and Pakistan's (5.5, Not Free) military rulers have promised an eventual return to democratic government. Sudan's average FH score for 2000 was 7, the lowest possible.

<sup>8</sup> Split from Czech Republic in 1993, but considered to have achieved fully democratic elections and government only in 1998-99.

<sup>9</sup> Suriname\* was in category L in 1990 due to a coup that year, but with a string of elections since 1991, it moved from a FH ave.3/partly free in 1999 to a 1.5/free following the 2000 elections. It has thus oscillated between democracy and military government twice since independence in 1975 (coup in 1980, redemocratization in 1987, and another coup in 1990), but now appears to have achieved a new level of consolidation and its highest FH score to date. Given this history, it has a distinctive pattern and arguably deserves a separate category and graphic more akin to category I or Jb, but it is grouped with other successful Third Wave transitions for the sake of economy.

<sup>10</sup> In 1999-2000, Cote D'Ivoire (5.5, partly free) had a military coup against an authoritarian regime and then problematic elections (in which one major opposition party was excluded) which the coup leader attempted to hijack. These elections were then defended by a popular uprising leading to the installation of a government led by the winner of the elections. Its FH score is higher than the other countries in this category, but the overthrow of an authoritarian military government and its replacement by an elected government distinguishes Cote D'Ivoire from the countries in the following category (P) and arguably warrant assignment to O despite the score. Events in the country are also so recent that it is difficult to make a definitive assessment (as of 4/2001).

<sup>11</sup> Fiji (4.5, partly free vs. in category J in 1990), after free democratic rule for 17 years after independence in 1970, has oscillated since coups in 1987. With new elections and a new constitution in 1999 (2.5, free that year) appeared to have put that instability behind it until a new coup in 2000. I have reclassified Fiji's from a Second Wave to a Third Wave transition - see footnote 1 above.

<sup>12</sup> Haiti\* (5, partly free) was in K in 1990 after transition that year, but then experienced a coup in 1991, reinstallation of President Aristide in 1994, and problematic elections and governance since then.

<sup>13</sup> Six countries in category O - Cote D'Ivoire, Fiji, Lesotho, Tanzania, Yugoslavia, Zambia - are not designated as 'electoral democracies' by Freedom House, despite the fact that all of them hold elections and have active opposition parties (see footnotes above for Cote D'Ivoire and Fiji). Tanzania and Zambia are designated as "dominant party" polities. Lesotho is classified as "transitional/post-conflict" given the SADC mandated intervention by troops from S. Africa and Botswana following post-election violence in 1998, but its elected government is still in power and new elections are promised. Yugoslavia has been upgraded post-1999 given the fall of President Milosevic, the election of a democratic coalition led by

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President Kostunica in 2000 and local elections in Serbia, and it should probably be given the electoral democracy designation.

<sup>1414</sup> I have not attempted any thorough reconciliation of whether the chart accurately reflects which wave or phase a major transition or reversion occurred versus what the dominant political form for a given country was for the historical period designated for that phase: for the most part, the former description or criterion applies. My split categories (I and Jb) are compromises in this regard. I have concentrated in making the chart as accurate as possible as of April, 2001 and therefore on country status for the 1990-2001 Third Wave Extension period, and as my footnotes indicate, I have economized on the number of categories and historical patterns that are reflected in the chart ( - but probably produced more footnotes in the process.)

<sup>15</sup> *The Third Wave: Democratization in the Late Twentieth Century* [Norman: University of Oklahoma Press, 1991, paperback edition 1993]: p. 294. His tally rose to 61 by the 1993 edition.

<sup>16</sup> Three micro-states are already on Huntington's chart - Fiji, Malta and Trinidad & Tobago - and have been left on it. It is a noteworthy point on the relationship of democracy and the size of a state that the percentage of micro-states that are free democracies is higher than the overall percentage: only about 10 countries in that category have scores below 3.5 (27%).

<sup>17</sup> In addition to the *Freedom in the World* volumes for 2000-2001 and 1999-2000 (especially pp.590-95 in the latter), summaries can be found in Adrian Karatnycky, "A Century of Progress: The 1999 Freedom House Survey," *Journal of Democracy*, Vol.11, no.1 (January 2000): pp.187-200; and Aili Piano and Arch Puddington, "Gains Offset Losses: The 2000 Freedom House Survey," *Journal of Democracy*, Vol.12, no.1 (January 2001): pp.87-92. Percentages are : Free - 44.3%, Partly free -- 31.3%, Not free - 24.5%.

<sup>18</sup> *Freedom in the World - 1999-2000*, pp. 591-92. The correct population percentage for electoral democracies is found in the table on p.591, while the percentage cited in the text (62.5% on p.592) appears to be an error transposing the percentage of states for the percentage of population. 5% of the world population is listed as living in 16 more countries with "Restricted Democratic Practice."

## Chapter 2. Theory:

### Definitions, Primary Hypotheses and Causal Mechanisms: A Democratic Transition Model Incorporating Prodemocratic Aid Conditionality

#### *1. Introduction*

In the post-Cold War era, aid donors confront at least a triple agenda: they officially seek to promote economic development in accordance with the most long-standing rationale for aid (albeit now sustainable development with an environmental dimension); they now seek to promote democracy and good governance along with human rights; and they seek to promote peace and stability within recipient countries and therefore internationally.<sup>96</sup> Whereas aid previously was enmeshed in the geopolitics of the Cold War alliances (or, for some donors, “third way” and nonaligned alternatives), now large portions of aid are involved in the geopolitics of humanitarian intervention, peacemaking, conflict prevention and resolution, all in response to the emergence of first ethnic nationalism and then terrorism as the preeminent axes of conflict. On the economic front, the 1980s debt crisis of the less-developed countries’ (LDCs’) in most cases has become an ongoing debt burden syndrome. This debt must be managed and renegotiated through some form of Structural Adjustment Program that brings the IMF and the World Bank into increasingly direct involvement with the economic policies of recipient states. In an optimistic light, democratization and democracy promotion are seen in some cases as part of conflict prevention, in others as crucial parts of the resolution of existing conflicts, and in most cases as a key element of the recipe for good governance and for an escape from the unaccountable, patrimonial and kleptocratic forms of authoritarianism that have beset much of the Third World. In practice, however, the triple

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<sup>96</sup> A more cynical and often accurate view sees aid as a form of trade promotion or as a straightforward attempt to buy cooperation on matters of international policy. Japan is often accused of the former, while Taiwan admittedly engages in the latter in order to enhance its international recognition as a de facto independent country by at least some other states. Given the bilateral practice of “tying aid” to the purchase of donor country goods and services, much aid resembles a type of subsidized trade promotion.

complexities of the donor agenda, of the dilemmas of the LDCs, and of the democratization process all pose challenges for successful democracy promotion.

Prodemocratic aid conditionality seeks to harness the donor power assumed to accompany degrees of recipient dependency on economic aid and finance. To its critics, it is a highly confrontational and interventionist policy out of keeping with the cooperative spirit that is supposed to define the development aid relationship, and as such it creates conflict between donors and recipient or targeted regimes. Furthermore, they argue, democratization itself can pose dangers and breed serious conflicts which cause tremendous human damage and distract countries from the tasks of economic development. In its more populist forms, it can pose problems for the more technocratic and politically insulated elements of the good government agenda. To its advocates, political conditionality simply recognizes the important conflict over democracy that exists within target countries between existing authoritarian regimes and democratic movements and transnationally between regimes and emerging international norms of democracy, human rights and a form of governance which is both legitimate and effective. For advocates, adopting conditionality is taking a principled stand in the midst of these conflicts rather than shirking the duties and dilemmas that may be involved.

As stated in the introductory chapter, the case for prodemocratic aid conditionality confronts considerable theoretical skepticism. First, sanctions "don't work", especially when they are used to coerce authoritarian regimes into courting "political suicide" through liberalization and democratization. Furthermore, comparative politics approaches to democratization, while not as negative as they once were about the role of international factors, have nevertheless generally failed to theorize about them systematically and to integrate them into models of democratic transition. When they are considered theoretically, they are almost always cast in a purely secondary role. Nonetheless, in some cases (most notably the Eastern European "democratic dominoes"), they seem to have been crucial for at least the timing of transition attempts if not always for the outcomes.

In this chapter, I present a plausible theoretical model - a best-case scenario - of how aid sanctions and external intervention more generally could have an important and even decisive impact on democratic transition attempts. I argue that aid sanctions may be more effective than other types of sanctions. They are less likely to be undermined by market forces or countermeasures, and that given pre-existing aid dependence, they may exert strong leverage. Prodemocratic aid conditionality also differs from many other cases of economic sanctions in that it is most likely to be deployed and to be effective when it responds to the existence of reasonably strong domestic prodemocratic movement within the target country. Conditionality policies are thus synergistic and additive with the pressure such movements already put on authoritarian regimes. I also argue that conditional aid embodies both coercive and incentive elements, and that prodemocratic intervention can be most effective in promoting democratization by authoritarian regimes when it combines negative and positive sanctions that address the multiple interests or preferences that authoritarian coalitions have. Doing so increases the chance that democratization is not viewed as "political suicide."

The theoretical requirements for assessing the impact of prodemocratic political conditionality consist of a theory of democratization and a theory of international or external influence. This chapter will present basic definitions, concepts and models that make up the conceptual architecture of democratic transitions. I avoid broad paradigmatic commitments in favor of middle-level theory that draws propositions from various theoretical approaches and yields three different possible mechanisms by which conditionality can work - direct economic effects, signaling effects and legitimation effects. These mechanisms are distinct and can operate separately, but they can also be additive and synergistic. I posit a model of democratic transition through which these mechanisms can operate on an underlying or more structural balance of power between regime and prodemocratic forces.

Sequentially, the chapter begins with definitions of democracy, liberalization and democratization. It then advances a basic balance of power model of contested democratic transitions. This allows for different transition outcomes and for different modes of transition, which are alternative causal pathways driven by different lead actors depending on the balance of

power between regime and opposition. Next, it discusses the general role of international factors in that basic model and central hypotheses drawn from the comparative politics of democratization and the exporting democracy debate. This is followed by a consideration of economic sanctions and the specific mechanisms by which aid conditionality could influence transition attempts.

A Summary of the Primary Hypotheses posited in this chapter can be found in Table 2.1, which follows. Table 2.2 summarizes general hypotheses about democratic transition - a brief attempt to distill a broad "state of the art" summary of the field in comparative politics - that serves largely as a theoretical backdrop to the question of the impact of conditionality on transition processes: this table appears on page 27 after the sections which present these hypotheses. Table 2.3, located in Section C (p. 37), summarizes antecedent and intervening variables and their associated hypotheses related to the mechanisms of political conditionality.

## Table 2.1 Summary of Primary Hypotheses in Chapter 2

The Study Hypothesis (H1): Political conditionality applied to foreign aid can promote democratization.

Specifically, by affecting the balance of power between authoritarian regime and prodemocratic movement (the existence of which is an antecedent condition for most cases of conditionality deployment and impact), proactive political conditionality can:

H.1a - facilitate a democratic transition attempt where it otherwise would have been suppressed almost immediately, and, more importantly, cause a successful transition where an attempt would otherwise have failed; and

H1b - accelerate and/or change the mode of a transition attempt.

H1c - In the absence of a significant prodemocratic movement, aid conditionality is likely to only be effective in cases of extreme aid dependence and crisis (e.g. Mozambique - a case of civil war leading to economic decline and approximately 70% of GNP from aid.)

H1d- Absent a movement or extreme dependence on the part of a resistant authoritarian regime, external democracy promotion can only succeed via military intervention and victory or conquest.

Hypotheses from the Skeptical Side of the "Exporting Democracy" Debate (designated "SK" for skeptical)

SK1 - Prodemocratic policies such as aid conditionality will fail due to a) lack of sufficient local political knowledge concerning the target country and/or b) an underestimation of the difficulty of the task of either democratization or of mounting an effective promotion policy.

SK2 - Prodemocratic policies will produce unintended perverse effects such as backlash within the target societies of such policies, negative spill-overs in neighboring countries and negative trade-offs with other interests of prodemocratic interveners.

SK3 - At an extreme, democracy promotion could produce a foreign policy "quagmire" in which a negative spiral of intervention produces negative effects and further intervention.

Three Mechanism of Conditionality Impact (or of other prodemocratic sanctions):

H2. Direct economic impact: The greater the concrete economic costs actually imposed on the target, the more effective aid conditionality will be in eliciting compliance from the target regime.

H3. The Signaling Effect: The more credibly a conditionality policy signals the emergence of and commitment to enforcement of a new international or donor norm, the greater the shadow of the future on target calculations of costs and the greater the probability and degree of compliance.

H4. Legitimation Effects: The greater the diplomatic, social and legitimation costs of aid freezes, the more target regimes may lose internal cohesion and domestic support, the more prodemocratic oppositions may gain support, cohesion and access to resources, and the greater the probability of compliance and/or democratization.

#### Regime Interests, Options and Decisions

H5. An authoritarian elite (or, more broadly, an entire authoritarian coalition) will be more inclined to give up its monopolization of state power and to democratize to the extent that its other interests are protected and/or realized under the new democratic state.

## 2. Defining Democracy and Democratization

### A. Democracy

Looking to the broadest framework in a possible logical hierarchy, the question or theory of exporting democracy is a subcategory of the broader theory of regime change in which, to use the language of science, some independent variable or variables can be said to cause a change in the dependent variable, in this case the political regime of a given country. Increased specification of the dependent variable differentiates theories of democratization from those of other types of regime transition (or from changes of government within a regime type such as changes of democratic government). For this step in specification, democratization and democracy require definitions. Setting aside for the moment the normative meanings and real or desired consequences of democracy, a stricter empirical definition is possible, and indeed, following in the tradition of Joseph Schumpeter and Robert Dahl, empirically oriented scholars have been converging on what Collier and Levitsky term (somewhat awkwardly) "an expanded procedural minimum definition." In their analysis, this definition has three major components: 1) "fully contested elections with full suffrage and the absence of massive fraud", 2) "effective guarantees of civil liberties, including freedom of speech, assembly, and association", and 3) "elected governments must have effective power to govern" including especially control by the elected government over the military and other organs of coercive power.<sup>97</sup> This definition evolved in response to perceived inadequacies in other

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<sup>97</sup> David Collier and Steven Levitsky, "Democracy with Adjectives: Conceptual Innovation in Comparative Research", *World Politics*, Vol.49 (April 1997), pp. 430-51: p.434. Some of the following commentary and concepts such as augmented subtypes are inspired by an earlier version of the Collier and Levitsky paper, "Democracy with Adjectives: Finding Conceptual Order in Recent Comparative Research", Oct. 25, 1994 revised version of paper presented at the Annual Meeting of the American Political Science Association, New York City, Sept.1-4, 1994 and also draw from Figure 2 of a January, 1996 version, but some of this material was unfortunately not included in the *World Politics* version of the paper. See also the longer version of the paper published as Working Paper no. 230 (Notre Dame, IN: The Kellogg Institute, University of Notre Dame, 1996) cited in the *World Politics* version, fn. 25, p. 439. See also David Collier and James E. Mahon, Jr., "Conceptual 'Stretching' Revisited: Adapting Categories in Comparative Analysis," *American Political Science Review*, Vol.87 (December 1993). On the roots of procedural definitions, see Joseph Schumpeter, *Capitalism, Socialism and Democracy*, Robert Dahl, *Polyarchy*, and Samuel Huntington, "The Modest Meaning of Democracy" (Ch.1, fn.15.)

empirical minimum definitions, notably what they term the "electoralist" definition, which is limited to the first component, and the "procedural minimum" definition, which is limited to the first two.<sup>98</sup>

One important criticism of their first "electoralist" component of this definition is that fraud need not be massive to prevent an election from being fair and to effect the outcome: carefully targeted fraud in even a few electoral districts can make a decisive difference in close elections. While "massive" electoral fraud certainly represents a failure to achieve democracy, a more fine-grained standard would be that any fraud that is sufficient to affect the outcome of the election also represents a failure, and indeed that other problems such as logistical or administrative incompetence can also render an election undemocratic if they are extensive enough to affect the outcome. Full suffrage requires that issues such as voter registration, the execution of ballots and vote counting all function so that the right to vote is realized in every vote being counted.

For the present purposes, the "expanded procedural minimum definition" will be accepted as the empirical minimum definition. As Collier and Levitsky suggest, the various definitions will also be taken to form a spectrum or continuum ranging from clearly non-democratic authoritarian regimes to "diminished" forms of democracy (including the electoralist and unexpanded "procedural minimum" definitions noted above) to the minimum or basic form of democracy and then on to various "augmented", further expanded or maximalist definitions of democracy. "Diminished" forms of democracy do not fulfill the expanded minimum, but although admittedly still transitional or intermediate in terms of democracy and authoritarianism, they nevertheless are best characterized in relation to democratization or an ongoing struggle for democracy. This continuum definition thus has two major thresholds: the transition to electoralism, where competitive elections signal the transition into democratic terrain albeit in imperfect or diminished fashion, and the transition to democracy proper, when the additional qualitative minimum requirements are fulfilled.<sup>99</sup>

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<sup>98</sup> On electoralism, see Edward S. Herman and Frank Brodhead, *Demonstration Elections: U.S.-Staged Elections in the Dominican Republic, Vietnam and El Salvador* (Boston: South End Press, 1984).

<sup>99</sup> Further thresholds can be posited such as "liberal democracy", "consolidated democracy" or a normative minimum (which is bound to be the subject of dispute - the empirical minimum is already arguably a normative minimum as

### *B. Liberalization*

Another term needing definition as a part of this continuum and as a common concept relating to democratization is liberalization. Liberalization will here be defined as the loosening of strict political control by an authoritarian government so as to allow for some degree of political expression, of the exercise of free speech, of freedom of the press, and freedom of association in the organization of independent political, civil or economic associations. The ability to engage in political or other forms of expression can be distinguished, however, from the legally and effectively guaranteed right to do so and from substantive opportunities or rights for political participation and contestation vis a vis the state.<sup>100</sup> We can contrast a liberalized authoritarian regime with other non-liberalized ones, and liberalization often can be a prelude to democratization. Some degree of liberalization is almost always necessary for elections to be in any way competitive, and full liberalization may precede democratizing elections as well as follow them. Full liberalization in terms of the typical enjoyment of basic civil and political human rights is of course one of the requisites for the minimum definition of democracy: fully liberalized electoralism is equivalent to the unexpanded minimum definition of democracy but still lacks the expanded definition's requisite that the elected government have control of the armed forces (cf. Weber's definition of the state having the monopoly of legitimate violence.)

### *C. Qualifications: The limits of procedural definitions*

Having accepted the expanded procedural minimum definition as an empirical definition or threshold of democracy, several qualifications and comments are necessary. First, while this definition is important from an analytic point of view in order to judge outcomes and try to

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well) or a maximalist definition such as "social democracy", "economic democracy" or "libertarian democracy." The latter are all what Collier and Levitsky term "augmented subtypes" in relation to the basic or minimum definition.

<sup>100</sup> It is also important in many cases to distinguish between rights that are supposedly guaranteed by law, but that in practice are not respected or upheld at all.

objectively measure the extent of progress toward democracy that promotion policies such as conditionality may achieve, the more subjective definitions of democracy and democratic legitimacy held by political actors may be crucial factors in the transition process. These definitions may define interests and thresholds of acceptability as well as motivate action and shape strategy.<sup>101</sup> Second, they may also differ in significant ways from each other and from the empirical definition above in being neither minimal nor procedural, in involving significant normative assumptions about the legitimacy of democracy and its relation to other norms such as justice or equality and significant assumptions about the consequences of democracy in terms of policy or distributional outcomes.

Conflict over these assumptions and definitions is typically central to transition politics. In other words, the normative dimension of democracy is not easily evaded by an analytic choice in favor of a procedural minimum definition. The normative power of democracy is unavoidably rooted in some conception of popular sovereignty and political equality that undergirds the current norm of "one person, one vote".<sup>102</sup> Its only other real basis for legitimacy is much weaker, more fragile and less inspirational: that it is "the worst system except for all the others"<sup>103</sup> - that it is calculated to be better than the alternatives.

Democracy is, in the words of W.B. Gallie, "an essentially contested concept" about which conflict is probably inevitable, for political conflict and the attempt to acknowledge and tame it are at the heart of democracy and inspire its procedural expression.<sup>104</sup> Consensus on a procedural

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<sup>101</sup> See in this regard, in terms of local actors, Fred Schaffer, *Democracy in Translation: Understanding Politics in Foreign Countries*. On international actors and the seemingly inevitable ethnocentricity of different democratic states promoting their home concept of democracy abroad, despite rhetoric to the contrary, see Thomas Carothers, "Democracy Assistance: The Question of Strategy," *Democratization*, Vol.4, no.3 (Autumn 1997): pp.109-132, espec. 121-2.

<sup>102</sup> For a provocative argument on the need to "transcend the global project of Schumpeterian democracy" with particular reference to Africa, see Richard Joseph, "Democratization in Africa after 1989: Comparative and Theoretical Perspectives", *Comparative Politics* (April 1997).

<sup>103</sup> Winston Churchill, House of Commons, November 11, 1947 (see ch.1 fn.24.)

<sup>104</sup> W.B Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society* 56 (London: Harrison and Sons, 1956) as cited in Collier and Levitsky, *op.cit.*, fn. 11, p.433.

definition or on the acceptability of a particular election may reflect either principled beliefs about legitimacy or calculations of interest or both.<sup>105</sup>

#### *D. Democratization: Its Definition and Basic Models*

The theory of democratization and to a lesser degree the theory of democracy presented here are both based on an assumption of political conflict. Democratization in the late 20th century is prototypically a process of conflict between a prodemocratic movement or faction and an existing authoritarian government, although other routes to at least the initial constitution of a democratic state are possible. These alternatives include, for example, democratization through the negotiated resolution of civil conflicts in which neither faction deserves to be called a democratic movement. Democratization "from above", that is to say driven and initiated from within an authoritarian regime itself is also a possible path to democracy, although in such cases there may be conflict within the regime between prodemocratic or reform factions and conservative factions who wish to maintain authoritarianism.

Many analysts of democratic transitions within the field of comparative politics have followed the pioneering work of O'Donnell and Schmitter who advanced a general model of transition attempts.<sup>106</sup> Their model focuses on four sets of actors in the form of hard- and soft-line

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<sup>105</sup> At the risk of oversimplification, the major tensions and conflicts regarding conceptions of democracy that are active in current debates are fourfold: 1) Elite Rule/Power Differentiation vs. Citizenship - between a minimalist or "realist" conception of democracy as being essentially a process of referendum and possible replacement in a system of elite rule, on the one hand, and a more populist and participatory conception that embodies more of the traditional moral definition of "government of the people, for the people and by the people"; 2) Decision rules/Integration - between straight or simple majoritarianism and a more accommodationist power-sharing conception that places more emphasis on consensus and on minority rights including minority self-determination (this would include consociationalism and other integrative mechanisms of power sharing); 3) Units - between liberal individualist and communitarian conceptions of democracy; and 4) Economics - between economically populist or social democratic conceptions that view the democratic state and the principle of political equality that it embodies as potential limits or correctives to the economic market and its various deficiencies (state as legal architect of market) versus technocratic or more classically liberal conceptions that view the democratic state as a complement to the free-market system, as indeed the political equivalent of the free market. For one entry point into these debates, see David Held, *Models of Democracy*, 2nd Edition (Stanford, CA: Stanford University Press, 1996) and David Held, ed., *Prospects for Democracy* (Stanford, CA: Stanford University Press, 1993), Parts I, II & III, especially Bhikhu Parekh, "The Cultural Particularity of Liberal Democracy", pp.156-75. See also Robert Dahl, *Democracy and Its Critics* (1989).

<sup>106</sup> O'Donnell and Schmitter's *Tentative Conclusions About Uncertain Democracies*, Volume 4 of O'Donnell, Schmitter and Whitehead, eds., *Transitions from Authoritarian Rule* (Baltimore MD: Johns Hopkins University Press, 1986).

factions within incumbent authoritarian regimes on one side and within challenging prodemocratic movements on the other (where they are usually termed moderates and radicals).<sup>107</sup> More recently, scholars such as Bratton and van de Walle have argued that aspects of this model are not well-suited to analyzing and explaining more recent transitions such as those in Africa because the nature of some authoritarian regimes that are more patrimonial in character makes the existence of soft-line factions and of pacted transitions less likely.<sup>108</sup> Many of the authoritarian regimes remaining in Africa and Asia that are possible candidates for political conditionality and other external efforts to promote democratization are also arguably neopatrimonial in nature. A more generic model of the conflict over the state and democratization - a simple balance of power model - that could cover the full range of transition variants while not excluding external factors a priori is therefore desirable.

An authoritarian regime depends on a power base consisting of some mix of coercive, economic, legitimation, human and/or knowledge (i.e. informational and/or skill/leadership) resources. This base must be maintained and requires continuing inputs of some sufficient mix of resources from either domestic or international sources. Authoritarian decision-makers thus confront opportunity structures domestically and internationally that provide or offer potential resources, and they must make strategic and tactical decisions (based on different possible time horizons) on how to use those opportunities to maintain their power base. Similarly, a challenging faction, movement or coalition, in this case one that is at least nominally prodemocratic, must

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<sup>107</sup> These factions struggle for dominance, but also for cohesion within their respective sides, and for power versus the opposing side. O'Donnell and Schmitter emphasized the respective elite leaderships of these factions, the source of transitions in the divisions between hard and soft-line factions within authoritarian regimes and argued that the record of Third Wave transitions through the mid-1980s indicates that the negotiation of transition pacts between soft-line authoritarian and moderate democratic elites appears to provide the most promising route to democratization: see O'Donnell and Schmitter, *Tentative Conclusions*, chs. 3 & 4. They also downplayed any role for international factors as at most secondary and did not attempt to theorize about them systematically.

<sup>108</sup> Bratton and Van de Walle, *op.cit.* and Richard Snyder, "Explaining Transitions from Neopatrimonial Dictatorships," *Comparative Politics* July 1992: 379-399. Snyder focuses on whether the military is autonomous in relation to the patrimonial dictator as well as on the dynamics relating to the relative strength of moderate and radical or revolutionary factions in the opposition. In keeping with the analysis to follow below, Snyder states that "Foreign powers can figure in this (transition) drama by strengthening to varying degrees the capacities of one or more of these actors to capture and hold state power" (p. 384.)

mobilize resources into an alternative power base to either challenge the regime head-on or to gradually erode the latter's base. A transition attempt is made possible when some set of factors - either domestic or international or both - weaken an incumbent regime and/or strengthen a potential democratic movement to the point where the movement begins to appear within striking distance of approximate power parity with the regime, to be a credible alternative to that regime, and to continue to grow and gain support. A challenger movement must build its power base and either avoid or survive repression by the regime that could stop or reverse its growth. The moment of truth in a transition comes when the balance of power is put to major tests, and either the regime attempts to repress and destroy the democratic movement or the movement challenges the regime directly in ways that could prevent it from being able to maintain the status quo, i.e. by demanding democratic elections.

#### *E. Modes and Outcomes of Transition Attempts*

The balance of power ultimately decides the outcome of the transition attempt or challenge and whether it is decided more by negotiation or coercion. The possible configurations of that balance lead to the following modes of transition (which are also in part a range of outcomes):

1. Failure/no transition including "stalled" transitions in which an initially promising process stops at a preliminary point such as political and media liberalization, the legalization of opposition parties, the commitment to hold elections at some undetermined point or the postponement of scheduled elections
2. "Managed" or coopted transition (often less than complete) in which an authoritarian regime maintains predominant power and controls and even initiates a transition to some degree of at least formal democracy while staying firmly in power;
3. Negotiated or pacted transitions, with a range again depending on whether a complete stalemate in the power conflict prevails or the degree to which power and the pact favors

the incumbent vs. the challenging sides - cf. democracy with ongoing "birth defects" vs. temporary pacts, respectively<sup>109</sup>;

4. Overthrow or collapse of the authoritarian regime leading to elections and the establishment of a democratic government.<sup>110</sup>

In either of the two middle options, there may be some type of "conversion" of the authoritarian regime into an ostensibly democratic regime or competing party (vs. a withdrawal option in case of a military-ruled regime, where the military reverts to a more limited or even no independent political role).

The actual democratic outcome in any of these modes depends on satisfying the elements of the expanded procedural minimum threshold and potentially of other higher thresholds that can be specified. While it is conceivable that an all-powerful authoritarian regime may unilaterally decide to fully democratize without any domestic or international pressure, this is likely to be a rare occurrence. As already suggested above, modes of transition in which authoritarian incumbents retain the preponderance of power are likely to be less democratic in outcome: they will either be coopted or to some degree illusory in that manipulation of the process keeps government authority or effective power in the incumbents' hands or certain issues or domains will be kept outside the control of a newly elected government (democratic "birth defects"), thus violating the third element of the expanded minimum procedural definition.

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<sup>109</sup> The term democratic "birth defects" has been used to characterize pacts that protect certain institutional or political interests of the outgoing authoritarians (e.g. the military, an independent central bank, amnesty clauses) from control or change by the new government: see Frances Hagopian, "Democracy by Undemocratic Means: Elites, Political Pacts, and Regime Transition in Brazil," *Comparative Political Studies*, Vol. 23 (July 1990), pp. 147-170. Temporary pacts refer to pacts that do not prevent a continuing shift of power in favor of democratization, which eventually undoes and transcends the limits imposed by the pact. (c.f. Adam Przeworski, *Democracy and the Market* (Cambridge: Cambridge University Press, 1991).)

<sup>110</sup> Another possible outcome could be that a process that began as an ostensible attempt at democratic transition leads to the overthrow or replacement of the previous regime, but with another authoritarian regime of some sort.

## H. International Influence

The general assumption regarding international influence in this model is that international actors can tip the balance of power by providing or denying power resources to either side.<sup>111</sup> The domestic actors will try to mobilize or leverage external allies (or use counter-leverage, if available, against perceived external threats), although external actors may try to become involved without such lobbying.<sup>112</sup> Prodemocratic (or antidemocratic) international actors can thus affect the balance of power in transition struggles and thus indirectly affect the outcome. They can also apply explicit pressure directly against an authoritarian regime and thus essentially join the prodemocratic coalition as an external partner. When the impact of international actors (and potentially other

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<sup>111</sup> Most of the existing theory on the international factors in democratization emphasizes the regional or international organizational membership or "magnet" effect: based largely on the analysis of cases in Southern and Eastern Europe that completed or began transitions before the general declaration of political conditionality as an aid policy, Pridham et al., Whitehead, and Schmitter all argue that "membership conditionality" (my term) involving the requirement that members of the European Community be democracies exerted a strong influence on domestic actors in transitions in those regions by giving strong long-term economic and, to a lesser extent, security incentives to democratize in order to be able to attain membership. See Geoffrey Pridham, "International Influences and Democratic," pp. 1-30 in Pridham, ed., *Encouraging Democracy - The International Context of Regime Transition in Southern Europe* (N.Y.: St. Martin's Press, 1991); Laurence Whitehead, "Three International Dimensions of Democratization," pp. 3-25, and Philippe Schmitter, "The Influence of the International Context upon the Choice of National Institutions and Policies in Neo-Democracies," pp. 26-54, both in Whitehead, ed. *The International Dimensions of Democratization: Europe and the Americas* (Oxford: Oxford University Press, 1996). The latter two generally assign less weight to international influences in the transitions of Latin America due in large part to the changing or ambiguous role of the United States as a regional hegemon, which arguably became prodemocratic during the Carter years, but then became at best mixed during the Reagan Administrations (here they appear to agree with the conclusions of Lowenthal et al. (*Exporting Democracy*) and Carothers (*In the Name of Democracy*) (cited above Ch.1, fn.19) Recent initiatives of the OAS to defend democracy in the hemisphere signal that it too is becoming an important regional institution for democratization. (see Farer, *Beyond Sovereignty* (Ch.1, fn.60)) For an additional perspective on "membership conditionality" as a general means of preventive diplomacy and international influence beyond its effect in democratization, see George E. Shambaugh, IV, "Threatening Friends and Enticing Enemies in an Uncertain World," pp. 234-61 in Schneider and Weitsman, eds., *Enforcing Cooperation* (Ch.1,fn.21).

Aid conditionality can also be viewed as an emerging form of membership conditionality for the international aid and concessional finance regime. The approaches of Pridham and Schmitter readily allow for the potential impact of aid conditionality via a balance of power model as outlined above, but only Schmitter addresses aid conditionality explicitly. His definition of conditionality is ambiguous, however: he adds conditionality as a fourth international dimension - "the most recent and the most rapidly expanding" - to the three that Whitehead outlines (contagion, control and consent), but defines it formally as multilateral coercion even though he later acknowledges that conditions can be applied bilaterally as well. ("The Influence...", pp. 30, 41-2) The definition commonly used in analyses of conditionality allows for either bilateral or multilateral policies. Of these three authors, only Schmitter advances clear general hypotheses regarding international factors in democratization, but only a few of these relate to conditionality and potentially include aid conditionality. These are incorporated below. Crawford's examination of aid conditionality is primarily empirically and policy-focused, rather than theoretical ("Foreign Aid and Political Conditionality: Issues of Effectiveness and Consistency," *Democratization*, Vol.4, no.3 (Autumn 1997):69-108): he derives his hypotheses on impact (also incorporated below) from Olav Stokke, *Aid and Political Conditionality* (Ch.1.fn.57.)

<sup>112</sup> The focus here is on a theoretical explanation of the impact rather than the incidence of conditionality.

international factors) on the power balance is large, they can conceivably cause a transition where none might otherwise have occurred or where an attempt would otherwise have failed (Hypothesis 1a). They can also conceivably speed up and affect the nature/mode of transition (H1b). Note that this claim assumes a significant degree of internal or domestic prodemocratic mobilization: on their own, international actors can only impose democratization in the extreme cases of military intervention and victory (H1d) or of extreme dependence on foreign aid (or trade) (H1c) and in these cases the internal basis for consolidation (i.e. a significant domestic democratic movement or preexisting institutions) may not exist (yet.)

Political conditionality is an explicit prodemocratic pressure applied by donor governments (and in some cases or to some degree by international financial institutions as well) on targetted authoritarian regimes. By freezing existing aid commitments or withholding new commitments that would otherwise have been expected, aid conditionality clearly reduces the resources available to a target regime, and, assuming a relative degree of aid dependency and that a significant amount of aid is at stake, this resource loss should translate into a relative loss of power for the regime vis a vis its challengers.<sup>113</sup> Prodemocratic conditionality can therefore be effective in two possible ways: it can evoke **compliance** on the part of the target regime with the prodemocratic conditions of the donors, or it can help promote the **collapse** of that regime if it adds significantly to a shift in the balance of power from regime to prodemocratic movement.<sup>114</sup>

### *G. Phases of Democratization and International Influence*

The phases of a democratic transition are typically defined as starting with a phase of liberalization, followed by a period of the transition struggle proper which is punctuated in all but the unsuccessful cases with a decision to hold democratic elections and then with the transitional

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<sup>113</sup> As will be made clear below in the discussion of economic, signaling and legitimacy mechanisms of conditionality impact, the resources in question are not necessarily limited to economic or monetary resources: various actors perceptions of the power, the likely continuity and the legitimacy of the regime may all be important elements of the regime's power base.

<sup>114</sup> Combinations of the two are also theoretically possible in that a regime could comply too late to prevent its actual collapse rather than some more orderly form of transition and/or conversion.

elections themselves. Successful elections then mark the beginning of a consolidation phase which should at minimum be taken to extend until the next national elections which begin to confirm the establishment of a regular democratic electoral cycle. A more disaggregated conception of the transition process is offered by the publication *Africa Demos* that tracked transition attempts in Africa from 1990 to 1996. It distinguishes 8 logical and/or temporal phases in the transition process, starting with:

- 1) decay of an authoritarian regime; followed by
- 2) mobilization of pro-democratic movement;
- 3) decision for democracy and elections;
- 4) formulation of the details for a transition including the scheduling of elections and the establishment of electoral procedures;
- 5) electoral contestation including both the campaign period and the elections themselves;
- 6) handover in the peaceful transfer of power or reconstitution of a democratic government;
- 7) legitimization through the widening acceptance of the new government and the new political system; and finally
- 8) consolidation when the process of legitimization encompasses the rules and norms of democratic procedure and has reached all major domestic political actors and an overwhelming majority of the population. <sup>115</sup>

Formal constitutional reform typically must occur to overcome the legal legacy of the authoritarian state and provide a legal framework for democratic government, but this may precede or follow founding elections or be undertaken piecemeal: some degree of political consensus on electoral rules is usually necessary before successful elections, but other aspects of legal reform may be postponed.

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<sup>115</sup> *Africa Demos* (Atlanta: The Carter Center African Governance Program) vol. 3, no.5 (May 1996): p. 27.

Scholars of international influences on democratization appear to differ sharply on the likely influence of these factors in the transition phase itself (broadly conceived as phases 2 through 6 above). Echoing the arguments of Przeworski on the uncertainty and contingency of the transition process and the increased possibility the situation affords for any factor to be decisive and to tip the balance, Pridham suggests "distinguishing between different phases of the transition process..., we can identify key points of time when its evolution might have taken a different course and in turn measure here the likely impact of international factors": in other words, international actions may have their greatest impact when the transition process is most uncertain and open to contingent actions.<sup>116</sup> By contrast, Schmitter posits:

" One of the most important general hypotheses linking the international context to domestic political outcomes: ...external intervention will have a greater and more lasting effect upon the consolidation of democracy than upon the transition to it.... During the first phase, the probability of exercising a marginal influence over the outcome may be greater than later when things have calmed down, but the sheer pace of change - coupled in some cases with its unexpectedness - leaves outsiders without the critical information they would need to intervene effectively and without regular channels of influence through which to operate. The rapid pace of internal change tends to out-run the decision-making capacity of most external actors.<sup>117</sup>

While acknowledging the possibility which highly contingent transition processes offer, Schmitter thus highlights several potentially important variables for the effectiveness of proactive political conditionality: the speed of transition events and the capabilities of external actors concerning information, channels of influence and decision-making. Belief in the contingent nature of transitions, including the ability of formerly authoritarian actors to reassess their interests and identities and to "transfer their loyalties" to new democratic rules of political contestation, leads scholars such as Di Palma to both emphasize the importance of the negotiation of political pacts or "political crafting" for successful transitions and to allow considerable leeway for external actors to affect the process and contribute directly or indirectly to "crafting" a transition.<sup>118</sup>

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<sup>116</sup> Pridham, "International influences", p.23. see also pp. 5, 7, 15. On uncertainty in the transition process and in the very nature of democratic procedures, see Adam Przeworski, *Democracy and the Market* (Cambridge: Cambridge University Press, 1991).

<sup>117</sup> Schmitter, "The Influence of International Context," p. 40.

<sup>118</sup> Guiseppe Di Palma, *To Craft Democracies* (Berkeley: University of California Press, 1991): see ch. 9, espec. pp. 188-92.

The essentially metaphoric conception of a shifting balance of power between incumbent authoritarians and prodemocratic challengers, a structure in which international linkages and resources provide the potential for international actors to have impact on the transition process, together with the typology of possible outcomes and the outline of the phases of transition provide the architecture for the analysis below and for the elaboration of other specific hypotheses.<sup>119</sup>

### 3. Primary Hypotheses and Basic Factors in Democratic Transition Attempts

#### *H. Theories and Hypotheses from the Comparative Politics of Democratization*

As is typical with issues of political importance and political conflict, the study of democratic transition attempts in comparative politics has not yielded a tidy consensus on a limited number of hypotheses regarding the determinants of successful transitions that go far beyond current forms of common sense and limited empirical generalizations.<sup>120</sup> Many within the comparative subdiscipline bracket or ignore external factors often only to re-introduce them ad-hoc in actual cases and narratives. Scholars in comparative politics have largely focused on the definition and typologizing of different historical paths to transition which in turn may have differing probabilities of success, but are still contingent (i.e. very difficult to predict) and multicausal.<sup>121</sup> Considerable energy has been spent on moving beyond the determinist perspectives

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<sup>119</sup> The drawback of this conception may be that it is overly conflict-based and underemphasizes the element of consensus building required for successful democratic pacts or successful consolidation: balanced pacts are covered by the contingency of a stalemate in the power conflict, but the model as a whole is arguably more appropriate for the transition struggle than for the subsequent consolidation process. It is also largely heuristic at this point because I do not specify in general terms how the balance of power is to be measured and operationalized: see the cases from some details and examples.

<sup>120</sup> Carothers, "Democracy Assistance: The Question of Strategy" (*op.cit.*) again on diversity within scholarly approaches and the difficulty of application in policy

<sup>121</sup> e.g. Alfred Stepan, "Paths toward Redemocratization: Theoretical and Comparative Considerations", pp.64-84 in O'Donnell, Schmitter and Whitehead, eds. *Transitions from Authoritarian Rule - Comparative Perspectives* volume (Baltimore MD: Johns Hopkins University Press, 1986). See also Whitehead's post-Transitions articles, revised in *The International Dimensions of Democratization* (*op.cit.*)

In a review of democratization analysis, Doh Chull Shin argues that the most notable propositions regarding democratization to emerge from studies of the Third Wave are:

1. There are few preconditions for the emergence of democracy.
2. No single factor is sufficient or necessary to the emergence of democracy.
3. The emergence of democracy in a country is the result of a combination of causes.

of both modernization and dependency theory that guided the study of democratization (and of its absence or reversal) before the Third Wave gathered momentum in the late 1970s:<sup>122</sup> In the late 1980s and first years of the 1990s, the pendulum swung away from theories of structural determination to the point of almost complete reliance on agency and elite strategic interaction or pact-making and a consequent emphasis on leadership and "crafting" skill as the key determinants of transition.<sup>123</sup> More recent work in the early and mid-1990s has criticized the excessive voluntarism of contingent approaches and their logical implication that the only real limitation on democratization is political will among existing elites, and has argued for a balance in the form of a structured or bounded contingency that is to some important degree historically determined.<sup>124</sup>

While the historical diversity of approaches to democratization combined with the diversity of the cases of transition themselves have not fostered a cumulation of parsimonious and integrated theory in the form of well-specified hypotheses, various key factors recur in many cases and

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4. The causes responsible for the emergence of democracy are not the same as those promoting its consolidation.
  5. The combination of causes promoting democratic transition and consolidation varies from country to country.
  6. The combination of causes generally responsible for one wave of democratization differs from those responsible for other waves. (Doh Chull Shin, "On the Third Wave of Democratization: A Synthesis and Evaluation of Recent Theory and Research", *World Politics* 47 (October 1994), 135-70: 151. See also 139-41.

Beyond these propositions on the contingent nature of transitions, he argues that the literature has identified both domestic and international general facilitating factors: the domestic factors include the loss of legitimacy of authoritarian rule, the strengthening of civil society and the "cognitive mobilization" of individuals due to increasing education and income, while the international factors include policies of pressure such as aid conditionality and diplomatic support for transitions, and "snow-balling" or demonstration effects. (151-3)

<sup>122</sup> Whereas dependency theory was generally skeptical of any possibilities for democratization short of socialist revolution, the modernization school focused largely on trying to identify the prerequisites and correlates of democratization, an approach which has now been generally abandoned in favor of a looser and more contingent approach that identifies factors facilitating democratization, but whose absence does not necessarily preclude some degree of transition. On dependency, see Daniel Levine, "Paradigm Lost: Dependence to Democracy", *World Politics* Vol.40 (1988): pp.377-94.

<sup>123</sup> Prime examples here are Di Palma's *To Craft Democracies* (Berkeley CA: University of California Press, 1990), O'Donnell and Schmitter's *Tentative Conclusions About Uncertain Democracies* vol. of *Transitions from Authoritarian Rule*; Linz and Stepan on *Crafting from Pastor*, *Democracy in the Americas: Stopping the Pendulum*; Adam Przeworski, *Democracy and the Market* (Cambridge UK: Cambridge University Press, 1991), espec. pp.95-9.

<sup>124</sup> Furthermore, as attention has shifted from transitions to the consolidation of new democracies, there has been a resurgence or shift back to more structural and long-term perspectives and even arguments on the vindication of modernization theory. For commentary on the differences between 'transitology' and 'consolidology', see Philippe Schmitter, "Transitology: The Art or Science of Democratization?", pp.11-41 in Joseph Tulchin and Bernice Romero, eds., *The Consolidation of Democracy in Latin America* (Boulder CO: Lynne Rienner, 1995.)

approaches.<sup>125</sup> These can be translated in explicit hypotheses (designated "d" for democracy) as follows:

D1. The support of the military and its coercive power is a key factor for or against a democratic transition: the actual or potential autonomy of the military from an authoritarian regime increases the possibility of neutrality or active support for democratization and greatly increases the probability of successful transition, whereas the lack of such autonomy usually means active repression of prodemocratic movements and the increased probability of a failed transition.<sup>126</sup>

D2. The greater the autonomy and development of civil society as an independent sphere of social organization and power, the greater the likely strength of prodemocratic movements and the greater the chance of success in transition attempts.

D3. The more segmentary and conflictual the pattern of cleavages and identities in a society (as opposed to over-lapping or crosscutting and cooperative), the more difficult the challenge of democratization and the lower the probability of successful transition attempt.

D4. The greater the past experience with democracy, the more positive that experience and the greater the still extant legacies of political participation and competition, the easier the transition from authoritarianism and the greater the probability of a successful redemocratization attempt.

D5. Economic crisis and the disappointment of economic expectations can undermine any government, authoritarian or democratic, but is more likely to lead to regime change in the former case and a change of government in the latter. (However, prolonged crisis can undermine democracy if it leads to a situation of perceived paralysis or impasse.)<sup>127</sup>

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<sup>125</sup> Critics rightly note that "laundry lists" of variables or possible factors do not add up to integrated theory, but on the other hand, the economics of presentation often push for some form of summarized list over the potentially tedious spelling out of theoretical links between factors. I attempt to strike a balance overall which the reader can judge, but in this particular case of trying to overview the comparative politics of democratization, given the state of the field, a list will suffice.

<sup>126</sup> The issue of alternative coercive forces, such as the police or paramilitaries, also enters the equation and can create a more complex dynamic over the question of repression versus neutrality versus support for democratization: different coercive institutions often have different allegiances.

<sup>127</sup> One major attempt to cumulate and list categories of factors in democratization from the late 1980s includes the following: 1. political history, 2. legitimacy and performance, 3. political leadership, 4. political culture, 5. social structure and socioeconomic development, 6. associational life, 7. civil society, 8. political institutions including parties and constitutions, 9. state-society relations, 10. ethnic and regional conflicts or cleavages, 11. the military, and 12. international factors: see Larry Diamond, Seymour Martin Lipset and Juan Linz, "Building and Sustaining Democratic Government in Developing Countries" *World Affairs* Vol.150, no.1 (Summer 1987): pp.5-19 and *idem.*,

These hypotheses largely swing free of the question of the effectiveness of prodemocratic aid conditionality, narrowly defined, and can be viewed as forming a domestic background of conditions or factors favoring or impeding democratization in general and therefore conditionality success in particular.<sup>128</sup>

Two major approaches to cutting through the thicket of other possible variables on democratization deserve further attention here: from the contingency and rational choice approaches, the focus on elite strategic decision-making as the most proximate factor to outcome in the transition process (addressed shortly below in this chapter, Section C.), and from more structural approaches, the focus on authoritarian regime types as a variable which arguably clusters many of the other institutional factors ranging from parties to the military to civil society.<sup>129</sup> It has already been noted that analysts seeking to apply existing models of transitions to patrimonial regimes in Africa and elsewhere have found the elite and decision-making dynamics to be different and the inherited models in need of modification: personalistic or sultanistic patrimonial regimes typically do not fracture into hard and soft-line factions because power is typically concentrated in a single leader, and elite pacts to democratize are therefore unlikely. The potential problem with a regime types approach is devising a clear typology that can in fact aggregate and represent the most important structural and actor characteristics. Despite the efforts of several analysts to make authoritarian regime type function as the master variable for democratic transition processes and outcomes, more recently within a "historical-institutionalist" approach or paradigm, the current state of the art is beset with conceptual and logical problems, and the net yield in terms of theoretical understanding does not go beyond the observation regarding patrimonial regimes noted above and

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"Comparing Experiences with Democracy", ch. 1 in *Democracy in Developing Countries*, abridged textbook edition (Boulder CO: Lynne Rienner, 1991).

<sup>128</sup> However, conditionality policies can address these variables to some degree: conditionality applied to any security or military aid that pre-exists (or that promises future aid) could affect the political allegiance and actions of the military or police; direct political aid by external donors to civil society can increase its autonomy and political strength, while donor conditionality that demands liberalization rather than democratization can also do so; and aid conditionality resulting in aid freezes can definitely exacerbate or even create economic crises.

<sup>129</sup> These two factors arguably intersect directly to the extent that regime type shapes the interests and decision-making of authoritarian elites.

some of the hypotheses already advanced (D1 through D4).<sup>130</sup> This factor's relationship to aid conditionality can now be formalized as the following hypothesis:

*D6. More collective and institutional forms of authoritarianism such as military rule, bureaucratic authoritarianism and more competitive forms of single-party rule are subject to internal divisions at times of regime crisis and democratic challenge that may yield "reformers" and "hard-liners" factions that remain within regime. On the other hand, more personalist or centralized dictatorial forms of rule such as "big man" neo-patrimonialism or ethnic minority rule will drive would-be reformers out of the regime and into the democratic opposition or in a minority of cases turn as a whole towards reform given the choices of the ruler. Therefore, conditionality will generally be more effective in eliciting a degree of compliance in the former category of regimes: in the latter, effectiveness probably depends on the more demanding task of swaying the central decision-maker(s) directly, rather than promoting existing divisions within the regime.*

Analysis of the characteristics of incumbent authoritarian regimes does yield at least one further dimension that may have a particular relationship to aid conditionality: the basis of regime cohesion and its vulnerability to aid conditionality. This variable can be formalized in the following hypothesis:

*D7. The more an authoritarian regime relies on economic clientelism, patronage, successful economic performance more generally and/or on external legitimation to maintain regime cohesion, the more effective conditionality policies will be. Conversely, the more a regime's cohesion depends on security interests, on non-democratic ideology or cultural interests, the less effective aid conditionality will be.*

Conditionality is presumed to have a greater impact on economic and legitimacy bases of cohesion by virtue of being an economic policy that reduces the resources available to an authoritarian regime and usually also being a public "vote" of no-confidence on the part of the donors involved that questions the normative legitimacy of the regime. It is presumed to have less or even no direct impact on security concerns, although it could affect them indirectly by weakening the regime economically. With regard to non-democratic ideological and cultural bases of cohesion, the external challenge of conditionality could even strengthen the regime: this is discussed below with respect to the legitimacy mechanism of conditionality impact and the possibility of a nationalist

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<sup>130</sup> The most notable failure in this regard is the argument by Jeanne Kirkpatrick in the late 70s and early 80s, well before the fall of the Berlin Wall and "the Autumn of the People" in Eastern Europe, 1990, that authoritarian regimes were capable of democratization, but totalitarian regimes were not: Jeanne Kirkpatrick, *Dictatorships and Double Standards: Rationalism and Reason in Politics* (NY: Simon & Schuster, 1982.)

backlash. If an authoritarian regime has maintained cohesion and legitimacy through some political system that claims to provide equitable representation of social interests such as a "balanced" or open one-party system, through organized corporatist representation or through populist policies - i.e. through some quasi-democratic ideology and practice - then regime crisis can readily lead to a movement demanding full democratization. In such a case, the impact of conditionality could tip the balance by helping transfer legitimacy from the state to the movement, but this impact will depend on the role and character of nationalism in the local political culture of legitimation and in the relative skills of state versus movement in framing the conflict within that cultural repertoire.<sup>131</sup> The dynamics of regime cohesion in the face of the challenges posed by democracy movements and conditionality policies is addressed at length in section C of this chapter which lays out a political process model of conditionality and transition.

Coalition alignment according to interest in international trade is yet another dimension of variation which relates both broadly to the domestic politics of transition attempt countries and specifically to their incumbent regimes or ruling coalitions, and which may have a clear impact on democratization and compliance with conditionality. Put simply, those economic sectors/political actors which gain most from a historical period of increasing international trade and the increasing liberalization of that trade (i.e. declining tariffs) will have increased economic resources and will seek to translate that economic power into political power. Solingen argues that economic interests in general and trade interests in particular are major determinants of the grand strategies of domestic political coalitions which she claims therefore tend towards alignments along the ideal-typical lines of "internationalist" coalitions (pro-trade and liberalization) versus "statist-nationalist-confessional" coalitions (which are generally protectionist), opposed over whether to have a liberalized economic and cooperative political stance towards the regional and international community.<sup>132</sup> An

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<sup>131</sup> It bears noting that this hypothesis on regime cohesion together with the preceding one on regime type disaggregate two of the dimensions of neopatrimonialism as defined by Bratton and van de Walle and draw opposing conclusions on their impact vis a vis conditionality: their definition of neopatrimonialism combines the concentration of power into personalistic forms of rule with reliance on clientelism or patronage.

<sup>132</sup> Etel Solingen, *Regional Orders at Century's Dawn: Global and Domestic Influences on Grand Strategy* (Princeton: Princeton University Press, 1998): espec. 32-43. Solingen's argument draws in part on Ronald Rogowski's earlier *Commerce and Coalitions: How Trade Affects Domestic Political Alignments* (Princeton:

internationalist coalition, since it values international cooperation, will also be more sensitive to international norms and to external pressures such as conditionality. If an internationalist coalition dominates a given authoritarian regime, and if international liberal economic and democratic norms are increasingly linked (as they have been since the mid-1980s), then that regime will be more likely to comply with prodemocratic conditionality than a "statist-nationalist-confessional" protectionist dominated regime would be. Solingen notes that the general historical drift of change since 1980 has been largely one of both liberal economic and liberal political reform with only the ASEAN countries (and China) being the major exceptions in which a legitimating ideology of "Asian values" and economic success seeks to restrict reform in the political sphere: economic internationalists are thus not automatically democrats, but there is a historical trend.<sup>133</sup> For the purposes of assessing conditionality policies, a further distinction can be made between "trade internationalists" and "aid internationalists": that political actors who benefit most from aid programs (whether within the state or the larger society) are likely to be most responsive to the threat that conditionality poses to shut off that resource flow may seem tautologous but it could help focus the analysis of conditionality impact. The original question of trade internationalists' responsiveness to political conditionality still provides a new hypothesis worthy of empirical exploration which can be formulated as follows:

*D8. Economic internationalists with strong interests in trade will be more responsive to prodemocratic conditionality than protectionists, and therefore authoritarian regimes dominated by internationalist coalitions are more likely to comply with conditionality than those dominated by "statist-nationalist-confessional" and protectionist coalitions.*

The hypotheses considered so far are summarized in Table 2.2

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Princeton University Press, 1989.) The latter's focus on factors of production corresponding to political actors should also dovetail with the class analysis approach by Rueschemeyer, et al. in *Capitalist Development and Democracy* (Chicago:University of Chicago Press, 1992), but both are arguably better suited to more long-term types of analysis than that of the current focus on conditionality's impact on transition attempts.

<sup>133</sup> Solingen, *op.cit.*, pp.98-105. On the debate over democracy and human rights in East Asia, see, inter alia, Peter Van Ness, ed. *Debating Human Rights: Critical Essays from the United States and Asia* (London and New York: Routledge, 1999.)

**Table 2.2**  
**General Hypotheses from the Comparative Politics of Democratization – Antecedent Variables for Conditionality Policy (designated "D"):**

**D1. The military/coercive institutions of the state:** The support of the military and its coercive power is a key factor for or against a democratic transition: the actual or potential autonomy of the military from an authoritarian regime increases the possibility of neutrality or active support for democratization and greatly increases the probability of successful transition, whereas the lack of such autonomy usually means active repression of prodemocratic movements and the increased probability of a failed transition.

**D2. Civil Society:** The greater the autonomy and development of civil society as an independent sphere of social organization and power, the greater the likely strength of prodemocratic movements and the greater the chance of success in transition attempts.

**D3. Cleavages and Social Identities:** The more segmentary and conflictual the pattern of cleavages and identities in a society (as opposed to over-lapping or crosscutting and cooperative), the more difficult the challenge of democratization and the lower the probability of successful transition attempt.

**D4. Democratic History:** The greater the past experience with democracy, the more positive that experience and the greater the still extant legacies of political participation and competition, the easier the transition from authoritarianism and the greater the probability of a successful redemocratization attempt.

**D5. Economic Crisis:** Economic crisis and the disappointment of economic expectations can undermine any government, authoritarian or democratic, but is more likely to lead to regime change in the former case and a change of government in the latter. (However, prolonged crisis can undermine democracy if it leads to a situation of perceived paralysis or impasse.) Economic crisis can therefore make democratic transition more likely, while also making subsequent democratic consolidation more problematic if the crisis persists.

**D6. Regime Type & Factionalism/Decay/Reform:** Collective and institutional forms of authoritarianism, on the one hand, such as military rule, bureaucratic authoritarianism and more competitive forms of single-party rule are subject to internal divisions at times of regime crisis and democratic challenge that may yield "reformers" and "hard-liners" factions that remain within regime. More personalist or centralized dictatorial forms of rule, on the other hand, such as "big man" neo-patrimonialism or ethnic minority rule will drive would-be reformers out of the regime and into the democratic opposition or in a minority of cases turn as a whole towards reform given the choices of the ruler. Conditionality will generally be more effective in eliciting compliance in the former category of regimes: in the latter, effectiveness probably depends on the more demanding task of swaying the central decision-maker(s) directly, rather than promoting existing divisions within the regime.

**D7. Regime Cohesion:** The more an authoritarian regime relies on economic clientelism, patronage, successful economic performance more generally and/or on external legitimation to maintain regime cohesion, the more effective conditionality policies will be; conversely, the more a regime's cohesion depends on security interests, on non-democratic ideology or cultural interests, the less effective aid conditionality will be.

**D8. Trade Internationalism versus Protectionism:** Economic internationalists with strong interests in trade will be more responsive to prodemocratic conditionality than protectionists, and therefore authoritarian regimes dominated by internationalist coalitions are more likely to comply with conditionality than those dominated by "statist-nationalist-confessional" and protectionist coalitions.

### *I. Hypotheses from the "Exporting Democracy" Debate*

At this point, given that the majority of the arguments and hypotheses presented here seek to establish the logical plausibility of democracy promotion and its potential success via aid conditionality, the perennial skeptical perspectives and claims in the democracy promotion debate (noted above in Chapter 1) should also be given due consideration along with their counterparts from the optimists' and advocates' camp. In keeping with this chapter's focus on specific hypotheses that may illuminate or be illuminated by the case studies and a broader set of cases, the most salient claims of the critics can be reformulated as hypotheses embodying the anti-exporting critiques of naiveté and externalities or perverse effects. Critics argue generally that:

1) Prodemocratic policies such as aid conditionality will be characterized by *naiveté* (SK1 - SK for skeptic) in that -

a) - They lack sufficient local knowledge about the target state (SK1a) (or even lack a perceived need for local knowledge in assuming that democracy is a universal value and democratization is therefore a universal process) and that this lack of knowledge will result in a failure to tailor a policy to local conditions or a failure to realize that democratization is totally inappropriate, premature or culturally alien, leading to a consequent failure of both promotion and democratization overall;

b) - They underestimate the nature of the task of democracy promotion either in terms of the amount of resources needed for any chance of success or of the obstacles to collective action that must be overcome either within a single donor government or within a coalition of donors in order to have such a chance (SK1b);

and 2), resulting inadequate policies will produce *perverse* or backfire *effects* and negative externalities or trade-offs (SK2) either:

- within the target society (e.g. nationalist backlash, delegitimizing or tarnishing the goal of democracy, premature, inappropriate and failed democratization leading to setbacks and long-term delay in real democratization) or

- through spill-over effects in neighboring countries (war, refugee flows, economic problems, regime destabilization, etc.) or

- with regard to hurting other foreign policy interests of the promoting state involving cooperation with the target state or other states due to the confrontational and interventionist nature or the perceived inconsistencies, hypocrisies and lack of credibility of the prodemocratic policy;

and that 3), at the extreme, democracy promotion may produce a policy "quagmire" in which further naive attempts to control or address negative effects leads to greater involvement and greater negative effects (SK3).

The proponent side of the "exporting democracy" debate comes in two forms: a more modest and pragmatic version and a more idealistic and optimistic version. The former acknowledges that the issues identified by the critics may be real, but argues that they can be solved or overcome. The latter tends to dismiss the arguments of critics and to maintain a strong belief that democratization can solve numerous social and political problems and thus creates positive synergies, rather than confronting negative trade-offs. From the optimist faith in democratization come assumptions that can be treated as hypotheses, but given the abundance of more specific hypotheses, they will simply be noted as articles of faith:

- that there is a natural democratic constituency within a target state that can be assisted, that essential characteristics of democracy can be implemented even while the forms of democratic institutions may be adapted to local cultures, and that a coherent strategy of democracy promotion can be formulated;

- that the different elements of the liberal agenda do converge and require each other in at least the medium to long-term such that liberal economic pressures and trends will basically support democratization; and

- that externalities or negative spillovers for both neighboring countries and for sanctioning countries will in fact decline with successful democratization or will not in any case increase with attempts to promote it whether successful or not.

The pragmatic democracy advocate assumes that enough local knowledge and enough organizational and budgetary resources can be marshaled to overcome the deficits and collective action problems and to manage the trade-offs identified by critics. Rather than viewing the outcomes of democracy promotion efforts as all or nothing affairs, the pragmatic prodemocrat envisions a certain amount of learning and progress via trial and error as the promotion policies mature. These assumptions regarding the improving and ultimately sufficient quality of democracy promotion policies (including aid conditionality) are addressed in part below under the rubric of hypotheses concerning 'policy and implementation variables' that may affect the impact of prodemocratic aid conditionality.

#### 4. How Conditionality Could Work - Basic Mechanisms and Hypotheses on Antecedent and Intervening Variables

##### *J. Economic Sanctions and Mechanisms of Influence: Costs, Signals and Norms*

Although forms of conditionality and exchange have been applied to aid since its invention, multilateral political conditionality, as practiced in the 1990s and via the organizational mechanism of the donor Consultative Group meetings, can in part be viewed as the grafting of new political conditions onto an existing practice of economic policy conditionality that focuses on structural adjustment. Most cases of economic conditionality are viewed as being the focus of negotiations and bargaining between donor and recipient to essentially formulate a contract for concessionary finance or aid involving commitments to economic reforms or targets and perhaps also involving debt rescheduling related to earlier concessionary finance.<sup>134</sup> Prodemocratic political conditionality, on the other hand, is typically not negotiated in the same fashion, but rather is simply declared or imposed and as such, whether proactive or reactive, it resembles policies of coercive diplomacy and economic sanctions more than the contractual bargaining of economic conditionality.

Prodemocratic conditionality seeks to either deter actions such as human rights abuses and democratic backsliding (reversions to authoritarianism) or to compel political and legal reforms.<sup>135</sup>

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<sup>134</sup> They also could involve non-concessionary loans by donor countries or international financial institutions, but these are uncommon and should be distinguished from non-concessionary/market rate loans to aid recipient states by commercial lenders/banks. For an introduction to the history of structural adjustment and economic conditionality, see inter alia, Paul Mosley, Jane Harrigan and John Toye, *Aid and Power - The World Bank and Policy-based Lending*, 2nd ed. (London: Routledge, 1995) Vol.1, Part 1. For an introduction and overview relating specifically to adjustment in Africa, see Robert Lensink, *Structural Adjustment in Africa* (London/NY: Longman, 1996.) In addition to Mosley, et al. *Aid and Power*, see Barbara Stallings, "International Influence on Economic Policy: Debt, Stabilization and Reform," pp. 41-88 and Miles Kahler, "External Influence, Conditionality, and the Politics of Adjustment," pp. 89-136, both in Stephen Haggard and Robert R. Kaufman, eds., *The Politics of Economic Adjustment* (Princeton University Press, 1992). See also, Devesh Kapur, "The New Conditionalities of the International Financial Institutions," pp.127-38 in *International Monetary and Financial Issues for the 1990s*, Vol. VII (New York/Geneva: United Nations, 1997)

<sup>135</sup> Here, the actual application of conditionality in particular country cases is to be contrasted with general declarative policies to the effect that donors' entire aid programs will subsequently favor democratic or democratizing recipients with nondemocratic recipients either being cut off or receiving reduced aid in the future. Such a declarative policy has been termed "allocative conditionality" and can be distinguished from discrete cases of punitive or coercive conditionality in which cuts are made in current aid or in future aid effective immediately. For an assessment of "allocative conditionality", see Steven W. Hook, "Building Democracy through Foreign Aid: the Limitations of

Economic conditionality still makes an assumption of respecting national sovereignty (at least rhetorically if not in fact) and of a separation of economic and political spheres whereas political conditionality arguably does not - at least not in the same fashion. Political conditionality, at least in its strongest forms, views non-democratic government as illegitimate and even potentially non-sovereign, and it explicitly links economic aid with political reforms. The economic sanctions debate and literature have tended to focus more on trade sanctions, but do generally recognize aid freezes or suspensions as a form of economic sanction, and as clearly within the broad category of "economic statecraft" where aid policies can include both carrots and sticks.<sup>136</sup>

Political conditionality clearly asserts a norm of democracy or democratization and liberalization, and it seeks to compel or coerce compliance with democratic norms through the use of negative or punitive sanctions in the form of aid suspensions. People and presumably states as well, can obey or follow a rule or norm for three basic reasons - **coercion, self-interest, or legitimacy** - which in turn rely on physical capacity, incentives and norms respectively.<sup>137</sup> The

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United States Political Conditionalities, 1992-96," *Democratization* Vol.5, no.3 (Autumn, 1998): pp.156-80, which concludes based on statistical analysis that the U.S. has not shifted its aid allocations towards democratizing countries and that security concerns and economic self interest continue to be primary determinants of aid allocation as they were during the Cold War. the different nuanced forms of conditionality are discussed in Nelson and Eglinton, *op.cit.*, and Stokke, ed., *op. cit.*

<sup>136</sup> David A. Baldwin, *Economic Statecraft* (Princeton University Press, 1985): pp.40-2. Hufbauer and Schott define economic sanctions as "the deliberate, government inspired withdrawal, or threat of withdrawal, of customary trade or financial relations" and state that "the most common type of financial sanction is the interruption of official development assistance", but their subsequent analysis does not distinguish aid cuts from other sanctions and only groups types of sanctions as financial, export or import related (or combinations of the three). They exclude "normal" banking and commercial issues except some cases of expropriation that are deemed more 'political' and also cite the non-political mandates of the IMF and World Bank, thus presumably excluding economic conditionality which goes unmentioned. Hufbauer and Schott, *op.cit.*, pp. 2, 66. Some of the literature specifically on foreign aid looks at the effect of human rights abuses on the allocation of U.S. foreign aid: e.g. Steven C. Poe, "Human Rights and the Allocation of U.S. Military Assistance," *Journal of Peace Research*, Vol.28, no.2 (1991): pp.205-16 and "Human Rights and U.S. Foreign Aid: A Review of Quantitative Studies and Suggestion for Future Research," *Human Rights Quarterly*, Vol.12 (1990): pp.499-512. Of greater relevance are studies which look at the impact of aid on Third World outcomes: e.g. Edward Muller, "Dependent Economic Development, Aid Dependence on the U.S. and Democratic Breakdown in the Third World," *International Studies Quarterly* Vol.29 (1985): pp.445-69 which argues that U.S. aid was correlated with democratic breakdown during the Cold War, and Patrick Reagan, "U.S. Economic Aid and Political Repression," *Political Research Quarterly*, Vol.48, no.3 (Sept. 1995): pp.613-28, which argues that bilateral conditionalities have produced negligible improvement in human rights. See also Glenn S. Hodes, "Linking Human Rights and U.S. Security Assistance: A Policy Analysis," Paper presented to the Northeast Political Science Association, November 1997, which argues that "relatively fixed implementation obstacles" yield low effectiveness.

<sup>137</sup> On the three reasons, see Ian Hurd, "Legitimacy and Authority in International Politics" *International Organization* Vol.53, (Spring 1999): pp.379-408 as well as cites therein. As Hurd notes, "The trait distinguishing the superior from the subordinate is different in each case. In the first, it is asymmetry of physical capacity; in the second, a particular distribution of incentives; and in the third, a normative structure of status and legitimacy"

threat of coercion (or the coercive use of threats) can actually blend the first two in that it relies on physical capacities (or rather the perception of capacity and of sender intentions) to manipulate the incentives a target faces: both sender and target are presumed to face incentives (lower costs) in achieving compliance or resolution without the former following through on the material threat, but the sender essentially asserts that the costs of following through on the threat are much higher for the target. In practice, all three mechanisms can function simultaneously in at least some cases. Schoppa argues, for example, that issues of legitimacy and social relationships between states (as distinct from capabilities or incentives) can have important impacts on coercive bargaining: in his view, pre-existing hierarchies between parties, institutionalized norms of acceptable bargaining tactics or procedures and historically developed degrees of trust between parties and the discourse between them can all "facilitate the extraction of concessions *independent of threat magnitude or credibility*." <sup>138</sup>

Building on Kirshner's and Klotz's efforts to disaggregate the potential mechanisms of sanction impact,<sup>139</sup> the following sections advance hypotheses on the mechanisms or modes of aid conditionality impact. While political conditionality is a policy of coercion, it can also

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(p.379). The three mechanisms can in large part be correlated with the three approaches predominant in U.S. scholarship in International Relations - realism, neoliberal institutionalism, and constructivism - although there is an important challenge to this conventional delineation which argues that neoliberal institutionalism is not a properly "liberal" approach to IR, but rather is a variant of neorealism: see Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics" *International Organization* Vol.5,no.4 (Autumn 1997): pp.513-53. Moravcsik stresses the primacy of societal actors and preferences as prior to states. He also argues that liberal theory rightly privileges state interests and identity over and against the unitary states and systemically and materially defined interest of Waltzian neorealism or the constructivist state with its identity and interests constituted largely by the norms of international society. The current project clearly takes a disaggregated or non-unitary view of states that is arguably compatible with this view of a liberal approach to IR, but also with various extensions or modifications of neorealism which include attention to domestic politics but whose practitioners still identify as realists. The relationship of domestic and international dimensions or factors in constituting state identity and interests or preferences (i.e. the relationship of liberalism and constructivism) will be considered below.

<sup>138</sup> Leonard J. Schoppa, "The Social Context in Coercive International Bargaining," *International Organization* Vol.53, no.2 (Spring 1999): pp. 307-342 at 312.

<sup>139</sup> Audie Klotz, *Norms in International Relations: The Struggle Against Apartheid* (Ithaca, NY: Cornell University Press, 1995); Jonathan Kirshner, "The Microfoundations of Economic Sanctions," *Security Studies* Vol.6, no.3 (Spring 1997): pp.32-64. Kirshner's concept of robustness is especially relevant: "Robustness refers to how the power of sanctions is affected by actions taken by private actors, as well as the defenses of the target state. Actions taken by private actors represent the "market" response to sanctions: will the sanctions provide opportunities for profit that undermine their intended effect? It is also logical to assume that the target will take whatever steps it can to circumvent the sanctions.... The problem of robustness is often the weak link in trade sanctions: in fact it is often held out as the principle reason why economic sanctions do not work" (40-1). While trade sanctions are typically the least robust, financial sanctions are more so, monetary sanctions are highly variable depending on context, and aid sanctions and asset seizures are typically the most robust.

simultaneously entail attempts to create or influence incentives, and it is clearly an appeal to legitimacy and norms. Three distinct, but potentially overlapping or synergistic causal paths of influence are therefore described: 1) **direct economic effects** - emphasizing the material dimension of conditionality impacts; 2) **signalling effects** - emphasizing the informational, incentive, diplomatic and cognitive dimension; and 3) **legitimacy effects** - emphasizing the normative, social and cultural dimensions. These mechanisms are not elaborated in order to test one against the other to determine which is the "real" mechanism of impact, even though some may be significantly stronger than others: rather, as already noted, they are not at all mutually exclusive and can be additive or mutually reinforcing in their impact. They are nevertheless worth describing and distinguishing analytically because the non-material impact of sanctions in general is undertheorized and the more specific questions of how and why conditionality may contribute to compliance and, in the cases of interest here, to democratization, is likewise in need of exploration through in-depth case studies.<sup>140</sup>

Along with an explanation of each mechanism and exploration of some of the issues, literature and debates that surround them, the following sections will also offer hypotheses about key intervening or antecedent variables that may condition the impact of each mechanism. One set of intervening variables - what I term "donor policy and implementation variables" - can arguably apply to any of the specific mechanisms of conditionality impact (or to any democracy promotion policy, for that matter), but I consider them under the signalling mechanism because their presence or absence can have the additional effect of serving as a direct signal to a target regime of donor resolve or commitment to promoting democratization.

Before discussing each of the mechanisms and their associated hypotheses in turn, Table 2.3 presents a full listing of the latter so as to both preview what follows and provide a sense of overview as to how the hypotheses may cohere and interrelate. Sub-hypotheses attempt to specify the overall hypothesis more precisely or to identify particular mechanisms of causality or

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<sup>140</sup> see "Case Selection and Methodology", section IV in Ch. 1.

correlation among several alternatives. Skeptical counter-arguments are addressed where relevant, and possible indicators related to the mechanisms and hypotheses are noted.

**Table 2.3****Hypotheses on Conditionality Impact Grouped by Conditionality Mechanism****I. Direct Economic Effects** (hypotheses designated "E" for economic)**A) Target Regime/Economy Variables**

**E1. Aid Dependency:** The more aid dependent a target country, the more effective aid conditionality will be.

**E1a. Percentage of Aid Affected:** The greater the percentage of total aid received that is affected by a conditionality policy, the more effective the conditionality policy will be. (cf. Breadth of Conditionality Coalition, E2a.)

**E1b. Budgetary Dependency:** The more dependent a target government is on aid for recurrent budget expenses, the more vulnerable to conditionality and the more effective a conditionality policy that targets that aid.

**E1c. Domestic Substitution:** The more a regime can turn to increased internal extraction of revenue as an alternative to aid, the less dependent it actually is on aid and the less successful the conditionality policy will be.

**B) International Financial Context**

**E2. International or Transnational Substitution/Alternative Sources:** the more a target country can develop and draw on alternative sources of aid or finance, the less effective a conditionality policy will be.

**E2a. Breadth of Conditionality Coalition:** The broader the coalition of donors imposing conditionality and the more it encompasses the set of donor nations, the fewer the alternative sources of aid available to the target and the more effective the conditionality policy.

**E2b. Cost of Finance Alternatives:** The more costly the alternative sources of finance are to the target regime, the more effective the conditionality policy.

**E2c. Bloc Competition:** The more aid recipient countries are the objects of alliance and strategic competition by geopolitical blocs which use aid to cement alliances, the less likely a conditionality coalition will encompass all donors and the more likely competing blocs will offer substitute aid.

**E2d. Tradeable Assets:** The more a target country possesses economic resources in demand externally, the more it will be able to attract alternative sources of finance and the less effective aid conditionality will be.

**II Signalling Mechanism** (designated "S")**A) Donor Variables -**

**S1. Breadth of Conditionality Coalition:** The broader the coalition of donors imposing conditionality and the more it encompasses the set of donor nations, the more credible the signal that an international norm has emerged and will continue to be enforced in the future with attendant costs, and therefore the more effective the conditionality policy.

**S2a & b. Competing Donor Interests:** The more aid to a target country is important to other, non-democratization donor interests, the more likely there will be conflict over the conditionality policy a) (domestic) within donor polities or governments and/or b) (international) between donor governments and institutions in a conditionality coalition, with the consequences that 1) the less likely a conditionality policy is to be deployed, or 2) if deployed, the more likely its implementation is to be compromised, or 3) the more likely the target can mobilize counter-leverage to undo the policy or compromise its implementation.

**S3. International Norms:** Increasing normative support for democratization in international political culture (international law, treaties, international organizations) over time will lead to diminishing normative constraint for prodemocratic conditionality policies (i.e. constraint based on norms of non-intervention), increasing frequency of conditionality policies, increasing bandwagoning for conditionality coalitions, increasing ease and legitimacy in deploying companion policies and pursuing external state to target civil society transnational linkages ("trans-state" linkages), and therefore increasing success for prodemocratic conditionality policies. Assembling, maintaining and managing donor coalitions for conditionality will be facilitated to the extent that upholding and promoting the norm of democratization is officially institutionalized in some ongoing international organization or forum, and such insitutionalization will constitute a major signal to all authoritarian regimes of the credibility of the norm and its probable enforcement.

## **B) Policy & Implementation Variables**

**S4. Intensity of Commitment, Threat of Escalation and/or Deployment of a "Companion Policy":** The greater the intensity of commitment to the policy by the donor/coalition, the stronger the implementation and the more likely the donor/coalition will threaten or enact escalation of the policy, and/or will enact companion policies that also work to promote democratization (i.e. "broaden" the policy) such as direct aid to the pro-democratic movement (prodemocratic political aid). The more escalation is threatened or enacted or synergistic companion policies are deployed, the more conditionality will be effective.

**S5. Intensity of Commitment and "Crafting":** The stronger the commitment to democracy promotion by the donors, the more they will commit the resources necessary for monitoring the target country, the more they will engage in dialogue with the regime, the opposition movement and other relevant actors and the more they will respond, publicly or privately, to the issues and events of the transition process in order to mediate where possible, tailor specific policy responses based on the particularities of the process, and generally remain engaged in pushing the process forward. The more donors are engaged in monitoring and democratization "crafting" in conjunction with conditionality policies, the more effective conditionality will be.

**S5a. Appropriateness of the Democratic Model & Strategic and Tactical Integration:** The more committed and engaged the donors are in the process and specifics of a country and transition, the more they will consider issues of the appropriateness of particular forms or models of democracy for the transition in question rather than simply promote more generic elements of democratization or "export" their own domestic models.

**S6. Intensity of Commitment and Patience/Duration of Sanction:** The greater the ability of the donor/coalition to be committed and patient (as well as flexible) in implementation, the greater the ability to achieve maximum impact for the conditionality policy and the more effective implementation and the overall policy will be.

## **C) International Audience Effects**

**S7. Crisis Perception and International Investor Confidence:** The more the imposition of aid and/or financial conditionality contributes to an external perception of economic and/or political crisis, risk or instability with regard to the target regime and country, the more international investors will refrain from investing in the country, entering into business with the regime (at least on credit) and the more they may seek to withdraw existing investments. This will result in indirect economic costs to the target regime and economy (indirect with respect to the conditionality policy) and will constitute an additional signal to the regime regarding future costs of noncompliance, thus increasing the impact and probable effectiveness of the conditionality policy.

### III. Legitimation Mechanism (designated "L")

**L1. National Political Culture and Nationalist Backlash:** The stronger and more anti-interventionist the character of nationalism in a target state, the greater the possibility that a target regime will successfully orchestrate a broad backlash against prodemocratic intervention and against the domestic democratic movement, and therefore the less effective a prodemocratic conditionality policy is likely to be. Conversely, the greater the skill of a democratic movement in managing and balancing external support including conditionality so as to promote the expansion and mobilization of its own domestic power base, the more successful the movement and the policies of external support will be.

**L2. National Political Culture and Instrumentalism:** The more instrumentalist the conception of democracy in local political culture of a target country, or the stronger any instrumentalist factions of the democratic movement are compared to principled factions, the more problematic both the cohesion of the movement before and during a transition and the consolidation of democracy after a transition are overall, and the lower the domestic perception of legitimacy of the movement will be. The lower the perception of movement legitimacy, the less it will be able to garner any additional legitimacy boost from external conditionality against the regime, and hence the less ultimately effective a prodemocratic conditionality policy will be.

## I. Direct Economic Effects

*H2 : Direct economic impact: The greater the concrete economic costs actually imposed on the target, the more effective aid conditionality will be in eliciting compliance from the target regime.*

By imposing costs in the form of lost revenue, aid cutoffs can cause target state fiscal crises and more general balance of payments and foreign exchange crises, as well as relatively direct declines in state capabilities that depend on the lost revenue. They can also trigger secondary, yet still relatively direct economic effects in the form of loss of investor confidence and capital flight, currency depreciation, increased cost or decreased access to commercial forms of credit and finance and even declines in trade. Given that aid freezes are presumed to be reversible upon compliance with donor conditions, compliance presumably follows once the target calculates that costs of the freeze exceed the costs of compliance. While this mechanism can entail cost/benefit calculation on the part of the target regime, the emphasis is on the costs themselves rather than on the two-step impact of costs on calculations. Other degrees of successful impact could be judged to occur simply on the basis of the costs imposed (sanctions as punishment) and the degree to which they reduce the capabilities of the target (target impairment without policy or behavioral change.) Direct economic costs can trigger secondary non-economic costs for the target regime in the form of loss of support and legitimacy simply on the basis of the economic costs and ensuing crisis of regime performance rather than over the issue of democratization. The degree of economic costs are in turn determined by some antecedent and intervening variables including aid dependency and possibilities for alternative sources and means of adaptation which will be addressed in hypotheses below (E1 through E2d). The counterarguments by skeptics of sanction and conditionality effectiveness that relate to this mechanism focus largely on the difficulty of imposing sufficient costs to trigger compliance, and the ability of target regimes to adapt or to shift the costs onto the population as a whole or subsections of it outside of the regime's main power base and even to

extend its control of the economy and to extract new rents based on the crisis and scarcities that sanctions including aid freezes can produce.<sup>141</sup>

### The Importance of Aid and Aid Dependency

The focus on aid as a policy tool virtually implies the importance of aid as a resource and a policy that matters to the actors involved. The relative importance of aid varies and is thus one of the *prima facie* key variables to be assessed in the context of particular target countries or sets of countries. That aid dependency of the target is a prerequisite to any effective impact of aid conditionality is perhaps the most obvious hypothesis and is espoused by most analysts (Hypothesis E1). They sometimes differ however in how the importance of aid is assessed and dependency specified. One initial measure of the leverage a conditionality policy provides is the proportion of aid affected by conditionality to the total aid flow if all aid is not included under the conditionality policy (E1a). A second measure is the proportion of aid affected to all external capital flows including private sector investment and loans or commercial finance. This can also be a suggestive indicator for whether the target has access to and can substitute other usually more costly financial resources for aid. A third is aid affected as a proportion of GNP to measure an aid cut's potential impact on the economy as a whole, and this can be fine-tuned to account for the population size by converting both to per capita measurements. A fourth and arguably the most specifically targeted measure of aid importance is aid as a proportion of government budget since the incumbent government is typically the primary target of a prodemocratic conditionality policy. This can also be fine-tuned further when the data allows by looking at current government reliance on aid for the recurrent expense portions of the budget to measure dependency for ongoing, day-to-day government operations (E1b) as opposed to discrete projects or development expenditures which could be cancelled for a one-time cost.

Such a measure gets closest to measuring vulnerability to the imposition of aid conditionality, but it still fails to fully capture the question of substitution and adaptation as possible

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<sup>141</sup> Pape. *op.cit.*

target responses. The more a regime can turn to increased internal extraction of revenue as an alternative to aid, the less dependent it actually is on aid and the less successful the conditionality policy will be (E1c). As a short term response, many governments would be tempted to print money and create inflation to pass along government shortfalls to the economy as a whole, but the real value of the local currency in many LDC potential targets is already questionable and under economic pressure. Various forms of taxation or even of domestic borrowing may also offer means of substitution for lost aid via increased domestic resource extraction, but they may also come with new political and economic costs.

#### Adaptation, Substitution, and "Black Knights"

While domestic policy adaptations can vary widely, the external aspect of the question of substitution can be readily formalized as a variable: sanctions-busters, or "black knights" who ride to the rescue of the villainous target government by providing alternative sources of aid, can usually be identified.<sup>142</sup> The more a target country can develop and draw on alternative sources of aid or finance, the less effective a conditionality policy will be (E2.) The counter-effect of this alternative source on the impact of conditionality can of course vary according to whether the substitute aid is less than, equivalent to or more than the original aid. Existing donors outside a sanctioning group may increase their aid or new donors may emerge. The broader the coalition of donors imposing conditionality and the more it encompasses the set of donor nations, the fewer the alternative sources of aid available to the target and the more effective the conditionality policy (E2a.)

Under trade sanctions, there is a general economic incentive for nonsanctioning actors to fill the gap and meet the demand that trade sanctions create, and typically there is an opportunity to even extract a higher price or rent. The tendency for a black knight to appear on prodemocratic aid sanctions, however, is dependent in large part on the existence of potential donors who are both indifferent or opposed to the promotion of democracy and have some other compelling interest to motivate aid donation. Since the end of the Cold War and its geopolitical competition for allies and

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<sup>142</sup> The term "black knight" is coined by Hufbauer and Schott, *op.cit.*

proxies in the Third World (cf. E2c), the ability of Third World authoritarian regimes to play potential donors off against each other has diminished. There is nevertheless a small pool of donors outside the advanced democracies of the OECD that are not constrained by the need to at least pay lip service to democracy and its advancement.<sup>143</sup>

Under some economic conditions, private commercial capital or even illicit capital (i.e., drug and smuggling money) could play a sanction-busting role. The willingness of private capital to do so typically depends on their confidence that loans will be repaid with significant interest (E2b) or that some other economic advantage will be obtained (e.g. mineral rights, see E2d), both of which depend on the economic health and resources of the target country (see D5.) The degree to which a conditionality policy encompasses current aid and effectively reduces potential alternative sources is largely a function of the number of donors participating in the policy - of the size (E2a again) and cohesiveness of a sanctioning coalition - another key variable to be discussed below (S1 through S6).

Indicators of the direct economic impacts of conditionality policies could include: target state fiscal crises (and component elements such as budget cuts and lost revenue,) more general balance of payments and foreign exchange crises, loss of domestic and/or foreign investor confidence (e.g. a stock market crash if the country has a stock market) and capital flight, currency depreciation, increased cost or decreased access to commercial forms of credit and finance, and economic adaptation efforts by the regime. Accurate data on state finances or private capital flows may not be readily available, and all these indicators could have other causes, so they need to be

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<sup>143</sup> These include China, Saudi Arabia, Libya, perhaps Iran, and in some cases Taiwan. Saudi Arabia and the other Gulf oil states (plus Brunei) are non-democratic, but are also generally aligned with West and would have to have strong independent interests in the target country to oppose the policies of advanced democracies, a rare likelihood. Taiwan has undergone its own transition to democracy, but has a major foreign policy of currying favor with a wide variety of countries through aid in the hopes of perhaps gaining recognition as an independent state in the U.N. and other fora, rather than as being part of China. This policy could conceivably lead to alternative aid that undermines a conditionality policy, but again Taiwan has generally positive relations with donor democracies, and the latter could presumably exert pressure on Taiwan to prevent this *if* the commitment to the conditionality policy is strong enough for the donors to be willing to spend political capital to make it succeed. This leaves China and assorted "pariah states" as the major candidates for being black knights, but many of the pariah states are themselves under sanction and economic pressure (Libya, Iraq, North Korea, Cuba) and unlikely to be major donors. Among the advanced democracies themselves, France and the United States still stand out as willing to compromise their stated commitment to democratization for other policy objectives.

contextualized historically and any causal link to conditionality needs to be process traced.

Alternately, public or elite/expert perception that they are linked to conditionality can certainly count for something, but this begins to drift into the realm of signalling effects.

## II. Signalling Mechanism

**H2. The Signaling Effect** - The more a conditionality policy is seen as a credible commitment to future or ongoing conflict over the conditionality issue (i.e. democratization), the greater the shadow of the future on target calculations of costs and the greater the probability and degree of compliance.

**H2a. Signaling New Norms:** The more credibly a conditionality policy signals the emergence and commitment to enforcement of a new international or donor norm, the greater the likelihood of future or ongoing conflict over the normative issue and the greater the shadow of the future on target calculations of costs and the greater the probability and degree of compliance.

**Audience-specific variants:** In addition to functioning as a signal to target regime decision-makers and thus having a direct impact on compliance, conditionality can function as a signal to other audiences with impacts that result in indirectly promoting either compliance or democratization -

**H2b - Target Domestic Audiences:** Conditionality policies can serve as a signal to domestic supporters of a regime (its coalition or base) that regime performance in the future may be hampered by ongoing conflict with international actors over democratization, and it can thus affect their calculations of interest and support with the possibility of creating pro-compliance factions within the regime coalition (soft-liners) or of triggering cascades (chain reactions) of defection from the regime coalition or its support base. Conditionality can also serve as a signal to other domestic target audiences concerning the future power of the regime and possible changes in the domestic balance of power with the result of triggering cascades by nonaligned actors or latent supporters towards active support for the democratic opposition.

**H2c - International Audiences:** Conditionality policies can serve as signals to international audiences (.e.g. investors, the media, other states/allies) regarding the trend of future conflicts and the stability of a target regime, causing these international actors to recalculate or reframe their interests and interactions with the target regime. Changes in interaction could promote regime compliance or democratization to the extent that they result in diminished resources (broadly defined) for the target regime.<sup>144</sup> (see S7 for a more specific hypothesis regarding investors)

The signalling mechanism (or causal path) for potential sanctions impact moves from the strictly materialist arena of concrete economic costs (which can presumably exert an impact even if the target regime is not fully or immediately aware of them) to the arena of perception, the estimation of future trends or likelihoods, strategic interaction and calculation of interests, and thus more generally from the realm of pure economics into that of diplomacy and statecraft. The central issue here is whether the imposition of negative or punitive conditionality on an existing aid relationship - essentially a switch from aid relationship to sanctioning relationship - is a discrete, one-time cost to the regime (e.g. the cancellation of a particular aid project) or is perceived as a harbinger of ongoing or even escalating conflict and cost or as a new and abiding conflict issue added to an existing set of conflict issues (e.g. political conditionality norms on top of economic conditionality and structural adjustment.) The signalling effect thus works as an amplifier of both economic costs and the impact of norms beyond those actors that actually identify with them.

To the extent that a conditionality policy is read as a possible signal of future intent, then judgements of credibility (or resolve) arise. International Relations scholars starting with Schelling and more recently Fearon have explored the issue of signalling in international crisis or conflict situations, and come to emphasize the use of "costly signals", "tied hands", "audience costs" and/or "sunk costs" as ways of increasing the credibility of signals, but in the case of aid conditionality

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<sup>144</sup> An additional audience effect that could have ramifications for the ultimate success of a conditionality policy relates to domestic audiences within the sanctioning donor countries: by committing themselves to supporting the goal of democratization in a given target country through enacting a conditionality policy, donor governments may be seen as investing political capital in the policy and desired outcome, as creating expectations of commitment and consistency in its policy and constraints against backing down in the future, all of which may create incentives for seeing the policy through, for escalation or attention to the implementation of the conditionality policy so as to increase the chances for success. This domestic audience may have pushed for the policy in the first place.

and the relatively low level of crisis that cases of aid sanctions may involve, the application of these concepts may be problematic.<sup>145</sup> Policymakers and implementers in donor countries certainly may become invested in the success of conditionality policies and careers may rise or fall. While aid suspensions could result in net fiscal gains rather than monetary costs for the donors, political costs may be incurred in terms of other foreign policy goals and other dimensions to the relationship with the target that the aid programs subject to suspension supported. Costs could also exist in relation to domestic interest groups that were invested in those aid programs. Other prodemocracy and human rights interest groups may try to hold donor governments accountable for follow-through and consistency in implementation and may or may not be increasingly effective in doing so, but donor governments as a whole are not likely to become electorally vulnerable over foreign policy failures involving aid conditionality. In other words, compared to possible major foreign policy failures (e.g. in the post Cold war era, perhaps anything involving casualties), there are limits to the audience costs donors incur.

The primary issue is whether the target perceives the threat of a conditionality policy as a credible threat or whether an actually implemented conditionality policy is seen as a credible signal that prodemocratic conditionality is likely to be ongoing and even expanding in some sense in the future. The alternative in the latter case is a type of bluff, "cheap talk" or "symbolic politics" where democratization as a condition for aid is a short-lived issue or fad and where at least some donors find reasons to renew aid after some modest period of deadlock that the target can easily outlast without any substantive compliance. The domestic politics within donor nations and states and the coalition politics within donor coalitions are clearly major determinants of the intensity or resolve of a conditionality policy, and to the extent that they are transparent they can provide important information to the target regime and to other audiences about the likely trend in conditionality and about how to interpret the signalling dimension of the current policy. As noted above and detailed

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<sup>145</sup> James D. Fearon, "Signaling Foreign policy Interests: Tying Hands versus Sinking Costs," *Journal of Conflict Resolution*, Vol.41, no. 1 (February 1997): pp.68-90 and "Bargaining, Enforcement and International Cooperation," *International Organization*, Vol.52, no,3 (Spring 1998): pp.269-305; "Domestic Political Audiences and the Escalation of International Disputes," *American Political Science Review* Vol.88, no,3 (September, 1994): pp. 577-92.

below, donor policy and implementation variables which display intensity of commitment such as escalation or broadening of democracy promotion policies, monitoring and engagement in the local "crafting" of transition policies or patience regarding the duration of sanctions, can affect any democracy promotion policy, but their presence or absence can have the additional effect of serving as a direct signal to a target regime of donor resolve or commitment to promoting democratization.<sup>146</sup>

Sanctions to enforce norms may differ from sanctions focused on discrete and non-normative policy issues, on the one hand, and from systemic but less politically normative issues on the other. The former (e.g. a particular trade dispute or a security incident) may have a life-cycle that ensures they will fall off the policy agenda at some point in the foreseeable future. The costs of noncompliance therefore appear finite and more certain. In the case of the enforcement of new norms, however, costs may continue and even escalate as new norms become more pervasive. The future costs of noncompliance thus appear uncertain as possibilities of adaptation must be weighed against possible cumulative effects, opportunity costs and escalating sanctions. Credible norms mean iterated or ongoing enforcement confrontations and a problem that won't go away for target regimes until normative compliance is achieved. Under these circumstances, the cost of compliance can appear to be much more certain or manageable than the cost of noncompliance. To the extent that a norm of democracy becomes an institutionalized feature of the international opportunity structure that regimes confront with attendant costs and benefits, then this norm becomes a constitutive factor for national interests: even if this norm is not internalized through a regime's commitment to democratization, an interest in minimal compliance or the appearance of compliance is created. Compliance is still largely a function of cost/benefit calculation, but that calculation is shaped by a normative and institutional logic of appropriate democratic behavior and focuses on future rather than immediate costs and on indirect as well as direct costs.

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<sup>146</sup> With regard to prodemocratic conditionality in particular, Crawford's argument that most cases have been marked by weak and possibly merely symbolic policies (see above, ch.1, sect.VI) must also be kept in mind: such cases may lack the indicators of commitment outlined here.

For systemic but less politically normative issues, on the other hand, there may also be iterated confrontations or even quite institutionalized cyclical rounds of bargaining such that the shadow of future rounds weighs heavily on the present and creates concern for the reputations and the precedents that will be carried forward by the parties. Scholars have analyzed these issues from game theoretic perspectives and emphasized how the shadow of the future can cause both parties to be concerned with relative gains and with maintaining reputations for being tough bargainers displaying high levels of resolve. Unlike iterated sequences of bargaining on issues such as arms control, trade liberalization, debt renegotiation or a seemingly ever-expanding lists of other economic policies under the rubric of structural adjustment, democratization as an issue has a generally acknowledged major threshold defined by free and fair elections, and donor conditions typically focus elections once a domestic prodemocratic movement has attained enough strength to make it a serious demand. Even though elections themselves are cyclical and may invite renewed international scrutiny with each round, subsequent elections and aid policies are likely to be treated differently once the democratic threshold is considered to have been passed. While they may confront a range of potentially linked conflict issues with donors, target regimes may not necessarily have the same concern for a reputation as a tough or resistant bargainer in the same way across all of them: regarding democracy as an issue, the target may have a very different reputational issue, namely illegitimacy as a government or general non-compliance with international norms of democracy and human rights. Rather than developing reputations for being tough or resistant bargainers who strenuously defend their national sovereignty, target regimes interested in restoring aid flows could be said to have strong interests in cultivating reputations for compliance with international norms. Furthermore, while there is considerable variation in democratic practice, there is arguably little for target regimes to bargain about: donors may accept any form of democracy that falls within the acknowledged spectrum of electoral and constitutional arrangements - within the realm of compliance, in other words. Both the threshold of elections and the broader question of legitimacy suggest that the shadow of the future may operate differently for this issue area than for less normative ongoing issues. Drezner's logic suggests that adversary

targets may prefer to reject compliance and accept high costs of sanctions in the present out of fear of higher costs in the future should they concede, whereas ally targets will comply or not based solely on immediate costs because they do not anticipate future conflict: my suggested logic (arguably more straightforward) is that conditionality targets (who have been non-adversary aid recipients up to the point of conditionality being imposed) may calculate not only the immediate costs of sanctions but also the likelihood of ongoing and even escalating costs in the future to the extent that they perceive current sanctions to be a credible signal of commitment by donors to make democratization an ongoing basis of conflict with the target regime (i.e. an increasingly adversarial relationship).

General intervening variables that affect the signaling potential of conditionality include any that increase the credibility of the signal or the general perception of the emergence and strengthening of a norm. The former includes the concept of the "costliness" of the signal to the sender which should be understood not in monetary or economic terms (in which aid suspensions can seem to be cost-free or net-gains) but rather in terms of political and diplomatic commitment or investment of resources such that a failure of the conditionality policy would entail a clear cost such as loss of status. The investment of resources can range from efforts to recruit other donors to the conditionality coalition to attention paid to the implementation of the policy, including the monitoring of events in the target country and the level and quality of public or non-publicized diplomatic response to those events. All of these potential efforts function as variables that can both improve the direct effects of prodemocracy policies and serve by their presence or absence as signals of the degree of resolve by donors. (This assumes a sufficient degree of transparency of donor action for such a signaling effect to work.) The assessment of donor resolve or commitment to prodemocratization policies is also important not simply to the target but to analytic assessment such as this project, especially given both the tendency to dismiss sanctions policies as mere symbolic politics and the argument by Crawford that many cases of conditionality have involved weak measures and a possible lack of serious intent by the donors. The donor policy commitment and implementation variables are considered at length in the sections that follow immediately below.

The second set of variables regarding the perception of strengthening norms includes the international diffusion and cascading of democratic and human rights norms, the codification in the practices and principles of international organizations, international regimes and treaties, the perception of norm enforcement elsewhere (demonstration effects) and of increasing consistency in enforcement. More specific variables relating to the actual conditionality policy include whether it is multilateral, and if so, whether the size and breadth of the donor coalition suggests an emerging consensus (S1), and whether it is defined and organized through an established international organization or forum (S1 & S3). Skeptical counterarguments focus on doubts that norms function in international relations and that normative cascades resulting in escalating cost will occur, the largely realist belief that "power" is all that really matters, that norms are essentially just words unless backed up by the power of major nations, and that any real causal nexus is reduced back to direct economic effects or military threats as the only ones that could credibly threaten self-preserving regimes and to the same skepticism that criticized that hypothesis as generally insufficient. General indicators of the impact of norms are found largely in the discourse (e.g., protests) and decisions of the target regime (attempt to use other, older norms in defense), in the discourse of the donors and to a lesser degree in the surrounding media discourse and opinion.

#### Importance of Aid to the Donor(s): Competing Interests (hypothesis S2)

Historically, the promotion of democracy and democratization has been an at best intermittent or minor interest in donor aid policies since the beginning of modern foreign aid after WWII.<sup>147</sup> It has enjoyed a major resurgence since 1983, however, and now figures prominently in the policy rhetoric of many donors (notably the U.S.) and is the focus of efforts at policy coordination by the Development Assistance Committee (DAC) of the OECD and to varying degrees by the Country Consultative Groups or Donor Roundtables chaired by the World Bank and the UNDP respectively. The importance of aid to the donor and the consequent potential costs of a conditionality policy can obviously prevent a policy of conditionality from being declared in the

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<sup>147</sup> See Chapter 1 references to the work of Tony Smith, Lowenthal, Whitehead, et al.: fns. 7 and 19.

first place (S2a1). Individual donor governments do not necessarily function as a coherent unitary actor on such policy matters, however, and prodemocratic conditionality can be declared without the foreign policy interest in democratization necessarily or automatically taking precedence over a range of other interests that the policy of providing aid may also reflect (S2a2). For the sake of simplification, these interests can be divided into military (geopolitical or strategic), economic, political (or diplomatic), and altruistic (humanitarian or developmental), although these can overlap and interconnect among themselves and with democratization. Aid itself has usually been divided into general categories of military, economic and humanitarian aid, and conditionality could affect all of these, although humanitarian aid is typically excluded.

Military or security interests typically include alliance building or maintenance, and more specifically base rights or other forms of logistical cooperation: either military aid can strengthen the military capabilities of an ally, or aid can be a quid pro quo, a form of political exchange for base rights or some other form of cooperation in threat eradication (e.g. drug control, although this is termed police or law enforcement aid). Aid for environmental protection or to prevent refugee or immigrant flows is also a form of threat control, but here the threats are not military.

The OECD countries' economic interests in a target country are usually mediated through the private sector and vary according to the extent of investment in and trade with that country. There is also a degree of economic interest in the aid itself because many donors engage in a practice of "tying aid" or economic conditionality in which the aid essentially takes the form of credits to buy donor country products and services so the recipient is required to basically send the aid money back to donor country contractors.<sup>148</sup> The aid becomes a form of export subsidy in which the contractors involved develop a strong economic interest: conditionality leading to aid freezes could impose very direct costs on this pro-aid constituency. Given that foreign aid often has a small or diffuse constituency of support overall, aid supporters within government may be leery of the politics involved in alienating or penalizing the tied aid constituency.

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<sup>148</sup> See Catrinus Jepma, *The Tying of Aid* (Paris: OECD, 1991), and M.C. Kemp and S. Kojima, "Tied aid and the paradoxes of donor enrichment and recipient impoverishment", *International Economic Review*, Vol. 26 (October, 1985): pp.721-9.

Political interests in aid can take the form of aid being an exchange for foreign policy cooperation by the recipient through actions such as voting with the donor in the UN or other international organizations and fora. Political interests can also be domestic such as satisfying a constituency within the donor country that has ethnic or cultural ties to a recipient country, although these constituencies could favor or oppose a prodemocratic aid policy or could be divided on the issue.

While strictly humanitarian aid (famine, refugee and other crisis relief) may be spared by a conditionality policy or rechanneled to nongovernmental paths as much as possible, opponents of political conditionality have also argued that promoting economic development is more urgent and more important than promoting democratization from a humanitarian point of view, and even that economic development is the real key to consolidated democracy in the long-term. In either case, they are likely to oppose the interruption of economic development aid. However, economic development doctrine since 1980 is increasingly slanted against state-led strategies in the less-developed countries and for some schools of thought even calls for political liberalization and democratization as well as economic liberalization. Economists are also susceptible to country-specific arguments about not throwing more good aid money after bad to governments that are corrupt or unwilling to liberalize. As can be seen in some of the debate on political conditionality and clearly in the case studies, the economic and political reform agendas can diverge: governments targeted by both seem to have discovered that they can divide donor reform coalitions by adopting economic reforms (or at least appearing to) and temporizing on political reforms (S2a/b3.)

Donor nondemocratic interests in aid can either prevent a prodemocratic conditionality policy from ever being deployed (S2a1), or they can interfere and compromise the implementation of such a policy due to conflicts within the donor government or polity (S2a2). They can be the source of counter-leverage by which the target seeks to play up the threat to those interests to prevent or compromise deployment and to activate the conflicts among the donor constituencies (S2a3.) Furthermore, conflicting interests over aid is an issue not only within individual donor

countries and governments, but perhaps even more so between different OECD donor democracies (hence S2b 1 through 3.)

Importance of Democratization to the Donor(s): Commitment and Cohesiveness, Escalation, Monitoring and "Crafting" (S4 & S5))

The size, cohesiveness and commitment of a sanctioning coalition are major determinants of the effective implementation and ultimate impact of a prodemocratic conditionality policy. This is in most respects the flipside or converse of the previous factor involving competing interests. Some analysts argue that the collective action or coordination problems of such coalitions are so significant that individual sanctioning countries, if they are powerful enough, can be more effective acting alone. Such positions of predominant power may be increasingly rare in the post-Cold War era, however. The bigger a sanctioning coalition, especially in including existing donors to a country and potential substitute donors, the more aid can be affected and the more general economic and diplomatic leverage can be brought to bear (Hypothesis E2a). The more cohesive the coalition in terms of common interest in the policy and lack of conflict over competing interests, the more it will be able to prevent defection of its members and overcome problems of coordinating implementation (the converse of S2b). Likewise the greater the intensity of commitment to the policy by the coalition, the stronger the implementation and the more likely the coalition will consider, threaten or enact escalation of the policy (S4.) Escalations could include<sup>149</sup>:

- expansion of cuts/freezes to all aid by its members (humanitarian or non-governmental aid is likely to be excepted still);
- other forms of economic sanctions such as trade sanctions, investment bans, asset freezes, aviation or shipping rights, etc.;

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<sup>149</sup> This list is meant to include a wide range of conceivable options including those that may be outside the realm of what donor governments consider politically or normatively practicable.

- so-called "**companion policies**" such as direct aid to the internal prodemocratic opposition (a form of "positive conditionality" and nongovernmental aid)<sup>150</sup> or aggressive public diplomacy or propaganda such as targeted media broadcasts (in the tradition of Radio Free Europe, Radio Marti, etc.)
- diplomatic sanctions such as withdrawal of ambassadors, ejection of target regime diplomats as *persona non grata*, suspension or denial of membership in international organizations, up to formal withdrawal of diplomatic recognition of the target regime, including perhaps the transferal of that status to the democratic opposition or a government in exile; and
- ultimately some form of military threat to the target government, either via proxy (arming the democratic opposition or rather an armed wing of the movement as a whole) or directly (threat of invasion or of a more limited strike.)

The quality of the coalition will also affect its ability to conduct the kind of close monitoring of conditions in the target country needed to assess progress on an objective as complex as democratization and to guide implementation of the policy over hurdles such as partial or sham compliance by the target, manipulated elections, etc. Strong commitment to the policy will translate into the commitment of the resources necessary for monitoring (Hypothesis S5), whereas weak commitment (e.g. to maintain the appearance of foreign policy consistency), merely rhetorical support or support for conditionality simply to satisfy domestic pressures in the donor country will translate into weak implementation.

#### Penetration and Counter-Penetration

Companion policies can include the diversion of aid to nongovernmental channels as a way to undermine the power base of a target state while reducing impact on the state's population and possibly strengthening civil society in the process, and direct aid to the democratic opposition. Due

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<sup>150</sup> The term 'companion policies' comes from Hufbauer and Schott, *op.cit.* Companion policies are escalations in the sense that they are expansions of the prodemocratic policy, but in a strict sense they do not deploy increased power to increase the economic effect of aid sanctions, but rather work in parallel through other mechanisms and paths of causation.

to the international norm of nonintervention in the internal affairs of other states, donor governments do this either covertly or, more typically, through a system of parastatal and nongovernmental organizations. These organizations provide one or more layers of relative autonomy and organizational distance from the donor government and thus also provide a degree of plausible deniability or a legalistic fiction for disclaiming responsibility for the NGO actions. Examples include the National Endowment for Democracy in the U.S., the Westminster Foundation in the U.K., and the various party foundations (or *Stiftung*) in Germany. Donor government funds can also thus join and greatly expand an existing (and typically small) stream of transnational or civil society-to-civil society aid to promote democratization, human rights and social and economic development.<sup>151</sup>

These transnational linkages are one important aspect of what analysts have termed "penetration" of a given country by external actors: at its broadest definition the category can include any action by an external actor that, in contrast to traditional state-to-state diplomatic interaction, reaches into the country in question to directly effect its internal conditions.<sup>152</sup> Penetration potentially affects conditionality policy indirectly by enhancing the ability of companion policies to operate: the density of links to the civil society of the target country makes it easier to direct resources (political aid) to the democratic opposition and to assist in building that movement.

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<sup>151</sup> Elegant terminology is currently lacking to distinguish between different types of transnational links: I propose to use the shorthand term "trans-state" to denote external state to civil society links, and "trans-civic" for civil society to civil society links. (Following the same logic, economic links between private entities in different countries would be "trans-economic.") These links are typically maintained or mediated by NGOs, and a corresponding distinction would be between parastatal NGOs that receive most of their funding and mission from states, and independent NGOs (sometimes called private voluntary organizations or PVOs) that have non-state sources of funding, political support and mission.

<sup>152</sup> According to Li, the concept was introduced by Andrew Scott in his book *The Revolution in Statecraft: Informal Penetration* (1965), reprinted as *The Revolution in Statecraft: Intervention in the Age of Interdependence* (Durham, NC: Duke Press, 1982). Scott writes: "Formal government-to-government relations between nations allow only for the application of external pressure. They do not enable the administrative agencies of one country to reach inside another country in an effort to bring about desired change. The techniques of informal access, on the other hand, are distinguished by precisely this capacity and that explains the increase in their number and importance. These techniques include information programs, cultural exchange programs, many kinds of economic aid, technical assistance in many forms, military training missions, military civic action programs, political warfare, economic warfare, psychological warfare, and the organization of insurgency and internal warfare. Almost any form of transfer of resources, skills, or knowledge from one national society to another can be made the basis for informal penetration." *op.cit.*, ch. 8 - "Nonintervention and Conditional Intervention" (originally published in *Journal of International Affairs* Vol. 22 (1968)), p. 199. See also Chien-pin Li, "The Effectiveness of Sanctions Linkages: Issues and Actors", *International Studies Quarterly* Vol. 37 (1993), pp. 349-370.

Denser links also allow general economic aid to be more effectively redirected to non-governmental channels so that the aid sanctions are better targeted on the state rather than on the population, and thus avoiding humanitarian objections about the impact on innocent victims and maintaining greater support for the policy both within the target country and the external community. The extent of foreign penetration in a target country is not always welcome, however, and depending on the local political culture including history of colonialism and foreign intervention it may be a basis for nationalist backlash (see below and hypothesis L1.)

Transnational penetration can go both ways, however. Just as target countries can exert counterleverage by threatening other nondemocratic foreign policy interests of donor countries, they can also potentially engage in counterpenetration by seeking out allies within donor polities, by hiring Washington public relations and lobbying firms, or by attempting to use political donations or even bribes (forms of transnational aid!) as exchange for cooperation in defeating conditionality policies. This counter-penetration may or may not be effective: if illegal and/or exposed to public scrutiny it may actually increase domestic support for a conditionality policy in a donor country.

#### Importance of Democratization to the Donor(s): Commitment and Duration of Conditionality (S6)

Cohesiveness and commitment also affect a potentially key aspect of implementation in economic sanctions: the length of time the policy is kept in place. Strong commitment should translate into the patience and ability to resist pressures for immediate results, and that patience may be necessary for sanctions such as conditionality to work. On the other hand, the same forces that create strong commitment to the policy may also create the pressures for quick results, and those pressures may then lead to an escalation of the policy (in which case, if the expanded policy then succeeds, it is difficult to judge whether the conditionality policy alone should be considered a failure or a success)

Hufbauer and Schott argue based on their extensive case study database that shorter sanctions are more effective, but this argument can be misleading without the specifics because their

average duration for successful sanctions was still 2.9 years (vs. 8 years for failures.)<sup>153</sup> Three years can be a long time in policy terms. The actual relationship between duration of sanctions and success is probably not strictly linear in most cases: there is an initial phase in which longer duration allows sanctions to have their maximum economic effect, but at some point the target's ability to adapt reaches its maximum and the sanctions' effect declines from its peak. It may still remain very significant, however, depending on the economic circumstances and could again grow over time compared to the potential economic trajectory of the target if sanctions had never been imposed. In any case, from the sanctioning point of view, the ability to be committed and patient (as well as flexible) in implementation should translate into more effective implementation and the ability to achieve maximum impact for the conditionality policy (Hypothesis S6.) The more symbolic impact of sanctions - of turning the target into a pariah state if the coalition is sufficiently large - is also subject to adaptation, but it may also be cumulative and more burdensome over time.

### **III. Legitimation Mechanism ("L") Target Society Variables: Political Culture & History**

**H3. Legitimation Effects: Apart from signalling future conflict or cost trends, political conditionality policies can directly challenge the legitimacy of target regimes both internationally and in the eyes of their citizens and supporters, and the higher these "legitimacy costs", the more target regimes may lose international support, internal cohesion and domestic support, the more prodemocratic oppositions may gain support, cohesion and access to resources, and the greater the probability of compliance and/or democratization.**

Before exploring and explaining possible legitimacy effects of conditionality, it is important to distinguish them conceptually from the signalling effects just discussed. Then the different spheres or domains in which norms and legitimacy effects operate will be outlined, the difference between the aggregate cultural milieu or context and discrete normative actions emphasized, the

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<sup>153</sup> Hufbauer and Schott, *op.cit.*, pp. 100-1.

mechanisms and particular hypotheses regarding intervening variables that affect the impact of legitimacy effects discussed, and finally particular skeptical counterarguments will be considered.

Legitimacy costs are conceptually distinct from cost or loss of support to the regime due to signalling and the recalculation of interests based on expectations of the future. The existence of legitimacy costs depends on a) the legitimacy basis (if any) of the target regime both domestically and internationally, and b) a link between that basis and the challenge posed by a political conditionality policy. While both signalling effects and legitimacy effects can involve norms (the former may, and the latter must), the former are informational effects following a logic of interest calculation, whereas the latter are properly normative and follow a logic of appropriateness and consistency.<sup>154</sup> Signalling effects regarding emergent norms in particular involve the perception that at least some actors take norms seriously (the international donors deploying conditionality and the domestic democratic movement in particular) and that they will act on those norms to make the future of a target regime more conflictual and generally problematic thus leading to a revision in calculations of interest vis a vis that regime by a whole range of actors. Legitimacy effects can also be viewed as stemming from the signal that a conditionality policy provides, but here the content of the signal and the effects are normative: conditionality policies represent a statement or argument that the target does not have or deserve democratic legitimacy, and to the extent that other actors subscribe to that norm of legitimacy and internalize or institutionalize it in their behavior, they may also begin to treat the target regime as illegitimate. International actors may increasingly treat the target as a pariah regime, while domestic actors that had supported the regime may defect and previously neutral domestic actors may begin to support the prodemocratic movement.<sup>155</sup> Given

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<sup>154</sup> For a recent example of the difference between these two logics, see James G. March & Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* Vol.52, no.4: pp.943-969.

<sup>155</sup> For additional considerations on the state of the art on the impact of international norms on states and international relations and on domestic politics, see Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* Vol.52, no.4 (Autumn 1998): pp.887-917; Andrew P. Cortell and James W. Davis, Jr. "Understanding the Domestic Impact of International Norms: A Research Agenda," *International Studies Review* Vol.2, no.1 (Spring 2000): pp.65-87; Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* Vol.53, no.2 (Spring 1999): pp.379-408; Thomas Risse, "Let's Argue!: Communicative Action in World Politics" *International Organization* Vol. 54, no.1 (Winter 2000), pp. 1-

that the recalculation of interests due to signalling effects can also lead actors to disengage from the regime because their interests will be better served by doing so, although this may be partial, more gradual, and less definitive than a rupture of relations because of normative illegitimacy. The signalling and normative impacts of conditionality politics can thus in some cases be the same or at least hard to separate empirically even though their causal pathways can be posited as analytically distinct.

Questions of legitimacy and the influence of the broader political culture which provides the context for norms of legitimacy can affect the success of prodemocratic conditionality policies in the three basic dimensions: national, international and transnational. The international dimension will here be defined fairly narrowly again as state-to-state interactions, and international issues of legitimacy, norms and political culture are therefore largely to be found in international law, in formal treaties and in the actions and institutionalized practices of international organizations and state-to-state diplomacy.<sup>156</sup> National political culture (broadly defined) can potentially affect the behavior, motivations, interpretations and interactions of all the domestic political actors in the target regime, as well as the democratic opposition, organized sectors of (civil) society and the population at large. Transnational political culture is perhaps the broadest category since it can overlap with elements of both the others, and its expansion encompasses broad processes variously termed diffusion, modernization, Westernization, secularization, penetration, cross-fertilization, translation, appropriation, internalization, imitation, indigenization, and globalization. It also includes more concretely the decline of Marxism as a global rival to Western liberal democratic ideology. None of these posited cultural spheres are necessarily or even likely to be coherent or monolithic: they all contain contradictions, conflicts, pluralities and subcultures. Nevertheless, aggregate trends can be

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39; and Alexander Wendt, "Collective Identity Formation and the International State," *American Political Science Review* Vol.88, no.2 (June 1994): pp.384-396 and *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999); Leonard J. Schoppa, "The Social Context in Coercive International Bargaining," *International Organization* Vol.53, no.2 (Spring 1999): pp. 307-342.

<sup>156</sup> Under this definition, I would classify the activities of so-called "international non-governmental organizations" as belonging in the transnational category.

observed (or even measured), and discrete actions, which can be described as meaningful or as symbolic to the actors and to audiences, can likewise be observed and analyzed.

A key distinction just made in considering the social and cultural domain in any of these spheres and the normative or legitimacy dimension in particular is one between the aggregate level of the social or cultural milieu, on the one hand, and the micro level discrete actions that can be said to be socially or culturally meaningful or (again more particularly) normative, legitimate or legitimacy-based, on the other. The former can be studied or measured through public opinion polling, large-scale content and correlational analysis, and other methodologies. The latter can be analyzed through the discourse that accompanies or surrounds actions and the meanings that actors explicitly or implicitly ascribe to their own actions (as the intent or expected consequence or moral value of the action) and to the actions of other actors (although the latter often poses problems of evidence). In trying to assess legitimacy effects of conditionality policies, the focus is primarily at the level meaning or interpretation of actions, even though the cultural context exercises influence through those meanings and must either be assumed or referenced in some way even if it cannot be documented systematically within the current project. Thus, specific ways that international political culture and norms can affect the success of conditionality are by providing a context, and perhaps a changing context, that potentially constrains state behavior by defining the meaning or value of certain behaviors and by imposing costs of illegitimacy and therefore grounds for (further) sanction.<sup>157</sup>

National political culture obviously has very broad possible effects on all the domestic actors in an attempted transition to democracy and therefore indirectly on the success of any conditionality process that seeks to promote such a transition, but it can also have a very direct effect on the impact of conditionality policies and target regime compliance. Starting with the broad and indirect effect, this can be traced to the meaning of democracy in the context of the local

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<sup>157</sup> For post-Cold War debates on sovereignty and humanitarian intervention, see Ian Forbes and Mark Hoffman, *Political Theory, International Relations and the Ethics of Intervention* (NY: St. Martin's, 1993) and Laura W. Reed and Carl Kaysen, eds., *Emerging Norms of Justified Intervention* (Cambridge, MA: American Academy of Arts and Sciences, 1993).

political culture. First, there may be traditions of participation, representation, legitimacy, the selection of leaders, of checks and balances, norms of restraint and obligation in the exercise of power within local culture and history that can be described as democratic, quasi-democratic or prodemocratic. There may also be a history of earlier periods of democracy or attempts at democratization. The more vital these traditions are - the more they both persist in people's political expectations and standards of political legitimacy and the stronger they are in terms of those expectations - then the stronger the indigenous cultural basis for democratization and the less that democracy appears as a "foreign import" or that democratization must rely on the penetration of Western or "global" culture or its putative universal appeal for its meaning and value within domestic politics. In other words, it should be easier, on average, to "re-democratize" than to democratize for the first time, and this should apply to target countries for political conditionality as well.

Second, analysts have noted that the popular meaning of democracy may (not surprisingly) be more populist and economic in nature, having to do with the people getting a fair share of "the national cake" rather than with the formal institutional arrangements of liberal democracy as typically conceived of in the West and by Western social scientists.<sup>158</sup> Presumably, a redistribution of the "national cake" could also be achieved by a means other than full democratization. A related issue is whether the appeal and value of democracy in local cultural terms is seen primarily as a negation of tyranny or authoritarianism - as a means of getting rid of the current regime, in other words - rather than as a positive value in its own right. Both attitudes can be seen as instrumentalist rather than principled approaches to democracy. The more instrumentalist the conception of democracy in local political culture of a target country, or the stronger instrumentalist factions of the democratic movement are compared to principled factions, the more problematic both the cohesion

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<sup>158</sup> See Bhiku Parekh, "The Cultural Particularity of Liberal Democracy", pp.156-175 in David Held, ed., *Prospects for Democracy: North, South, East West* (Cambridge, UK: Polity Press, 1993); Frederic Schaffer, *Democracy in Translation: Understanding Politics in an Unfamiliar Culture* (Ithaca, NY: Cornell University Press, 1999); Daniel T. Osabu-Kle, *Compatible Cultural Democracy: The Key to Development in Africa* (Peterborough, Ontario: Broadview Press, 2000) and Raul S. Mangalpus, *Will of the People: Original Democracy in Non-Western Societies* (New York: Freedom House, 1987.) See also, Jean-Francois Bayart, *The State in Africa: The Politics of the Belly* (London: Longman, 1993).

of the movement before and during a transition and the consolidation of democracy after a transition, hence the less ultimately effective a prodemocratic conditionality policy (Hypothesis L2.)<sup>159</sup> The more direct impact of national political culture on the effectiveness of political conditionality involves the potential a nationalist backlash against external intervention: this will be addressed below.

Transnational political culture and norms constitute, in a sense, the flipside of the definition of local, domestic or national political culture just presented. Transnational cultural factors affecting the success of external efforts to promote democratization involve the degree to which democratic values have penetrated a target country's culture from existing democracies or "global" culture either as distinct values unto themselves (democracy as just government) or as part of larger complexes of cultural values and practices from which they are seen as being inseparable or at least closely related (democracy as part of being a modern or developed or successful country). The global cultural context is by no means homogenous, and the general diffusion of democratic values is part of a serious debate concerning the contemporary meaning of civilizations (and the clash between them).<sup>160</sup> The penetration of democratic values is one basis (along with indigenous cultural development of those values and instrumental motivations for supporting democracy) for the mobilization of a prodemocratic opposition, but it can also be the basis for activating forms of external support based on concrete transnational linkages. For example, the existing level of transnational penetration of ideas of democracy and modern development, coupled with external media penetration of the target country (the extent to which foreign radio, television and print media can be received including via new technological channels such as fax and internet), can form the

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<sup>159</sup> This hypothesis does not concern the effect of punitive conditionality directly on the targeted authoritarian regime, but rather defines an antecedent condition that can work to thwart the effect of conditionality and the possibilities for democratization that such a policy may enable. Declarative policies of negative conditionality (the threat of aid cuts for anti-democratic back-sliding), and positive conditionality such as consistent policies of allocational conditionality (more aid to or aid only to democracies) and even of democratic bonuses (special increased aid programs to new democracies) can all help keep even "instrumental" democrats on the path towards democratic consolidation.

<sup>160</sup> Samuel Huntington, "The West: Unique, Not Universal", *Foreign Affairs* Vol.75, no.6 (Nov./Dec.1996): pp.28-46 and *The Clash of Civilizations and the Remaking of World Order* (NY: Simon & Schuster, 1996) versus a wide array of critics.

receptive basis and part of the "critical mass" for the further spread and adoption of democratic values.<sup>161</sup> This broad effect can in turn facilitate more specific and concrete normative action such as the mobilization and transformation of nonpolitical transnational links into vehicles of political and material support locally and increased solidarity or lobbying for the domestic democratic cause abroad.<sup>162</sup> For example, nongovernmental development organizations from donor countries working in the target country could become conduits of political aid to the democratic movement or rather to "civil society" in order to make such aid less directly political. These actions may be more significant in affecting the incidence and initiation of conditionality policies or in affecting the impact of companion policies such as political aid than in affecting the impact of conditionality on the regime or the prodemocratic movement. However, given the contingencies of the transition attempt's political process and the slippery nature of the cascade-like shifts that can sometimes quickly change the apparent balance of power, momentum and legitimacy, transnational actors and actions cannot be ruled out of any significant role in some a priori fashion.

As skeptics on sanctions and/or the power of norms are apt to point out, authoritarian regimes vary considerably and do not all require much international legitimacy or positive reputation beyond de facto and historical control of territory (or even just of a capital city) in order to still have some claim on legal sovereignty, to have their territorial sovereignty respected and to still enjoy some degree of non-intervention in their internal affairs.<sup>163</sup> Furthermore, authoritarian regimes can survive domestically without any real normative legitimacy: they can survive based on

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<sup>161</sup> On norm cascades, see Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* Vol.52, no.4 (Autumn 1998): pp.887-917.

<sup>162</sup> The penetration or diffusion of democratic values is often difficult to measure accurately even when public opinion surveys are possible, but the penetration of foreign media is typically ascertainable. Hence a relevant hypothesis is as follows: In a historical context of normative shift in favor of democracy and increasing struggle for democratization worldwide, penetration of a target country by international media can a) strengthen democratic oppositions through demonstration effects and moral support, and b) strengthen external support by providing information and focusing international attention on the target country, both contributing indirectly to the effectiveness of a conditionality policy. It can also c) facilitate monitoring and therefore implementation of such a policy, thus increasing its effectiveness directly.

<sup>163</sup> Although many advocates of prodemocratic intervention and an increasing number of analysts in general argue that the normative grounds of sovereignty are shifting towards democracy, good governance and respect for human rights as key components of legitimacy.

repression of their opponents and non-normative incentives for their supporters and members. Enjoying a degree of normative legitimacy is clearly an advantage and valuable resource for authoritarian regimes, however: legitimacy is arguably more efficient and provides greater flexibility than relying on patronage and economic or security incentives alone, and non-normative incentives often cannot motivate supporters and inspire sacrifice the way internalized and thoroughly socialized norms can. (e.g. mercenary vs. nationalist /religious /ideological armies) Once internalized, norms as principled beliefs are likely to be more durable and less subject to erosion or outside influence than calculations of economic or security interest based on circumstances that may be subject to change. Likewise, international legitimacy and a general alignment with international norms provide a stronger basis for territorial respect and non-intervention in internal affairs (by undermining the most common rationales that external actors cite to violate those norms) as well as providing superior access to the organizations and benefits of international society and the international economy. Furthermore, in some countries, international legitimacy and a resultant better ability to deliver external "resources" such as aid, trade or security may be a key component of domestic legitimacy.<sup>164</sup> Analysts have even argued that some states are marked by a political

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<sup>164</sup> Even contemporary "realists" address questions of domestic and international legitimacy. Mastanduno, Lake and Ikenberry in "Toward a Realist Theory of State Action," *International Studies Quarterly*, Vol.33 (December 1989): pp. 457-474, attempt to articulate elements of a "realist" theory of the state which synthesizes the rigor of structural realism with the insight of classical realist thinkers. They posit that, in pursuit of survival, wealth and power, a state must perform certain functions, albeit to varying degrees, including mobilizing and extracting resources domestically, maintaining domestic support, overcoming challengers and preserving their legitimacy, which is "the acceptance on the part of domestic groups of the state's claim to the exercise of decision-making authority." (p.464). Given these objectives, "the two most important international strategies state officials can pursue are external extraction and external validation... (the former being) state efforts to accumulate resources from outside its borders that can be of use in achieving domestic objectives. External validation refers to attempts by state officials to utilize their status as authoritative international representatives of the nation-state to enhance their domestic political positions."(*ibid.*) External validation is initially equated with diplomatic recognition. In trying to interrelate the various strategies open to states, they then posit a range of hypotheses, including "H3: As domestic political instability increases, the state will pursue external extraction and validation." In this context, validation is exemplified by international exposure or prominence, by the ability to distract attention from domestic political problems with international success or drama, and even with "rejectionism", defiance or standing up against the international community or great powers such as the US in order to solidify internal support (they cite Libya and Iran). In any case, in their terms of reference, political conditionality is an attempt to reduce or constrain both external extraction (aid) and external validation (at least in the form of international legitimacy or recognition) at precisely the point where domestic political instability is increasing. Mastanduno, et al.'s approach also suffers from a formulaic attempt at rigor that reveals a kind of "realist" myopia regarding power: they posit that the stronger the states are internationally, the more they will seek external extraction, whereas states that are weak internationally will be content with external validation (their H7). This is largely because they see external extraction as being primarily coercive, but they also acknowledge that the classic age of imperialism and colonialism as extraction based

culture of "extraversion" or dependence on external resources and legitimacy and a lack of a sufficient domestic basis of state competence or legitimacy.<sup>165</sup>

Solingen has put forward a compelling argument regarding the economic interests (especially vis a vis international trade) and the grand strategies of domestic political coalitions which she claims tend towards alignments along the ideal-typical lines of "internationalist" coalitions versus "statist-nationalist-confessional" coalitions. This alignment may include cultural factors (i.e. confessional, meaning cultural, religious or ideological values and identities) as one of the key points of division over the question of whether to have a liberalized economic and cooperative political stance towards the regional and international community.<sup>166</sup> Focusing here more exclusively on the cultural dimension, some regimes or coalitions rely on local or nationalist traditions of legitimacy and identity and consequently reject global culture, Western or transnational influences and norms as subversive to their national political culture. These regimes may actually derive increased legitimation and cohesion within their base, at least in the short to medium term, by rejecting prodemocratic intervention and conditionality in particular (along with economic intervention and structural adjustment): becoming an international "pariah" or rejectionist state may be virtually a requirement of their culture of legitimacy and accords with their perceived political interests. Whether the short-term legitimacy gains will outweigh any longer term economic or security costs may seem secondary or a question deferred due to uncertainty.<sup>167</sup> The extent of such costs depends in turn on the prior status of the target state: regimes which are already long-term pariahs or have few memberships and an already low reputation face fewer absolute costs from new

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on power has passed. They essentially miss the issue of weak states extracting resources via aid and the international aid regime which has arisen since WWII : on that, see, inter alia, Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge, UK: Cambridge University Press, 1990), ch. 5.

<sup>165</sup> On extraversion, see Christopher Clapham, *Africa and the International System: The Politics of State Survival* (Cambridge UK: Cambridge University Press, 1996), which in turn draws on Jean-Francois Bayart, *The State in Africa: The Politics of the Belly* (London: Longman, 1993), especially pp.20-32. On the related description of states manifesting a serious gap between juridical or negative sovereignty, on the one hand, versus empirical or positive sovereignty, see Robert H. Jackson and Carl G. Rosberg, "Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood," *World Politics*, 1982: pp. 1-24 and Jackson, *Quasi-States* (*op.cit.*).

<sup>166</sup> Solingen, *op.cit.*, especially pp. 32-43.

<sup>167</sup> Islamic fundamentalist states and hold-out communist regimes are the most obvious current examples. The "Asian values" states of ASEAN, notably Singapore, are more interesting cases of embrace of economic liberalism while rejecting political liberalization. Oil states continue to have some degree of economic immunity to external pressures (although Libya ultimately capitulated on the Lockerbie bombing and weapons development issues).

sanctions, but they are also very unlikely to be major aid recipients from the advanced democracies. On the other hand, states which are comparatively the most dependent on international linkages - economically, militarily, and/or in terms of political legitimacy - are arguably those that will be most sensitive to their international reputation and those most likely to initiate democratization "from the top down", proactively (assuming they read the international trends accordingly) and before they are confronted with punitive conditionality.<sup>168</sup> Political conditionality may have the greatest effect on targets for which that prior status is murky or ambiguous: authoritarian regimes will be tempted to try and have things both ways - to claim legitimacy and access internationally and reap its benefits while being authoritarian, closed and protectionist at home. Authoritarian regimes may also have been based on hybrid coalitions which do not follow Solingen's posited ideal-type alignments (a possibility she fully acknowledges): especially during the Cold War, authoritarian states that were nationalist, statist and militarist could nevertheless be aligned with the "liberal" capitalist West, and their coalitions could presumably more easily accommodate nationalist and internationalist factions in a way that the post-Cold War globalizing international economy no longer supports. For these ambiguous or hybrid regimes, prodemocratic political conditionality may represent the moment of truth and of necessary choice: to comply and take the internationalist path or to reject and take a "pariah" path. Such black-and-white dichotomies should not be overstated, however, for there may still be considerable room for ambiguity and hybrid cases both on the side of donor interests, policy and international norms and on that of ostensibly democratizing regimes.

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<sup>168</sup> Solingen argues that "Internationalist coalitions are generally more sensitive to international injunctions and requirements than their statist-nationalist counterparts, because many such requirements reinforce a liberalizing domestic agenda." (p.60) Furthermore, "International economic structures and regimes at the end of the twentieth century favor internationalist coalitions worldwide, to an extent never evident before." (p.55) "Cooperative regional orders have positive global externalities for internationalist coalitions: they minimize risk considerations and enable foreign investment, they decrease the likelihood of sanctions and penalties from international private and public actors, and they reinforce the coalition's ties to economic institutions (such as the IMF, World Bank, and private banks) to which they endear themselves through their reform programs. Intransigent and uncertainty-inducing regional policies, instead, raise the propensity for conflict and the risks for foreign investors, may trigger denial of bilateral or multilateral aid (as with the US refusal to provide loan guarantees to Israel's Likud-led coalition), denial of technology, and the like."(pp.29-30) "Given their constituent basis of domestic political support, inward-looking coalitions, unlike their internationalist adversaries, are also more resilient to coercive international intervention in the management of regional conflict, and even appear to excel in converting such external interventions into domestic political profit." (p.43), all in Solingen, *op.cit.* While the last two quotes focus on regional orientations (Solingen's major focus), they could also arguably apply to democratization as well.

As stated above, the existence of legitimacy costs depends on a) the legitimacy basis (if any) of the target regime both domestically and internationally, and b) a link between that basis and the challenge posed by a political conditionality policy. The domestic legitimacy of the regime is presumably already being contested by the domestic prodemocratic movement, and as with the larger framework of the balance of power between regime and movement, the question on conditionality is whether it can tip the balance or add an extra synergistic element in favor of the movement. Whether legitimacy is a crucial component to the regime's power base, whether that legitimacy in turn depends on international legitimacy and status or on quasi-democratic norms of representation, and whether a given conditionality policy is potent enough, coherent enough or public enough to undermine that legitimacy are all variables the parameters of which, given the current state of the art in analysis, are best left to empirical case studies to provide initial insight. Two additional perspectives are nevertheless important to consider and can help yield a provisional over-arching hypothesis: the first encompasses the critical counter-arguments of democracy promotion skeptics and focuses on the possibility of domestic backlash against external prodemocratic intervention, and the second takes a disaggregated (or pluralist or 'liberal' in Moravcsik's definition) view of the target country, and looks further as to how legitimacy effects may have differential impacts on different audiences or actors.

The skeptical counter-argument is generally that prodemocratic conditionality as an intervention into the domestic politics of the target will have more of a negative effect by virtue of being an external intervention than any positive effect by virtue of being prodemocratic: sanctions in general (especially trade sanctions which again are often taken as the model) often produce a nationalist backlash or "rally-round-the-flag" effect of increased unity and support for an incumbent regime, and political aid conditionality will presumably prove no different (Hypothesis L1.)<sup>169</sup> It has become almost traditional for authoritarian regimes to blame the existence of internal democratic oppositions challenging the regime's legitimacy on the work of foreign elements and

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<sup>169</sup> On the related concept of a "boomerang effect" as a form of nationalist backlash, in Dahl, *Polyarchy*, (*op.cit.*).

outside agitators rather than admit that they may be largely homegrown. (It may likewise be increasingly automatic that prodemocratic oppositions will seek external allies and support and become transnational in important respects rather than strictly homegrown.) Authoritarian regimes typically seek to mobilize support in resisting external pressure and to justify repression of the opposition by appealing to nationalism, to national unity and/or national sovereignty including the history of the nation's self-definition vis a vis the external world. The democratic movement is portrayed as lacking domestic roots, nationalist loyalty or legitimacy and as instead being the pawn of external forces bent on subversion and neo-colonial control.<sup>170</sup> The question is whether the history and political culture of the country make such efforts by a regime more or less successful, especially given the postcolonial and relatively young nature of many of the countries in question. The fact that many of the donors now advocating democracy were once colonial powers or were quite inconsistent supporters of democracy and self-determination during the Cold War (or both) and that they also typically are pushing for structural adjustment and economic reforms which usually impose significant economic costs on some domestic sectors can only increase local skepticism and potential for backlash. Analysts of prodemocratic conditionality have variously posited that external pressure for democratization runs the risk of delegitimizing democracy within target countries or that there is a zero-sum dynamic between internal accountability of a government to its people and external accountability to donors and to their external standards of democracy.<sup>171</sup>

The concept of legitimacy effects also highlights the impact of sanctions such as aid conditionality on parties within the target state other than the regime itself: first and foremost, sanctions can embolden or give moral support to the opposition. Aid conditionality can have

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<sup>170</sup> On nationalist 'rally-round-the-flag' backlash, see Robert Pape, "Why Sanctions Do Not Work," *International Security* Vol.22, no.2 (Fall 1997): pp.90-136.

<sup>171</sup> On Delegitimation see Joan Nelson and Stephanie Eglinton, *Global Goals, Contentious Means: Issues of Multiple Aid Conditionality* (Washington: Overseas Development Council, 1993). On zero-sum, see Olav Stokke, ed. *Aid and Political Conditionality* (London: Frank Cass in association with EADI, 1995 - EADI Book Series 16/Norwegian Foreign Policy Studies series No.82, Norwegian Institute of International Affairs, Oslo). Concern with the alleged contradiction in pushing self-determination, or "forcing people to be free", dates back to at least John Stuart Mill.

positive legitimation effects as an expression of international solidarity with a democratic opposition even if it has no direct negative legitimation effects on the regime and its power base. It can cause members of the opposition to revise their expectations of future support and of success, giving them increased hope (although possibly false hope) and changing their risk calculations to embolden them in challenging the incumbent regime more openly or strongly.

Whether outside intervention is framed as legitimating or delegitimizing the push for democratization depends on the relative success of regime and movement in a struggle for cultural meaning as well as on the history of the country, the nature of its nationalism and its penetration by (or openness to) international discourse and normative diffusion. It is even conceivable that conditionality could increase the cohesion and legitimacy of both the movement and regime within their respective constituencies and have no net effect on any undecided or swing factions. The hypothesis here is that the stronger and more anti-interventionist the character of nationalism in a target state, the less effective a prodemocratic conditionality policy (Hypothesis L1.)

General indicators of the attempt to activate legitimacy effects of conditionality can be found in the discourse of donors and, in the case of backlash, of the target regime, while indicators of actual legitimacy impacts must be found in the discourse and actions of the target regime, of the opposition, and of other domestic and international actors. Action indicators include regime defections and movement of non-aligned actors to the opposition, and increased opposition mobilization and support in response to donor actions.

### ***5. From theory to case studies***

Summarizing what I have termed the conceptual architecture for analyzing democratic transition attempts and the impact of political conditionality, this chapter has presented:

a) definitions and thresholds of democracy along with a balance of power model of democratization and typologies of modes, phases and outcomes of transition attempts;

b) hypotheses drawn from mainstream comparative politics of democratization on key factors for any democratization attempt and hypotheses from the critics of democracy promotion;

c) mechanisms and associated intervening or antecedent variables for the possible impact of aid conditionality; and

d) a political process model that can incorporate all these elements in a strategically interactive sequence of struggle over an uncertain and shifting balance of power.

In using this architecture to analyze the cases of Kenya, Malawi and potentially other countries, the first of these elements requires us to define where the cases start and finish in terms of these definitions, thresholds and typologies: do they cross the thresholds of electoralism or of functional liberalized democracy? Both case countries conducted two national multiparty elections since the application of political conditionality, but where have they reached in terms of the phases and thresholds of transition and consolidation and how democratic are they?

In terms of the second element in the architecture, how have the by now traditional actors, concepts, or variables of democratization affected the transition attempts and outcomes, and how do they interact or compare with the effects of external factors? And, more specifically, how do both sets of factors impact the balance of power between authoritarian regime and prodemocratic forces? These traditional theoretical elements include the military and other coercive institutions (police, paramilitaries?, insurgents?), civil society, social cleavages including class, ethnic or nationalist divisions, institutional and other legacies of earlier democratic or other political regimes, economic trends and crises, and regime characteristics including “type” of authoritarian regime, basis of regime cohesion, and orientation toward the international economy. The external factors (international or transnational) include explicit national foreign policies of promoting democratization (conventional and crisis diplomacy, public diplomacy, and the use of economic power, but not of military power in these cases; see Table 1.1 in Ch. 1), the supranational activities of international organizations (i.e. the IMF, World Bank, the UN), and the transnational actions of

non-state actors such as NGOs or diaspora emigre and exile communities. They can also include factors that do not easily reduce to discrete actions, such as market trends or flows, information flows, even potentially epidemiological or ecological phenomena. Which of all these factors seem determinant for the transition outcomes in these cases? Are they the same in each case or do the transition paths appear to be more idiosyncratic?

The third element of the conceptual architecture focuses on the particular external policy of political conditionality applied to aid and concessional finance: the three potential mechanisms of direct economic effects, signaling effects and legitimacy effects each need to be explored in assessing the impact of conditionality. Since these three mechanisms all relate to potential positive prodemocratic impacts, the possibility of unintended or perverse effects should also be explored, including at minimum the chance that the economic disruption caused by conditional aid freezes might rival or exceed any gain in terms of political reform. Attendant antecedent or intervening variables can create a theoretical baseline of expectations and predictions of impact which can be tracked over the history of the case following what has been termed the congruence method of hypothesis testing.

The fourth element is a political process model that highlights the strategic interaction and decision-making processes of the key collective actors - regime, opposition and donors - including their component actors such as factions and even individuals such as the leader of the authoritarian regime. As one specification of the balance of power, all actors have estimates of the relative effectiveness or balance between repression by the regime, protest mobilization by the opposition and credibility or escalation by the donors. The process model posits that, in addition to centralized or formalized elite decision-making within these collectivities, another mechanism for action could involve cascades or snowball-type aggregations of individual action at the rank-and-file level into broader political phenomena of mass mobilization or defection. The focus here is trying to locate the key decision-making points for the key actors within the flow of events and assessing what factors influenced or even apparently determined the decisions made: why did the regime choose to comply or choose to reject the donors' conditions? Why did donors and prodemocratic

movements make sometimes the same and at other times different demands of the regimes? Why did the elements of an authoritarian coalition defect or chose to remain loyal? Why did members of the public mobilize to support a prodemocratic movement or chose to remain politically quiescent?

As the last element of the analytic architecture suggests, these elements must be grounded in a historical narrative of the democratic transition attempt in question: the analytic concepts are projected onto the history, or, conversely, the substance and specifics to fill these abstractions is extracted from the reality of events. While a straightforward argument may be expected to only present the historical details or narrative which supports it, exploratory theory building needs to cast a wider net and to work from a historical basis that includes looking for evidence on both sides of debates and being open to events that may be idiosyncratic or outside of any existing interpretive scheme. While the primary focus here is on assessing the impact of political conditionality on democratization, answering that question essentially requires achieving a sufficiently deep understanding of the dynamics and determinants of the democratic transition attempt and its outcome in order to isolate the role played by donor policy.

In terms of methodology, the logic of specific hypotheses and the overall theoretical model will be tested in three different ways using the process tracing method, the congruence method and the method of difference. The process tracing method will look for evidence as to whether the major hypotheses and the hypotheses on intervening variables operate as predicted by tracing the course of events and actor decisions from initial conditions to ultimate outcome in relation to ascertainable levels or changes in those variables. Congruence procedures of the multiple within-case type (type 2 in Van Evera's typology) similarly look for covariance of independent and/or intervening and dependent variables at different stages or in different dimensions within the case without necessarily tracing every inferred causal link. Finally, the controlled comparison method of differences will compare the two cases of Kenya and Malawi, both cases of aid dependent, civilian led one-party authoritarian states comparable on many relevent dimensions, and ask what factors account for their apparently different transition outcomes given their subjection to essentially the same form of donor conditionality.

The structure of the case studies will therefore follow this outline:

a) First, historical background will be summarized with regard to establishing a baseline in terms of regime type, liberalization and any previous experiences with democratization, as well as international relations and the political economy of aid relations in particular, and in terms of initial conditions with respect to the variables identified in all the hypotheses to be considered.

b) Next, the historical narrative of the transition attempt will begin with the earliest phase characterized by regime liberalization and/or the emergence of a prodemocratic movement. Throughout all the phases or periods of the transition and possible post-transition consolidation, the narrative will strive for accuracy and overall historical coherence, but will also focus more specifically on the actions of the three major players (regime, opposition and donors), and, to the extent they are applicable in a given case, on the themes of the democracy promotion debate (democratization, human rights, economic development including structural adjustment and globalization, and issues of peace and stability or threats of violence and conflict both within and between countries.) The actual periodization of the narrative will both follow the logical phases of transition attempts to the extent possible and at the same time be open to any natural periodization suggested by the course of events.

c) Following each phase of the narrative, an analytic section will address the process tracing and congruence questions posed by the hypotheses and indicators elaborated above and included in the analytic architecture just described.

d) A final summary analytic section will pull together the results of the hypothesis testing, begin to address broader cross-case comparisons and explore additional hypotheses or unanticipated factors that emerge from the overall narrative. It will also assess the quality of evidence and therefore of the test that the cases provide for a given hypothesis. It will then synthesize a cumulative assessment of the impact of aid conditionality, overall donor policy and other key factors in the transition attempt and its outcome.

The concluding chapters of the dissertation will address the generalization or extension of conclusions from the case studies to a broader range of cases and to the exporting democracy debate as a whole.

## **Chapter 3 – Establishing a Baseline Profile of the Case Studies for Assessing Political Conditionality: Kenya and Malawi in 1990**

### ***1. Summary Introduction***

In order to compare the impact of political conditionality on democratization in the two countries selected for in-depth case study, it is necessary to first assess the “baseline” situation in each country before conditionality was applied as well as assemble relevant background information that may provide important political context for subsequent events. In addition, some of the potentially important variables identified in hypotheses in the previous chapter are technically antecedent variables that exist and may exert an effect before conditionality (our independent variable) is applied. Others are properly considered intervening variables that presumably function during the conditionality episode to modify the impact of the policy or to independently affect the progress of democratization. In both cases, baseline assessments of the variables before conditionality are necessary, and rough predictions as to the likely impact of the variables on the overall democratization attempt or on the impact of conditionality are possible.

The historical background of Kenya from independence through 1990 displays an important evolution from a political system often held up as a relatively successful model of “one - party democracy” during the years when Jomo Kenyatta was President (1963-1978) and even into the early years of rule by his successor, Daniel arap Moi (1978 to 1982.) Following an unsuccessful coup attempt in 1982, Moi moved to close down the ‘democratic space’ that existed especially in terms of competitive parliamentary elections and to create a “party-state” with centralized control through the KANU political party and ultimately the President’s office. This

effort culminated in the parliamentary elections of 1988 which were widely viewed as rigged and illegitimate, and it sparked a backlash among the Kenyan people and especially among those members of the political elite who were driven out of KANU and became one key current in the emerging prodemocratic movement after 1990. In Malawi, by way of contrast, the Banda regime consolidated a very centralized, personalist authoritarian system directly after independence that gained a reputation through the 1970s as both ruthless and highly efficient due to its professional civil service. Despite the introduction of at least nominally competitive parliamentary elections in the 1980s, elections which most analysts dismissed as insignificant, Malawi under Banda and the MCP exhibited little or no 'democratic political space' through 1990. Like Kenya, however, members of the political elite who had been driven out of the ruling party would be one major constituency in organizing for democratization.

The economic development of Kenya generally displayed superior performance to Sub-Saharan Africa averages for most of its early post-independence history, but after stalling for four years from 1982 to 1985, it returned to growth during the late 1980s with an increased reliance on foreign aid. Aid more than doubled from 1986 to 1989, and aid as a percentage of Gross National Income (GNI) rose from 6.5% in 1986 to peak at 13.15% in 1990. Similarly, Malawi, starting from an even lower level of development, was seen as a model of LDC growth for the 1970s, but then faced recession in the mid-1980s. Growth returned in 1988 fueled by dramatic increases in foreign aid. Aid as a percentage of GNI rose from an average of 11 to 12% in the late 1970s and into the mid-1980s to over 29% in 1988 through 1990. Both countries thus reached historical peaks in terms of their dependence on foreign aid in 1990, with Malawi in particular (which faced a huge Mozambican refugee problem at the time) being much more dependent than Kenya, and still much less developed (Malawi's GNI per capita in 1990 was \$200, while Kenya's was \$370.)

While many analysts operating from an earlier "prerequisites" approach to democratization might have pointed to the case countries' low level of development as precluding a successful transition, more recent scholarship has moved to a more probabilistic view that low development complicates or impedes democratization, but does not preclude it. Thus, as for most individual

variables in democratization theory and given the likelihood of multiple and interactive causal variables, definitive predictions are unwarranted, but rougher probabilistic predictions can nevertheless be made. Also given the case study approach taken here (rather than a statistical or large-n approach), as well as the diversity of democratization theory, the hypotheses and their variables considered will not be weighted in advance as to their degree of impact: instead, the empirical data of the historical narratives will be used to perform this weighting or prioritization as part of the assessment of the predictions.

In contrast to the pessimism which a sole focus on economic development might engender regarding the prospects for democratization in Kenya and Malawi, the hypotheses developed in Chapter 2, considered individually and unweighted, actually yield somewhat optimistic predictions when simply added up. As the last section of this chapter delineates, of the fifteen hypotheses considered here, ten yield predictions of positive impact on democratization in Kenya and eight are positive for Malawi. Specifically, the hypotheses are divided into general hypotheses about democratization that could be presumed to operate in any transition attempt in these countries whether political conditionality was applied or not, and more specific hypotheses regarding antecedent or intervening variables that are expected to influence the impact of conditionality. In the former category, the two countries present different profiles: for Kenya, five hypotheses yield positive predictions versus two yielding negative predictions (one is judged neutral), whereas in Malawi, only three yield positive predictions versus five yielding negative predictions. In the latter category, the two countries present basically the same profile with the same five clearly positive and one clearly negative predictions.<sup>172</sup> The full range of predictions is summarized in tables at the end of the chapter, but to note only the variables predicted to pose obstacles to democratization and the impact of conditionality, they include, from the first category of democratization variables, social

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<sup>172</sup> While the individual predictions can be tested within each case, this configuration of profiles suggests that should those predictions hold, then the controlled comparison between the two cases would involve a relatively clear test of a similarly enabled or configured independent variable (as reflected in the latter conditionality set of variables) confronting a differentiated political terrain, thus highlighting any effects of that terrain (as reflected in the general democratization variables) as the key intervening variables for the ability of that independent variable (conditionality) to affect democratization. This will be addressed in Chapter 6.

cleavages (ethnic and regional cleavages in these cases) and personalist type authoritarian regimes for both countries, and for Malawi alone, the presence of highly partisan and unprofessional institutions of coercion (the MYP paramilitary), a lack of any strong democratic legacy, and the regime cohesion factor that Banda still enjoyed a degree of nationalist or ideological legitimacy. From the second category of conditionality variables, both countries are judged to have enough indications of instrumentalism within political elites towards the idea and ideals of democracy (rather than real commitment to those norms) that any legitimacy effect or change in the balance of political power created by conditionality could be coopted by those elites for personal political ends rather than for advancing democratization.

## ***2. Timelines and Roadmap to the Chapter***

This task of providing background and defining a baseline is in large part one of locating the cases in the flow of history, and one obvious question in that regard is how much history or how far back to go for the present purpose. The global context of democratization has been characterized by Huntington's observation of waves and reverse waves, and one reasonable assumption is that going back one period – i.e. to the broad period of the Second Reverse Wave starting in approximately 1958 – might give us sufficient background to understand the external context affecting the cases. The Cold War period of global history from 1945 to 1991 offers another largely overlapping scheme for considering the external context. The domestic historical context of democratization attempts may presumably vary more widely, but in the cases of Kenya and Malawi and much of the “Third World” the obvious reference point in terms of politics dates back to decolonization and the achievement of independence. In Africa, this process occurred largely in the late 1950s and early 1960s, and despite the fact that independence was typically inaugurated with a democratic constitution in place, Huntington generally did not count these cases in his tally of transitions presumably because many of these new “democracies” were so short-

lived.<sup>173</sup> Kenya and Malawi achieved official independence in 1963 and 1964 respectively, although both countries went through a pre-independence process of limited Africanization in cooperation with their British colonial power.<sup>174</sup>

Within the context of political history since approximately 1960, the construction of baselines and relevant background should be guided by the variety of theories of democratization and their attempts to highlight important factors in the success or failure of the transition to democracy and of its consolidation. This chapter will therefore proceed to first outline a broad narrative of political history with a focus on the question of democracy for Kenya and then for Malawi. Given the overall research focus on the role of donors, aid and international finance, particular attention will be paid to these factors, including issues of debt and structural adjustment (i.e. economic policy conditionality.) The chapter will then move on to a more conceptual analysis of the two case countries focusing on theoretically specified democratization variables or factors. Finally it will summarize the predictions that can be derived from these exercises for the subsequent history of democratization efforts during the conditionality period beginning in approximately 1990.

### ***3. Historical Background: Kenya Since Independence And The Nature Of One-Party Rule***

The political history of Kenya from independence in December 1963 until the widely criticized 1988 elections is characterized by the tension between the ideology and the reality of 'one-party democracy' and by the initial relative success of this regime in the eyes of many and its subsequent failure. Historically, three more or less distinct perspectives on the nature of one-party rule can be distinguished: those who view the period of one party rule under President Jomo

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<sup>173</sup> The exceptions that Huntington did include were Botswana, Ghana, Gambia and Nigeria: see Appendix 1 for more details.

<sup>174</sup> Kenya and then Malawi achieved independence from British rule fairly late among countries of SSA and did so one after the other: Kenya on December 12, 1963 and Malawi on July 6, 1964, (25 Sub-saharan colony states preceded them between 1956 and 1962, the bulk coming in 1960, while only 6 followed them from later in 1964 until 1968.)

Kenyatta (1963-1978) and his party the Kenyan African National Union (KANU) as a success and even as a model for other countries in Africa and who continued to argue for one-party rule as the only viable alternative given the nature of Kenyan society, thus endorsing a positive form of continuity between the Kenyatta and the Moi regimes; those who view the Kenyatta period as a qualified success, but see the Moi period as one of increasing autocracy and the subversion and dismantling of one-party democracy; and those who condemn the autocratic realities already in existence in the Kenyatta period as providing the basis for Moi's further centralization of control and thus see a basic negative continuity between the two periods distinguished only perhaps by the fact that Moi has been both greedier and less skilled or clever than his predecessor. Assessing the validity and relative merit of these perspectives in full detail is beyond the present scope, but they provide a useful framework for summarizing both history and analytical perspectives on the Kenyan state which are a necessary theoretical backdrop to the current situation. The second and third perspectives are obviously in greater favor within the Kenyan democratic movement, while the first is popular within KANU, but it is interesting to note that both some members within the donor coalition and some academic critics of democracy promotion echo the claim that multiparty electoral competition will evoke ethnic conflict and that a very gradual transition that largely preserves the Moi regime's political dominance is therefore advisable to maintain stability.

The first of these perspectives can be represented by an extended 1985 quotation from Jackson and Rosberg:

Kenya is the only country (in Africa) that has operated as a one-party democracy for a significant length of time - since the election of 1969 -and is therefore a model for other African countries.... The most frequently offered rationale for one-party democracy is national unity: the one-party system is believed to promote the unity of the state, while the multi-party system is thought to undermine it.... One-party government can foster unity by eliminating political contestation. The question is: can it be democratic? If the political experience in the last fifteen years is any evidence - and we believe it is- then, with a major qualification, the answer would seem to be 'yes.' Using Robert Dahl's terminology, the problem of democratic politics in Kenya is to invite 'participation' of ethnic localities while avoiding the danger of unrestrained 'contestation' between the country's large ethnations. Kenya has tried to resolve the problem, with considerable success to date, by permitting almost unrestricted local involvement in one-party elections to the National Assembly which are held on a regular basis and are reasonably fair. The result is an amazingly vigorous grassroots democracy. The

Kenyan electorate is as fickle as any, and at every election since 1969 many members of Parliament - including ministers and assistant ministers - have been turned out of office....

Of course the major limitation of African one-party democracy is the exclusion of the presidency from electoral competition. This means that the electorate is unable to bring about a basic change of government. Even in Kenya the presidency is not occupied by a democrat who won a general election, but by an autocrat who came out on top in an authoritarian struggle for power.... However, while the Kenyan electorate cannot change the government, it can cause large turnover in political offices by defeating incumbents and obliging the president to make new appointments.... Liberal democracy is unlikely to develop (in Africa) in the foreseeable future. In contrast, one-party democracy is more likely to find acceptance by rulers who quickly become aware of the political advantages of having the electorate dismiss unpopular politicians.<sup>175</sup>

Election statistics from this period indicate a highly competitive electoral situation in which voters and large numbers of candidates appear to play a major role. Given the rough correspondence of political districts with ethnic regions, the Kenyan system provided representation for most tribal groups, and the philosophy of one-party rule under KANU and Kenyatta's leadership led to inclusion of most groups in the cabinet. The Harambee system of grassroots development programs was also widely credited as allowing meaningful local participation in development efforts during the Kenyatta period and initially under Moi as well, and as becoming an integral part of electoral competition and patron-client relations between the state and politicians on the one hand and the peasantry and mostly rural districts on the other.<sup>176</sup> The apparent political success of Kenyatta in constructing a relatively responsive and participatory system combined with the economic success of Kenya and its procapitalism among African countries made it a favorite example of development in the West and bolstered the argument for one-party rule as a developmental regime.

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<sup>175</sup> Robert H. Jackson and Carl R. Rosberg, "Democracy in Tropical Africa", pp. 303-5. Stronger proponents of this perspective would probably argue that Kenyatta did in fact win a reasonably fair and representative election in 1963 even if no challenge to his hold on office was permitted after that.

<sup>176</sup>On Harambee, see Joel D. Barkan, "The Rise and Fall of a Governance Realm in Kenya", pp.167-92 in Hyden and Bratton, eds., *Governance and Politics in Africa* (1992): 175-8; Joel Barkan and Frank Holmquist, "Peasant -State Relations and the Social Base of Self-Help in Kenya," *World Politics* Vol.41, no.2 (January 1989): pp.359-80; Barbara P. Thomas-Slayter, "Class, Ethnicity, and the Kenyan State: Community Mobilization in the Context of Global Politics", *International Journal of Politics, Culture and Society* Vol.4, no.3 (1991): pp.301-21.

Jackson and Rosberg, writing when the Moi regime was well established but before the Mwakenya affair of 1986-87 and the widely criticized human rights abuses it involved, acknowledge that Moi is an autocrat relying on authoritarian power. However, they also essentially argue that Kenyan style democracy is the best that can be hoped for under African conditions: "The fact is that multipartyism does present a serious risk of instability, disunity and even violence in African multiethnic countries owing to the unusual intensity and inflammatory character of ethnic divisions, combined with lack of self-restraint."<sup>177</sup> These are essentially the same arguments used recently by Moi and his loyalists in arguing against multipartyism in Kenya. In October of 1991, Moi told an interviewer:

We have been having ethnic groups, all over. See what is happening in Somalia. It has 102 clans, which means you can have 102 parties. In Zaire, 265 parties to represent 265 tribes. You cannot really develop the country with such divisions.<sup>178</sup>

His Vice President George Saitoti, citing violence during the last multiparty period in Kenya<sup>179</sup>, argued that under a two-party system, "there will be tension and fighting, there will be civil wars, and the country will be diverted from development.... The two-party system did not serve the interest of the people, especially from the point of view of uniting the country."<sup>180</sup> Beyond Kenya in the general debate over democratization in Africa, similar arguments are voiced (albeit perhaps more rarely) by commentators who are not all apologists for autocracy and personal rule. Journalist Anver Versi states the case as follows:

I am convinced that a multi-party system of government will fragment African countries, lead to greater violence, encourage more graft and corruption, destroy the already shaky economies and set us back at least 50 years.... Have we forgotten that 30 years ago, at independence, we experimented with multi-parties instead of trying our own democratic solutions? What happened? Every single political party polarized around a tribe and the inevitable followed: civil wars. This ushered in the era of the military dictators, the Idi Amins and the Bokassas and every semblance of democracy was lost.

It would seem to me that the logical thing to do is to work to make single-party governments more democratic, more accountable and more responsive to

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<sup>177</sup> Jackson and Rosberg, *op.cit.*, p. 304.

<sup>178</sup> Quoted in New York Times, November 25, 1991, p.A9.

<sup>179</sup> i.e. the period from 1966 when Oginga Odinga left KANU to form the socialist Kenyan People's Union until 1969 when the KDU was banned following the assassination of Tom Mboya,

<sup>180</sup> Reed Kramer, "Kenya Defends One Party Rule", *Africa News* Vol.33, no.7 (April 30, 1990): p.2.

public needs than to throw out the system and bring in a system which has already proved a failure. Unfortunately all rational discussion about the needs of Africa tend to get steamrollered under the imperative to follow Western dictates, whether these are good for us or not. Many so called educated Africans seem to have sent their brains on holiday and hired out their hands to Western academics.<sup>181</sup>

He follows this polemic with a hard-to-ignore litany of many of the ways contemporary Africa differs economically, socially and culturally from the West, all of which arguably pose problems for liberal, multi-party democracy. Clearly the fact that, compared to the nations of the West, African countries are economically backward, socially and culturally diverse, artificially constructed by colonialism and politically still very young does pose serious challenges to democracy, but increasingly political actors and commentators in and outside the continent have been advocating different answers to those challenges than the one offered by single-party democracy.

The second perspective on Kenyan political development since independence agrees with most of the first part of the perspective represented by Jackson and Rosberg, namely that the one-party system under Kenyatta was in many respects democratic and commendable, but differs radically on the question of the continuity of these characteristics into the Moi era, seeing instead a decline in democracy leading up to the recent political struggles. This perspective can be represented here by one of its most recent formulations, Joel Barkan's essay "The Rise and Fall of A Governance Realm in Kenya".<sup>182</sup> Taking off from Goran Hyden's conceptualization of a governance realm for a political system, Barkan argues that the existence of such a quasi- or potentially democratic arena is inversely proportional to the degree of personal rule. He claims that "A robust and resilient governance realm was established in Kenya during the 1960s and maintained until approximately 1983," and that "It resulted from a combination of three factors: (1) the peculiarities of Kenya's transition to independence from 1958 to 1963; (2) the shrewd and

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<sup>181</sup> Anver Versi, "Democratic Debate", *New African* June, 1991: pp.9-10.

<sup>182</sup> Joel D. Barkan, "The Rise and Fall of a Governance Realm in Kenya", pp.167-92 in Hyden and Bratton, eds., *Governance and Politics in Africa* (1992). For other examples, see Michael P. Maren, "Kenya: the Dissolution of Democracy," *Current History*, Vol.86 (no.520) May, 1987, pp.212ff.; Kiraitu Murungi, "President Moi and the Decline of Democracy in Kenya," *TransAfrica Forum* Winter 1991-92: pp.3-17.

skillful leadership of Kenya's first president, Jomo Kenyatta; and (3) the tradition of self-help among the Kenyan population."

These factors resulted in the establishment of a no-party state that provided a clearly defined arena for a limited but significant measure of political competition - a semicompetitive system in which patron-client networks linked the state and civil society together and provided a measure of accountability by the rulers to the ruled. Most important, the Kenyan state during this period was predictable. Clear norms and procedures were evolved for regulating the relationship between state and society - norms that were accepted by both the rulers and the ruled, and that remained constant over time.<sup>183</sup>

Moi assumed office after Kenyatta's death in August 1978 and quickly faced a number of new economic challenges arising from the international economy including the end of a coffee boom, the second oil shock and the world recession of 1981-82, plus local drought. He announced his philosophy of Nyayo or 'footsteps', implying he was following in Kenyatta's, but quickly distinguished himself via a freeing of political detainees and a crackdown on selected corrupt elements of the old regime, particularly Kikuyu who had benefitted quite disproportionately from the rule of Kenyatta, also a Kikuyu. Moi also banned tribally based organizations and associations. His approach to governance was marked by personal presidential policy initiative without consultation with the Assembly and with increasing concentration of authority in the Presidency, redistribution of patronage away from tribal groups that had benefitted under Kenyatta and towards his own Kalenjin tribe, and the gradual curtailment of political debate in the press or the Assembly.<sup>184</sup> He also moved to change KANU from an open 'no-party' vehicle for local clientelist networks into a vehicle of Presidential control, first by instituting the constitutional change to a de jure one-party system in 1982 and then by expelling members who failed to conform to his wishes (e.g. Charles Njonjo in 1983). The first change, provoked in part by Odinga's effort to again form another party, led to an attempted coup by the Air Force in August of 1982 in which

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<sup>183</sup> Barkan, *op.cit.*, p.168.

<sup>184</sup> *ibid.*, pp.178-80.

Luo (Odinga's tribe) were seen as instigators, and this led to repression and an acceleration of the trend towards personal rule.<sup>185</sup>

The change to de jure one-party rule was only one of several constitutional changes Moi initiated to concentrate power: others involved emergency powers in peace time then used for political detention of opponents, ending the autonomy of the judiciary and bringing both it and the civil service directly under Moi's control. His new District Focus for Rural Development undermined the previous clientelistic but grassroots Harambee system and brought it more under bureaucratic control by the administration and hence by Moi.<sup>186</sup> Moi's policies generally involved the gradual cooptation of many of the organizational elements of civil society that could provide an alternative basis of power to the regime, including the COTU labor union federation and Kenya's largest women's organization which were both forced to affiliate with KANU. Moi apparently succeeded in using national elections in 1979 and 1983 and KANU internal elections in 1985 to strengthen and renew his base of support in the party, partly by disqualifying undesired candidates. However, he apparently was not satisfied and instituted major electoral changes for the 1988 elections including a system of public queue voting as opposed to secret ballot. Only 23% of the eligible voters participated, and claims of fraud, intimidation and rigging were rampant: the once competitive democratic electoral system and the Assembly it elected were now almost thoroughly discredited. Under major pressure from domestic and international critics, Moi appointed a special review committee of KANU in July 1990 to reassess the electoral system and subsequently accepted its recommendations in December to essentially return to the Kenyatta era system of secret ballot and to put an end to expulsions from KANU. In June 1991, Moi "announced a return to an open system of elections whereby 'anyone' will be able to stand for election to the National Assembly,"<sup>187</sup> but by that point a democracy movement had emerged and had focused on the

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<sup>185</sup> On the question of repression, one source estimated 6,000 deaths at the hands of the police and armed forces between Moi's accession in 1978 and 1989: see Umoja, *Moi's Reign of Terror* (London: Umoja Publications, 1989) cited in Murungi, *op.cit.*, p.11. See also Africa Watch, *Kenya: Taking Liberties* (NY: Human Rights Watch, 1991).

<sup>186</sup> See Joel D. Barkan and Michael Chege, "Decentralizing the State: District Focus and the Politics of Reallocation in Kenya", *Journal of Modern African Studies* Vol.27, no.3 (1989): pp.431ff.

<sup>187</sup> Barkan, "Rise and Fall...", p.183 and generally pp.180-8.

demand for a multiparty system, and this movement then suffered enough at his hands to distrust the president and KANU thoroughly. It was therefore unresponsive to this promise to redemocratize KANU. In his 1992 article, Barkan concludes that a return to the Kenyatta era type of governance system is possible in Kenya even presumably under Moi, although under current economic constraints it could produce a higher level of mobilized demand than the state could deliver on and thus lead to crisis and pressure to replace Moi. On the other hand, maintaining the status quo Nyayo system will also result in declining legitimacy and crisis for Moi. Barkan also reaffirms the applicability of the Kenyatta governance system for other African countries.<sup>188</sup>

The third perspective on Kenyan political development is found in the writings of Kenyan and African academics and supporters of the multiparty democracy movement, and it focuses on the political and constitutional suppression of alternatives to KANU under both Kenyatta and Moi and dating back to the time of independence. The independence constitution negotiated with the British and the two major parties at the time, KANU and KADU (the Kenyan African Democratic Union, Moi's original party), was a detailed document of over 200 pages in length mandating a federal system of government with elected regional assemblies and a bicameral National Assembly headed by a prime minister. The British sided with KADU, which represented a coalition of smaller tribal groups, a more conservative ideology in general and Majimbo or regionalism as a means to maintain small tribe autonomy versus the larger tribal groupings such as the Kikuyu and Luo, who largely backed KANU. KANU conceded on its preference for a unifying national system without federalism or regionalism and accepted the constitution in order to facilitate a rapid transition to independence.<sup>189</sup> KANU won the pre-independence elections of May 1963, showing strength in most regions of the country. Kenyatta, the new prime minister, called for national unity and a merger of KANU and KADU and, through a combination of enticing defectors and pressure, succeeded by the end of 1964 and the first anniversary of independence in bringing about the desired merger and in amending the Constitution to abolish regionalism and establish a Republican

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<sup>188</sup> *Ibid.*, pp. 188-90.

<sup>189</sup> Robert Rinehart, "Historical Setting", ch. 1 and Jean R. Tarter, "Government and Politics", ch.4 in Harold D. Nelson, ed., *Kenya - a country study* (Washington: American Univ./U.S. Govt., 1984).

government under a President. 1966 amendments consolidated the two chambers of the legislature and modified the bill of rights on political freedom to allow the President to invoke a preventative detention law. The Preservation of Public Security Act of the same year further expanded government powers to detain opponents and vitiated the constitutional safeguards on political freedom. These changes produced a Kenyan state with a centralized, modified Westminster system – a unicameral legislature based on single member districts and first-past-the-post plurality election – but, rather than a Prime Minister and Cabinet government in the English tradition, an executive in the form of a directly elected and quite powerful president is superimposed upon a set of state institutions that displays considerable continuity with the authoritarian colonial state. The period from 1966 to 1969 then witnessed a left-right split with Oginga Odinga, the first vice-president, on the left leaving KANU to form the Kenyan People's Union (KPU) versus Kenyatta and KANU Secretary-General Tom Mboya (a Luo like Odinga) leading the more conservative KANU mainstream whose announced version of “African socialism” was very friendly to Western capitalism. This conflict and the assassination of Mboya and several other prominent politicians led eventually to the banning of the KPU and Odinga (who were not viewed as responsible for the assassination, however, which was attributed to KANU and Kikuyu elements close to Kenyatta) and the restoration of a de facto one-party system.<sup>190</sup>

The third perspective rejects the rationale for one-party democracy through a critique of the political and economic corruption of inadequately checked state power. It can suggest that in Kenya, rather than preventing tribalism and division as it purports to, one-party rule has actually allowed extensive tribal favoritism and domination, first by Kikuyu under Kenyatta and then by Kalenjin under Moi. But some critics in this group seem to avoid analysis along tribal lines altogether either in order to stress class analysis instead or simply to avoid the grounds of the

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<sup>190</sup> See Peter Anyang' Nyong'o, “State and Society in Kenya: The Disintegration of the Nationalist Coalitions and the Rise of Presidential Authoritarianism, 1963-1978,” *African Affairs* Vol.88 (1989): pp.229-51; E.S. Atieno Odhiambo, “Democracy and the Ideology of Order in Kenya: 1958-1986”, pp.111-38 in W.O. Oyugi et al., eds., *Democratic Theory and Practice in Africa* (London: James Currey, 1988); Gibson Kamau Kuria, “Confronting Dictatorship in Kenya”, *Journal of Democracy* Vol.2, no.4 (Fall 1991): pp.115-26; and Julius E. Nyang'oro, “The Quest for Pluralist Democracy in Kenya,” pp.73-82 & James K.Kariuki, “University of Nairobi and the Demise of Democracy in Kenya”, pp. 81-93, both in *TransAfrica Forum* Vol. 7, no.3 (Fall 1990).

traditional legitimation of one party rule and refocus the issue on abuse of power, human rights and democracy in a traditional liberal sense.

The relative strength or number of adherents for these 3 perspectives on the Kenyan state has changed over time, and as the post-Cold War zeitgeist or dominant view in the global community has become more clearly democratic in the Western liberal sense, the argument for one-party democracy has clearly become a minority view and one on the defensive. More to the point in terms of the current project, most analysts agree that under Moi any democratic aspects of KANU rule were targeted for extinction, and that the “regime type” of the Moi state moved steadily towards more centralized personal rule and what Widner has termed a party-state.<sup>191</sup> The context and motivation for Moi’s efforts to change the Kenyatta era KANU regime involved his desire to establish a firmer basis for his own power by replacing the Kikuyu inner circle of KANU that had supported and benefitted from Kenyatta’s rule with his own inner circle of Kalenjin, particularly his own Tugen sub-tribe, and more broadly by bringing the old KADU coalition of minor tribes into greater power and access to state resources to overcome the dominance of both the state and the economy by the Kikuyu.<sup>192</sup>

Moi’s efforts to intensify authoritarian rule and further centralize control in the Presidency evoked new forms of resistance on the part of elements of Kenyan society. Old opponents of KANU from the left began to find common cause with disenchanted and persecuted members of the old elite, particularly Kikuyu who were being demoted and driven out of KANU, and the Kenyan churches, lawyers both individually and via their professional associations, and students also stepped forward as key constituencies in the emerging opposition movement. Moi and KANU exhibited increasing paranoia after the 1982 coup attempt, and made much of the emergence of an underground opposition movement called Mwakenya, which was said to be based on Kikuyu

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<sup>191</sup> Critics of the Moi regime interviewed in 1996 even argued that in the mid-1980s, Moi began to look to the People’s Republic of China as a new model for combining “pro-capitalist” but state-led and successful integration into the world economy with strict and centralized one-party rule. Moi visited Beijing several times and maintained unusually warm relations given the remoteness and diminished involvement in Africa by China since the early 1980s as well as the lack of significant commercial ties.

<sup>192</sup> See Frank W. Holmquist, Frederick S. Weaver and Michael D. Ford, “The Structural Development of Kenya’s Political Economy”, *African Studies Review*, Volume 37, Number 1 (April 1994): pp. 69-105.

oathing ceremonies and thus evoked memories of the Mau Mau rebellion of the 1950s, Kenya's bloodiest chapter in an otherwise peaceful history. While Mwakenya did apparently exist, it never displayed any real strength or ability to subvert the KANU regime, but it nevertheless became the pretext for a series of accusations, indictments and trials of perceived opponents of the regime. As the 1980s progressed, Moi also looked with some intrepidation to neighboring Uganda where Yoweri Museveni and his National Resistance Movement (NRM) mounted an armed insurrection against the Obote government starting in 1980. By January 1986, the NRM succeeded in taking the capital Kampala, and therefore control of the state, despite a last minute failed attempt by Moi to mediate a peace accord in December, 1985 that would have preserved a role for the Obote regime.<sup>193</sup> Moi subsequently accused Uganda and Museveni on several occasions of conspiring with his opponents to foment insurgency in Kenya, and "traditional" cattle raiding and communal violence between groups along and across Kenya's northwestern frontier with Uganda then came to be portrayed as a broader threat to Kenyan security. Despite the Moi regime's efforts to portray these new threats in a sinister light, the growing resistance to KANU from within Kenyan civil society received increased international attention and support over the course of the 1980s thanks to the growing strength and density of transnational movement to protect human rights.<sup>194</sup> The Moi regime maintained the upper hand up through the 1988 elections, but the embarrassing spectacle of queue voting, of the blatant rigging against KANU candidates that did not enjoy Moi's favor and of the very low voter turn-out – some 23%, the lowest of any Kenyan general election to date or since

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<sup>193</sup> see Morton, p.152 The December accord was actually agreed upon and welcomed as a success for Moi, but then failed to be respected on the ground.

<sup>194</sup> Hans Peter Schmitz, "Transnational Activism and Political Change in Kenya and Uganda," pp. 39-77 in Thomas Riese, Stephen C. Ropp and Kathryn Sikkink, eds., *The Power of Human Rights: International Norms and Domestic Change* (Cambridge/NYC: Cambridge University Press, 1999); and Schmitz, "When Networks Blind: Comparing Different Periods of Transnational Human Rights Activism in Kenya" Paper presented to the International Studies Association 40th Annual Convention, Washington, D.C. February 16–20, 1999 (available via [www.ciaonet.org](http://www.ciaonet.org)). Also Davinder Pal Singh Ahluwalia and Jeffrey S. Steeves, "Political Power, Political Opposition and State Coercion: The Kenyan Case", pp. 93-105 in Brian D. McLean, ed. *The Political Economy of Crime* (Scarborough: Prentice-Hall, 1986); Rhoda E. Howard, "Repression and State Terror in Kenya 1982-1988", pp. 77-98 in P.T. Bushnell, et al. eds. *State Organized Terror: The Case of Violent Internal Repression* (Boulder: Westview Press, 1991); see also Amnesty International, "Kenya: Torture, Political detentions and Unfair trials" (London: Amnesty International, 1987) and the Kenyan publication *Nairobi Law Monthly*.

– combined with renewed economic difficulties to signal a rapid slippage of the regime's claim to legitimacy.

#### ***4. International Linkages, Economic Context And Structural Adjustment: Historical Background To Kenya In The 1990s***

As noted by advocates of both the first and second perspective above, post-independence Kenya has often been cited as a model of economic growth and political stability for Africa. Its strong links with Britain due to its status not simply as a colony, but a prospective settler colony, and its position as a regional hub for East Africa and the Horn, initially made it a magnet for foreign investment and aid from the U.K., the U.S. and many other western countries. These financial links have played key roles in making the 'success' of Kenya under Kenyatta and Moi possible, however defined or bracketed. Kenya has also had a distinctively pro-Western bent in foreign policy, perhaps more so than any other sub-Saharan country, at least up until Moi's stint as head of the OAU in the early eighties. Geopolitically, Kenya has been a strategic island of stability in an otherwise unstable Horn of Africa, and defense treaties with both the U.S. and the U.K. date from 1980, when the U.S. also obtained key fleet and air base rights at Mombasa.

The most telling indicator of Kenya's favored status is that over the course of the 1980s, when official development assistance figures for many LDCs either stagnated or declined, the flow of Official Development Assistance/Official Aid (ODA/OA) to Kenya rose sharply from a net average of \$163.7 million between 1974 and 1978 (approx. \$450 million net in 1999 prices) to \$399 million in 1983 (\$747.5), to \$836 million in 1988 (\$1022.6) and to a peak of net \$1,185.8 million in 1990 (\$1308.6).<sup>195</sup> Gross ODA disbursements rose from \$904 million in 1988 to

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<sup>195</sup> The peak in aid according to 1999 adjusted prices was actually in 1989: \$1,325.4 mill. adjusted based on net \$1064 million in current prices. All figures from OECD/DAC International Development Statistics Online (<http://www.oecd.org/dac/>; accessed 7/17/02) For similar analysis from contemporary sources using slightly different figures available at that time, see Economist Intelligence Unit, *Kenya Country Report* no. 4 1991 and Arthur Hazelwood, "Foreign Aid and Economic Development in Kenya", pp. 125-49 in Uma Lele and Ijaz Nabi, eds., *Transitions in Development - The Role of Aid and Commercial Flows* (San Francisco: ICS Press, 1991).

\$1,109 in 1989 and then \$1,736 million in 1990 before falling back to \$1,100 million in 1991.<sup>196</sup>

This surge is also reflected in the changing ratio of ODA/OA to Gross National Income: from approximately 1969 when it stabilized for about three years at approximately 3.8% GNI after some initial post-independence oscillations, aid to Kenya then grew gradually into the 4% range from 1973-1977, the 5 and 6% range from 1978 to 1986, then rose rapidly to 7.5% in 1987, 10.2% in 1988, 12.5% in 1989 and reached a peak of 13.15% in 1990, with all years from 1986 to 1990 exhibiting positive economic growth in terms of GNI.<sup>197</sup> While the 1980s as a whole do not display greater aid growth rates in percentage terms (as opposed to absolute terms) compared to the 1960s and 1970s, the annual growth rates from 1987 to 1990 – an average of 28.47% in total net ODA receipts (18.84% when adjusted to constant 1999 prices) – are higher than those in any of the earlier decades (with the partial exception of the 1960s in which exceptionally high pre-independence aid in 1961 distorts the overall picture).

Aid to Kenya figures from 1960 to 1990 are given below in Table 3.1, including Total Receipts which include Official Development Assistance (ODA), Other Official Flows (OOF - loans and other financial flows which do not qualify as being concessional), and Private Flows (loans, foreign direct investment, private export credits, private and NGO grants.) Whereas ODA is by definition a positive flow, OOF and Private flows can be negative such that Total Receipts some years exceed ODA and some years are less than ODA. Reference statistics for 1960 to 1990 consisting of population, Gross National Income (GNI) and GNI per capita are given below in

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<sup>196</sup> OECD, Geographical Distribution of Financial Flows to Developing Countries, as cited in EIU Kenya Country Report 1993, 2nd quarter, p. 19 and 1995-96 Country Profile, p. 49. The large peak in 1990 is in part an artifact of large debt forgiveness grants by the U.S. (approx. \$174m) and Germany (approx. \$435m) that year. The bilateral component of the peak in net aid in 1990 is furthermore close to 100% grant aid whereas the percentages of grant (vs. concessional loans) in 1989 and 1991 were approximately 52% and 70% respectively. Approximate debt forgiveness amounts are from EIU *Kenya Country Reports* 1990, 2 (U.S.) and 1989, 2 (Germany).

<sup>197</sup> Aid is arguably even more valuable during periods of negative economic growth, and both absolute and relative measurements are always advisable for a full interpretation of these figures. For example, the absolute peak of ODA as a percentage of GNI in Kenya came in 1993 (17.83 %), but that was in a context of both rapid economic contraction and significant declines in aid over the previous two years and those that followed: both the economy/GNI and aid were declining, but the former was declining more rapidly. GNI represents a renamed and expanded or “broadened” coverage of the more traditional Gross national Product (GNP) according to the new System of National Accounts (SNA) co-sponsored by the OECD and other major international organizations: see inter alia, OECD/DAC, *Development Cooperation Report 2001 (The DAC Journal, 2002, Vol.3, no.1)*: Technical Notes on Definitions and Measurement, p. 297.

Table 3.2 . (Reference and Aid statistics for 1990-2000 are given later in the chapter, and compilations from 1960 to 2000 can be found in Appendix Table 3.A)

DAC- Kenya Through 1990 year	ODA/OA: Total Net (\$ Million)	ODA/OA: Total Net Growth Rate (%)	Decade Ave. Rate	ODA/OA: Total Net in 1999 prices dac2a_defl	ODA/OA: Total Net in 1999 prices Growth Rate (%)	Decade Ave. Rate	ODA/OA per Capita (\$)	ODA/OA as % GNI	Total Receipts ODA+OOF+ Private) (millions \$)	Decade Ave. Growth Rate
1960	20.63			162.04			2.61	3.03	20.40	
1961	62.94	205.09		465.89	187.52		7.69	8.34	64.21	
1962	48.25	-23.34		343.55	-26.26		5.70	5.77	50.25	
1963	54.67	13.31		390.13	13.56		6.23	5.90	55.97	
1964	54.49	-0.33		377.45	-3.25		6.00	5.60	53.91	
1965	70.04	28.54		436.98	15.77		7.45	7.01	69.14	
1966	52.66	-24.81		305.97	-29.98		5.40	4.53	59.16	
1967	33.96	-35.51		203.35	-33.54		3.36	2.82	48.55	
1968	60.71	78.77		368.88	81.40		5.79	4.60	66.57	
1969	55.93	-7.87	25.98	323.18	-12.39	21.43	5.14	3.79	67.91	26.19
1970	57.62	3.02		311.72	-3.55		5.10	3.89	94.60	
1971	67.36	16.90		323.06	3.64		5.74	3.65	98.54	
1972	72.30	7.33		311.53	-3.57		5.93	3.29	116.87	
1973	95.80	32.50		349.86	12.30		7.55	4.13	199.85	
1974	117.66	22.82		384.19	9.81		8.92	4.32	177.71	
1975	128.66	9.35		355.67	-7.42		9.39	4.13	195.52	
1976	161.76	25.73		449.77	26.46		11.35	4.81	412.38	
1977	162.69	0.57		391.31	-13.00		10.98	4.04	550.90	
1978	247.60	52.19		534.17	36.51		16.08	5.16	462.21	
1979	350.87	41.71	21.21	666.56	24.78	8.60	21.92	6.09	654.54	30.20
1980	396.62	13.04		673.73	1.08		23.83	5.87	557.44	
1981	449.39	13.30		797.04	18.30		25.93	6.10	577.50	
1982	484.80	7.88		879.54	10.35		26.86	6.96	575.22	
1983	399.09	-17.68		747.45	-15.02		21.41	6.08	475.32	
1984	406.39	1.83		791.79	5.93		20.99	6.45	538.18	
1985	429.74	5.75		815.77	3.03		21.38	6.85	525.51	
1986	444.92	3.53		682.34	-16.36		21.33	6.51	677.30	
1987	560.19	25.91		731.54	7.21		25.89	7.54	687.92	
1988	836.01	49.24		1022.62	39.79		37.25	10.17	955.63	
1989	1064.14	27.29	13.01	1325.40	29.61	8.39	45.72	12.43	1463.71	10.44
1990	1185.83	11.44		1308.59	-1.27		48.66	13.15	1483.97	

Source: OECD/DAC, *International Development Statistics*, updated Jan. 30, 2002

Table 3.2 - Population, Gross National Income, GNI per capita										
year	Population (thousands)	Pop Growth Rate	Decade Ave. Rate	GNI (Current \$ million)	GNI Growth Rate	Decade Ave. Rate	Raw GNI per cap	GNI per capita (Atlas \$)	GNI percap Growth Rate	Decade Ave. Rate
1960	7903			682			86			
1961	8183	3.54		756	10.85		92			
1962	8472	3.53		837	10.71		99	90		
1963	8772	3.54		926	10.63		106	100	11.11	
1964	9083	3.55		973	5.08		107	100	0	
1965	9404	3.53		1000	2.77		106	100	0	
1966	9754	3.72		1162	16.20		119	110	10	
1967	10117	3.72		1203	3.53		119	120	9.09	
1968	10494	3.73		1319	9.64		126	120	0	
1969	10885	3.73	3.62	1476	11.90	9.04	136	130	8.33	5.51
1970	11290	3.72		1483	0.47		131	130	0.00	
1971	11737	3.96		1848	24.61		157	150	15.38	
1972	12201	3.95		2198	18.94		180	180	20.00	
1973	12684	3.96		2321	5.60		183	180	0.00	
1974	13186	3.96		2724	17.36		207	200	11.11	
1975	13707	3.95		3119	14.50		228	230	15.00	
1976	14250	3.96		3364	7.86		236	240	4.35	
1977	14813	3.95		4029	19.77		272	270	12.50	
1978	15399	3.96		4798	19.09		312	310	14.81	
1979	16009	3.96	3.93	5766	20.18	14.84	360	370	19.35	11.25
1980	16642	3.95		6759	17.22		406	420	13.51	
1981	17330	4.13		7369	9.03		425	430	2.38	
1982	18046	4.13		6970	-5.41		386	400	-6.98	
1983	18643	3.31		6570	-5.74		352	350	-12.50	
1984	19358	3.84		6300	-4.11		325	330	-5.71	
1985	20096	3.81		6273	-0.43		312	310	-6.06	
1986	20856	3.78		6833	8.93		328	330	6.45	
1987	21640	3.76		7432	8.77		343	340	3.03	
1988	22446	3.72		8218	10.58		366	370	8.82	
1989	23277	3.70	3.81	8561	4.17	4.30	368	370	0.00	0.29
1990	24368	4.69		9017	5.33		370	370	0.00	

Source: OECD/DAC, *International Development Statistics*, updated Jan. 30, 2002

Among the bilateral aid donors to Kenya, the U.K. as the former colonial power was not surprisingly the largest aid donor from before independence through 1974 and then for another two out of the four years through 1978. Germany and the Netherlands were each top donor for two years, and Sweden for one year between 1975 and 1982. The U.S. was the largest single aid donor in four out of the five years from 1981 to 1985: in 1983, its \$76 million in aid made Kenya its largest recipient in Sub-Saharan Africa. Starting in 1986, Japan emerged as the largest bilateral donor and would continue in that role in all but three years from 1986 to 2000. On the multilateral donor side, the International Development Association of the World Bank has been by far the largest donor, and provided more aid than any individual bilateral donor in nine out of the nineteen years from 1982 to 2000.<sup>198</sup>

Tourism from the West, attracted to Kenya's game parks and reputation for pro-Western stability, accounted for \$420 million or almost a third of foreign exchange earnings in 1989, compared to \$1,064 million in aid that year.<sup>199</sup> When they bothered to comment on Kenyan politics, Western governments generally followed the first perspective above in singing the praises of Kenya's stable one-party democracy. They also tended to tacitly support the suppression of socialist or left-populist oppositions such as the KPU and Mwakenya. The transition from Kenyatta to Moi was typically praised also for being orderly, peaceful and for preserving continuity. While human rights organizations such as Amnesty International adopted the cause of political detainees under Kenyatta and later under Moi, Western states largely remained silent. The Western press followed essentially the same pattern, ignoring for the most part the changes wrought by Moi, until the human rights issues started to heat up in 1987.<sup>200</sup>

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<sup>198</sup> For a full breakout of individual donor contributions from 1960 through 2000, see Appendix Table 3.B – top bilateral donors in each year are in bold and the IDA total is in bold for years when it was the largest single donor. The source for all aid data here is again OECD/DAC, International Development Statistics, [www.oecd.org/dac/stats](http://www.oecd.org/dac/stats), updated January 30, 2002. Donor rankings shift somewhat if totals adjusted to year 2000 constant prices are considered – UK and Japanese dominance are increased – but this appears to be a statistical artifact related to exchange rates.

<sup>199</sup> Economist Intelligence Unit (EIU), Kenya Country Report, 1991.

<sup>200</sup> See Gitobu Imanyara, "Africa Through Blinders", *Africa Report*, Sept.-Oct. 1990: pp.17-8.

## Economic Growth & Structural Adjustment in Kenya

The narrative of Kenya's post-independence economic history until 1990 is typically divided into six major periods<sup>201</sup>:

- 1) the "Kenyan miracle" years of 1964-73 when the economy grew at an average of around 7% per year;
- 2) the first oil crunch and global recession years of 1974-76, exacerbated by drought, when GDP per capita declined;
- 3) the coffee and tea boom years of 1976-77 of rapid growth;
- 4) followed by renewed recession 1978 to 1980; then
- 5) modest GDP growth around 3%/year from 1980 thru 1984 which failed to keep pace with population growth and resulted in an average GDP/capita decline of 0.2 % per year (1981-85); followed finally by
- 6) a period of sustained GDP growth of around 5% year starting in 1985, encouraged by a coffee boom in 1986 and lasting until 1989.

This last period produced modest rates of growth in per capita GDP of between 1 and 2 %.

However, in a major 1992 study of the Kenyan economy, the World Bank argued that these figures should be adjusted for movements in the terms of trade Kenya faces and that such an adjustment means that GDP/capita growth was only positive in 1986 and 1988 while overall adjusted GDP/capita fell 1.2% from 1981-85 and a further 0.8%/year during 1986-90.<sup>202</sup> This narrative does not agree in all respects with story apparently told by the current retrospective data represented by the OECD/DAC's *International Development Statistics*: this dataset portrays the 1970s as a period of unambiguous rapid growth and the period from 1982 to 1985 as one of unambiguous decline. Resolving these differences is not crucial to the current project, however, and both versions

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<sup>201</sup> As one example of this typical narrative, see Economist Intelligence Unit, *Kenya Country Profile and Country Reports*, various years 1980 to 1990.

<sup>202</sup> The World Bank, *Kenya - Re-investing in Stabilization and Growth through Public Sector Adjustment* (Washington, DC: World Bank, 1992), p. 2-3.

agree that economic growth did not keep pace with population growth during the 1980s despite a rebound in economic growth from 1986 through 1989 or 1990 fueled in part by the surge in foreign aid. According to DAC's IDS, the average annual GNI per capita growth rate in 1980s was a meager 0.29% compared to an extremely robust 11.25% average in the 1970s.

Population pressure on the economy and its growth was severe: during the early and mid-1980s, population growth in Kenya was estimated to be in the vicinity of 4% per year and was even identified as being the highest in the world.<sup>203</sup> Population growth slowed in the late 80s, however, according to a 1989 census, and now appears to be in line with or below the Sub-Saharan average of around 3.3%, which is still obviously high and still poses a serious challenge for economic growth.

Kenya was the first country in Sub-Saharan Africa to agree to a Structural Adjustment program as advocated by the IFIs: it received its first Structural Adjustment Loan (SAL) from the World Bank in 1980 and received a total of five adjustment loans (three sectoral loans as well as two overall SALs) from the Bank over the course of the 80s.<sup>204</sup> It received its first Structural Adjustment Facility loan from the IMF (again the first in Sub-Saharan Africa) in 1988. Due to persistent balance of payments and foreign exchange crises, Kenya resorted to IMF stand-by arrangements eight times between 1975 and 1988, but only actually drew upon seven of the eight credits, and then only drew the full amounts in four of the seven loans. It also received seven loans from the IMF's Supplemental and Compensatory Facilities between 1976 and 1986 and drew on six of the seven. Kenya also borrowed heavily on the commercial eurodollar market in the late 70s and early 80s, but attempted a moratorium on such high-interest debt after 1982. The World Bank

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<sup>203</sup> EIU, *Country Profile 1989*, p. 5. identifies Kenya's population growth as the highest in the world, but the World Bank (in Kenya, 1992) states that population growth averaged 3.8 % during the 1980s and was surpassed by 6 other countries. However, the Bank also notes that Kenya's dependency ratio of total population under 15 and over 64 as percentage of those between these ages stands at 177 and is the highest in the world. (p.2) For further comments on population growth as the number one problem or crisis-driving force for Kenya economic development in combination with arable land scarcity, see Colin Leys, "Learning from the Kenya Debate", pp. 220-243 in Apter and Rosberg, *Political Development and the New Realism in Sub-Saharan Africa*: see espec. pp. 232-9.

<sup>204</sup> The history of Structural Adjustment lending to Kenya is covered in detail in F.S. O'Brien and Terry C.I. Ryan, "Kenya", pp. 469-532 in Shantayanan Devarajan, David R. Dollar and Torgny Holmgren, eds., *Aid and Reform in Africa: Lessons from Ten Case Studies* (Washington DC: The World Bank, 2001.) All data in this paragraph is drawn from this source.

refused to extend a third SAL to Kenya in 1985 due to government resistance to pressures for reform of import controls and grain marketing (maize), but it did subsequently extend sectoral adjustment loans for the agriculture, manufacturing and finance sectors.

In general, Kenya survived the "lost decade" of the 1980s much better than most African countries, averaging 1-2 % higher growth rates than the Sub-Saharan average through 1985 and more from 1986-90. It largely maintained its reputation as a relatively successful pro-Western and pro-capitalist economy that avoided radical or severely misguided economic policies. Nevertheless, its specific record regarding structural adjustment policies was quite mixed and resulted in the perhaps unusual situation of Kenya's being on reasonably good terms with the IMF and its specific adjustment agenda, but of having a more problematic relationship with the World Bank and its more extensive development policy agenda. Kenya resisted and ignored many elements of the adjustment programs it agreed to, but due largely to its being on the whole a better managed economy than most other African states, the Moi government was able to avoid paying a penalty for such policy slippage and in fact was able to shift much of the country's debt burden from the commercial terms/market rates it faced in the late 70s and early 80s to concessional terms, increased grant aid and debt forgiveness opportunities in the late 80s.

Kenya in the mid to late 80s was able to attract increased aid from a range of donors and to pursue a strategy of donor funded growth. Between 1983-84 and 1988-89, for example, Kenya's share of total world official development assistance (ODA) increased from 1.6% to 2.5% and made it the second highest recipient in Sub-Saharan Africa.<sup>205</sup> Donors essentially financed a soft landing from the coffee and tea boom of 1986 by funding Kenya's trade, current accounts and fiscal deficits and its debt burden on grant and concessional terms. This allowed Kenya to continue to import and to maintain its approximately 5% annual growth rate through 1989 and to cushion the effects of declining terms of trade (and of population growth) on GDP per capita. This in turn eased potential political discontent with the Moi government for a time, but the donor's allowance of policy slippage

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<sup>205</sup> OECD Development Assistance Committee, *Development Cooperation Report 1995* (Paris: OECD, 1996), Table 36, p. A61.

on reforms to balance the deficits - reforms that necessarily would have included trimming the state budget- in retrospect, had the effect of postponing real adjustment.<sup>206</sup> This modus vivendi between donors and the Moi government and the economic growth it supported both started to unravel in 1990, and by 1991 led to a serious rupture in the aid relationship both politically and in terms of economic adjustment policy.

This 1989-1991 period also represented, and not by mere coincidence, the fall of Kenya from its previous position as one of the African economies most favored by the international community: up until 1990, Kenya had been something of a model of relatively liberal capitalist development compared to most of Africa despite some early rhetoric about African socialism, and it pursued a pro-Western foreign policy. Kenya was viewed as one of the few economies in Africa where IFI loan portfolios and donor aid might actually perform and where at least some elements of structural adjustment policies were taken to heart. This gave Kenya considerable counter-leverage in bargaining with donors through the 1980s and allowed the Moi regime to more or less ignore those elements of adjustment policy that it disliked. Despite this policy "slippage", donors responded to Kenya's requests with increased aid over the course of the 1980s and thus provided the funding for much of Kenya's GDP growth

##### ***5. Historical Background: Malawi Since Independence And The Nature Of One-Party Rule***

While the political history of Kenya since independence can be told in part through the debates over the possibility and disappointments of one-party democracy, Malawi's history also involves a single party, but little pretense of democracy. Under the leadership of "President for

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<sup>206</sup> As the Economist Intelligence Unit interpreted the donors-Kenya relationship at the time: "Donors have accepted that if government's commitment to some of their desired measures is lukewarm, its commitment to the fundamental principles of market determined exchange rates, interest rates and agricultural prices is total, and there is now tacit agreement to condone the former in recognition of the latter.... Kenya's economic management and its public relations style remain so sophisticated by African standards, there is no great likelihood that the flow of conditional credits such as ESAF will be interrupted. This is the gamble, in the EIU's view a judicious one, on which the current Kenyan strategy of import supported growth underpinned by large flows of overseas aid depends." (EIU, 1990 #3, July 12, p.12) This prediction of likelihood would prove false some 16 months later.

Life” Dr. Hastings Kamuzu Banda for 30 years, Malawi was at times described as the most tightly run and conservative personal dictatorship in Sub-Saharan Africa. This alone and without further analysis might predispose one to predict that the country would not have high prospects for democratization. On the other hand, some have argued that the continuity, stability and even stagnation of the Banda years, despite the authoritarian oppression, resulted in a relatively “mild” and uncontentious political culture that facilitated a peaceful transition.<sup>207</sup>

Hastings Kamuzu Banda was recruited as a "senior statesman" to lead the independence movement in Malawi and returned from many years abroad practicing medicine in the U.S., U.K. and Ghana to fill that role in 1958. In 1953, Britain had imposed the Federation of Nyasaland and Rhodesia on the territories that were to become Zimbabwe, Zambia and Malawi (Nyasaland), and opposition to this federation became the focal point of nationalism and anti-colonialism in the future Malawi led by the Nyasaland African Congress (NAC, founded in 1953). Legislative elections were held in 1961 according to a Constitution drafted at a London conference in 1960 which mandated two restricted roles for voting with extensive property, literacy and/or social position requirements (e.g., chiefs, headmen). This produced a total electorate of some 111,000 voters.<sup>208</sup> The NAC won most seats with the remainder going to the European-led and pro-federation United Federal Party. The Federation was dissolved in 1963, Nyasaland became Malawi, and the NAC became the Malawi Congress Party (MCP). Banda became Prime Minister in the pre-independence government in 1962 and continued in that role at independence in 1964 as the head of the MCP. The United Federal Party dissolved in 1964, but an African-led party opposed to the MCP, the Convention African National Union (CANU), formed in 1962 and lasted until it was banned in 1966 when Banda and the MCP amended the Constitution to make Malawi a one-party state. In 1966, Malawi also nominally switched to a republican form of government with Banda as President, and he was declared President for Life in 1970 and sworn in as such the following year.

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<sup>207</sup> See for example van Donge's discussion of the search for consensus politics and of the idealization of Banda even by those imprisoned under his regime in Jan Kees van Donge, "Kamuzu's Legacy: The Democratization of Malawi," *African Affairs* Vol.94 (1995): pp.227-257. See also Samuel Decalo, *The Stable Minority: Civilian Rule in Africa* (Gainesville, FL: Florida Academic Press, 1998) on Malawi under Banda as "dictatorship by consent."

<sup>208</sup> Carolyn McMaster, *Malawi – Foreign Policy and Development* (New York: St.Martin's Press, 1974) p. 179.

The authoritarian tone was set for the Banda years a mere three months after independence in the so-called “cabinet crisis”: several younger members of the cabinet, including some who had been involved in recruiting Dr. Banda to return to Malawi and who had their own following within the party, became unhappy with the degree of power their leader was concentrating in himself, and they challenged his leadership. Banda’s response was notably undemocratic in that he not only summarily dismissed them from the cabinet and the party and had some imprisoned, but also called in the security forces to suppress any opposition and began the first of several purges of Northerners and others suspected of disloyalty from the civil service.<sup>209</sup> The Cabinet crisis led to several years of failed attempts at insurrection by small bands of Banda opponents and also resulted in a significant number of politically active Malawians fleeing into exile in neighboring countries. In the words of one analyst, “When Banda started his presidential career, he was head of one of the most militant movements in contemporary Africa. Immediately after he became president, however, he dealt the radicals within his party a major blow; he forced six ministers out of the cabinet and broke with the militant African intelligentsia.”<sup>210</sup> Thereafter, the Banda regime became increasingly centralized and personalistic with Banda deriving massive personal wealth and in relatively tight control of a generally efficient civil service and party apparatus. This continued up through the late 1980s when his advanced age finally led to greater delegation of control.

Banda and his regime came to be viewed as a prime example of African personalist authoritarianism. Jackson and Rosberg provided an overview of African regimes in 1982 including a typology of Prince, Autocrat, Prophet and Tyrant, and they contrasted the “prince” Jomo Kenyatta of Kenya, who practiced a “flexible” “politics of accommodation” with the “autocrat”

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<sup>209</sup> Colin Baker, *The Revolt of the Ministers: The Malawi Cabinet Crisis 1964-65* (London: I.B. Tauris, May 2001). For general views of the early years of the Banda regime, see Philip Short, *Banda* (London, Boston, : Routledge & Kegan Paul, 1974), T. David Williams, *Malawi, the politics of despair* (Ithaca, NY: Cornell University Press, 1978) and K.K. Virmani , *Dr. Banda in the making of Malawi* (Delhi : Kalinga Publications, 1992). For longer views of Malawian history, see Robert I. Rotberg, *The Rise of Nationalism in Central Africa: The Making of Malawi and Zambia, 1873-1964* (Cambridge, MA: Harvard Univeristy Press, 1966) and B. Pachai, *Land and Politics in Malawi, 1875 –1975* (Kingston, ONT: Limestone Press, 1978).

<sup>210</sup> L.H. Gann, “Malawi, Zambia and Zimbabwe”, pp.162-201 at 192 in Peter Duignan and Robert H. Jackson, eds. *Politics and Government in African States 1960-1985* (Stanford CA/London: Hoover Institute/Croom & Helm, 1986)

Banda whose rule is “reminiscent of absolute monarchy” and is characterized by unlimited discretionary power.<sup>211</sup> An inveterate Anglophile who kept expatriate personnel in key civil service positions much longer than most newly independent African leaders, Banda maintained the institutions of parliamentary government, but his view of democracy was at best a crude populism allegedly adapted to African history and culture: “A Government chosen by the people themselves – whether it is a dictatorship or not, as long as it is the people who choose the dictator, it is not a dictatorship, That is what democracy is.”<sup>212</sup>

There is nevertheless some apparent debate over how to classify the Banda regime over the 1964-1994 period (apparent in the sense of not clearly joined). There were no Presidential popular elections during this period even of a pro forma sort, and members of parliament were simply selected by Banda and the MCP up until 1972, when there was a pro forma election in which selected candidates were elected unopposed. Parliamentary elections were then held in 1976, 1978, 1983, and 1987 in which all candidates required presidential approval and had to be MCP members, but multiple candidacies were allowed and a significant number of incumbents were apparently defeated. However, Banda also retained the power to simply nominate additional unelected members of parliament throughout this period. Malawian politics did go through a period of liberalization in the late 1970s after the fall of MCP Secretary General Muwalo Nqumayo, but it then re-entered a period of repression in 1983 (see below), so the period in which these elections were held cannot be described as one of general liberalization. Decalo describes the competitive elections in Malawi, which he dates to 1978, as characterized by the fact that “Banda still retained veto power, that he exercised extensively. Moreover, English literacy tests were reintroduced... (that) whittled down delegate lists, in many cases to zero.”<sup>213</sup> Parliament continued to function as a

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<sup>211</sup> Robert H. Jackson and Carl G. Rosberg, *Personal Rule in Black Africa: Prince, Autocrat, Prophet, Tyrant* (Berkeley CA: University of California Press, 1982): pp. 78, 159-167.

<sup>212</sup> Banda speech from October, 1965 quoted in Short, *Banda*, p. 260.

<sup>213</sup> Samuel Decalo, *The Stable Minority: Civilian Rule in Africa* (Gainesville, FL: Florida Academic Press, 1998): p.66. He continues: “In 1978 there were only 47 electoral contests in the country, and some districts were not represented at all since no candidate could pass the test. With serious politicking not allowed - ‘people know whether a candidate is a good man or not from personal experience. No candidate can be allowed to try and persuade the electorate that he is a good person’ (quoting the chair of the Electoral Committee before the 1983 elections)- not surprisingly foreign assessments about Malawi’s elections have always been harsh.”(66)

rubber-stamp legislature under Banda's control throughout this period, but the role of these elections in terms of the patronage system (cf. the Kenyan example) is unclear. The one significant study of Malawi's parliament under Banda stresses its function as a means of legitimation or authentication for Banda and of promoting communication and national integration while noting it had no effective sovereign, budgetary or decision-making powers and largely remaining silent on patrimonialism and the function of electoral competition.<sup>214</sup>

Most analysts simply ignore these elections as meaningless, but Bratton and van de Walle, et al. follow Africa South of the Sahara (1990) in coding the 26 years from Malawi's independence to 1989 as including 7 years of personal dictatorship, 7 years of plebiscitary one party rule, and 12 years of competitive one-party rule with Malawi falling into the latter category at the end of the period in 1989.<sup>215</sup> The quality and meaning of this competition seems highly debatable, especially compared to Kenya's status as a paragon of a competitive one-party system during the 70s according to many, a status which Bratton and van de Walle note.<sup>216</sup> Most analysts see Malawi under Banda as being a strong example of personalistic dictatorship marked by relative continuity throughout the period from 1963 to 1993. Whereas Moi tried and ultimately failed to centralize what had been a fairly decentralized system under Kenyatta both politically and economically, Banda succeeded in creating a highly centralized authoritarian system in the first decade of his rule and then appears to have modified the parliamentary election component without appreciably changing the character of the system of rule as a whole. The Kenyan system under Kenyatta created quasi-democratic norms of fair competition, and when Moi and KANU repeatedly violated those norms from 1982 leading up through the 1988 elections, the legitimacy of the regime suffered noticeably. In Banda's Malawi, no such norms were created, and there was never much legitimacy at stake for the regime as a whole in the parliamentary elections. A failure to thus distinguish between multiple institutional legacies can lead historical institutionalist analysis astray, especially if

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<sup>214</sup> Heiko Meinhardt, *Die Rolle des Parlaments im autoritären Malawi* (Hamburg: Institut für Afrika-Kunde 1993)

<sup>215</sup> They then appear to miscode the resulting number of regimes in the period as 2 instead of 3: see Bratton and van de Walle, et. al., *Political regimes and Regime transitions in Africa: A Comparative Handbook*, Working Paper No. 14, Michigan State University Working Papers on Political Reform in Africa (East Lansing: 1996): pp. 96, 197-8.

<sup>216</sup> See Bratton and van de Walle, *Democratic Experiments in Africa*, pp.71-2.

it is then shoe-horned into a quantitative methodology: Bratton and van de Walle classify Kenya as having a highly authoritarian and personalist regime legacy going into its transition attempt (thus ignoring the earlier Kenyatta legacy), while they classify Malawi as having a semi-competitive one-party state on the basis of fairly token competitive parliamentary elections that the Banda regime introduced late in its reign. The actual impact or proper coding in terms of effective political legacy was in fact the reverse because in each case the relevant legacy was established in the first decade or so after independence. No analyst of Malawian politics considered Banda's elections to be significant (in contrast to the elections during the Kenyatta era) or to fundamentally change the underlying personal rule of the Banda regime.

The history of Malawi's transition from the one-party authoritarianism of the Banda years to multiparty rule since mid-1994 is best picked up in the early 1980s, for that is when the succession struggles within the Malawi Congress party (MCP) to decide Banda's heir apparent began and this issue was to be a driving force in the country's politics into the 1990s. In 1983, Dick Matenje, then Secretary General of the MCP and thus a leading contender to succeed Banda, was killed in an alleged car accident along with two other ministers and an MP in what was widely viewed as a political assassination perpetrated by the police on the orders of rival contender John Tembo and with the blessing of Banda. This was further seen as the elimination of the 'moderate' faction within the MCP by the more hardline Tembo faction that was to dominate the MCP up until its defeat in 1994. Tembo, however, was quite unpopular outside of party circles, particularly with the country's military, and lacked the aura of founding father and nationalist independence leader that Banda was always able to exploit.

## ***6. Malawi's Economic Development and the Role of Aid, 1964-1990***

Whereas Kenya enjoyed the reputation as a relative economic success for Africa for at least the initial period after independence, Malawi's overall image has long been one of extreme poverty

even when growth rates were good in the first fifteen years of independence and when, like Kenya, it appeared that it might be something of a model for other poor countries. Malawi is a small, yet densely populated and overwhelmingly agricultural country with few exploitable natural resources and little significant industry. Historically it has exported tobacco, tea and sugar and also migrant laborers to work in the mines and estates of Southern Africa. Along with Zambia and Zaire/Belgian Congo, it was among the earliest colonies of Southern Africa to achieve independence while still bordering Portuguese-ruled Mozambique and being economically linked and dependent on its other still-white-ruled neighbors to the south (South Africa and Rhodesia/Zimbabwe.) Unlike these other early “frontline” states, Banda chose to maintain quite friendly relations with Portugal and South Africa which in turn led to a degree of ostracism on the part of other newly independent and black nationalist states in Sub-Saharan Africa. One of Malawi’s important foreign aid relationships thus came to be with apartheid South Africa, although except for the major public assistance offered to build Banda’s new capital city in Lilongwe in the early 1970s and a rail link to the port of Ncala in Mozambique, much of this South African aid remained covert. Banda also maintained a strongly anti-communist stance throughout the Cold War era, and he sought to parlay this into not only maintaining a strong aid relationship with Britain as the former colonial power, but also into developing such a relationship with the U.S. Malawi was also an early and somewhat enthusiastic participant in World Bank and IMF funding including Structural Adjustment lending starting in the 1980s. Despite or perhaps in part because of these aid relationships, Malawi’s economic development focused largely on estate-based export agriculture that was “private sector” in the sense of being owned by Banda (via the Press Trust Holding Company), the MCP elite, remaining white Malawi residents and by some foreign investors, but which benefited extensively from government support. The vast majority of Malawians remained very poor subsistence and small scale farmers, and the distribution of wealth became estimated as one of the most unequal in the world.<sup>217</sup>

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<sup>217</sup> According to the Deininger and Squire GINI database (1996) published by the World Bank (<http://www.worldbank.org/research/growth/dddeisqu.htm>), compiling extensive efforts to measure the GINI

Banda and the MCP committed the new country at independence to maintaining property rights - i.e. the existing system of colonial agricultural estates growing primarily tobacco, plus tea and sugarcane - and then focused its development strategy on expanding, modernizing and Africanizing this sector. Export volumes grew at an average rate of close to 9% a year from 1965 to 1972 and then around 4% from 1973 to 1980<sup>218</sup>, and overall GNI grew at an average of 11.61% per year over the first decade of independence (1965-1974) (see Tables 3.3 and 3.4 below<sup>219</sup>.)

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coefficient as a standard measure of income inequality, and using only those measurements they deemed “high quality” in terms of data and methodology, Malawi had the third most unequal rating in the database with a GINI of 62 in 1993 behind only South Africa (62.3 in 1993) and Gabon (63.18 in 1977). Rejected low quality GINI measurements for Malawi were all lower (50s and high 40s.) By comparison, Kenya’s only high quality measurement was 54.4 (1992) which was 40<sup>th</sup> highest out of a total of 691 high quality estimates (including many multiple estimates for the same countries in different years), but other rejected Kenya measurements were much higher (high 60s and even 70.) Another more recent set of GINI measurements from the UN Development Program’s 2003 Human Development Index ranked Malawi as 23<sup>rd</sup> of the most unequal countries with a GINI of 50.3 and Kenya as the 41<sup>st</sup> with a GINI of 44.5. (accessed via <http://www.undp.org/hdr2003/indicator/> and then select for country or for indicator [GINI = indicator 126]: accessed 12/19/03.)

<sup>218</sup> Export volume figures from Elias Ngalande Banda, Flora Nankhuni and Ephraim Chirwa, “Economy and Democracy: Background, Current Situation and Future Prospects”, pp.70-86 in Phiri and Ross, *Democratization in Malawi: A Stocktaking* ; 72.

<sup>219</sup> In general, economic statistics cited here and used in the tables in this chapter are from the OECD/DAC *International Development Statistics* database (hence the use of GNI rather than earlier standards of GNP or GDP): this is generally for reasons of consistency, economy, access, presentation and comprehensiveness given the primary interest in aid (the DAC’s focus). Issues of inter-database compatibility are not addressed except to note that some obvious alternative sources such as the Government of Kenya’s statistics are based on a July through June fiscal year while the DAC’s are based on calendar years. The accuracy of statistics is subject to debate. Harrigan reviews an inconclusive debate over whether Malawi growth rates from the 1967-79 period (derived from Government of Malawi figures including estimates of the value of non-monetary subsistence agricultural production in the 1970s and 1980s and then repeated in various World Bank and other publications) are seriously overestimated. Furthermore, the figures in question yield a 5.5% average GDP growth rate over that period, a far different picture from the double-digit growth rates from the DAC GNI data cited above, especially if the 5.5 % is an *overestimate*: see Jane Harrigan, *From Dictatorship to Democracy: Economic Policy in Malawi 1964-2000* (Aldershot UK/ Burlington USA: Ashgate, 2001), pp.18-23. In general the approach taken above is to look more to decennial or multi-year averages and to trends that smooth out clearly erratic year to year statistics, and to focus on the political meanings and consequences of real and perceived economic trends rather than on economics per se.

Table 3 - Aid (ODA/OA) & Total Receipts to Malawi 1960-1990										
DAC-	ODA/OA:	ODA/OA:		ODA/OA:	ODA/OA:		ODA/OA	ODA/OA	Total	Total R
Malawi	Total Net	Total Net	Decade	Total Net	Total Net	Decade	per	as % GNI	Receipts	Decade
Through		Growth	Ave.	in 1999	in 1999	Ave.	Capita		ODA+OOF	Ave.
2001	(\$ Million)	Rate (%)	Rate	prices	prices	Rate	(\$)		+Private)	Growth
year				dac2a_defl	Growth				(millions \$)	Rate
					Rate (%)					
1960	4.16			31.47			1.18	2.38	4.16	
1961	8.23	97.84		60.43	92.02		2.28	4.62	8.23	
1962	11.58	40.70		81.97	35.64		3.14	6.43	11.58	
1963	16.46	42.14		114.4	39.56		4.37	9.00	16.46	
1964	32.34	96.48		213.12	86.29		8.39	17.29	32.34	
1965	33.72	4.27		207.53	-2.62		8.56	15.05	33.44	
1966	31.07	-7.86		182.37	-12.12		7.72	12.04	31.07	
1967	29.40	-5.37		170.16	-6.70		7.10	10.77	29.40	
1968	46.93	59.63		280.86	65.06		11.01	17.91	46.70	
1969	27.58	-41.23	31.84	160.65	-42.80	28.26	6.29	10.03	31.36	32.68
1970	36.95	33.97		194.48	21.06		8.19	13.15	42.94	
1971	31.62	-14.42		149.27	-23.25		6.81	8.96	35.25	
1972	36.22	14.55		157.88	5.77		7.58	9.08	54.19	
1973	29.73	-17.92		115.48	-26.86		6.05	6.68	33.76	
1974	41.68	40.20		142.54	23.43		8.24	7.68	47.99	
1975	63.82	53.12		178.53	25.25		12.26	10.16	86.00	
1976	63.30	-0.81		178.63	0.06		11.82	9.45	77.29	
1977	79.40	25.43		197.69	10.67		14.41	10.60	114.33	
1978	98.54	24.11		211.54	7.01		17.34	10.69	122.16	
1979	141.71	43.81	20.20	263.98	24.79	6.79	24.18	13.87	210.40	27.33
1980	143.31	1.13		240.94	-8.73		23.70	13.14	189.33	
1981	137.57	-4.01		239.52	-0.59		22.07	12.13	193.21	
1982	121.18	-11.91		218.28	-8.87		18.85	9.92	135.18	
1983	116.31	-4.02		210.10	-3.75		17.31	9.37	104.93	
1984	182.03	56.50		346.45	64.90		26.20	14.53	211.62	
1985	112.95	-37.95		213.10	-38.49		15.71	9.24	117.57	
1986	194.97	72.62		287.99	35.14		26.22	16.75	218.01	
1987	276.71	41.92		358.30	24.41		35.96	23.55	320.90	
1988	376.44	36.04		450.33	25.69		47.29	29.27	414.41	
1989	434.76	15.49	16.58	521.79	15.87	10.56	52.83	29.76	412.81	15.82
1990	503.36	15.78		539.17	3.33		59.18	29.58	517.97	

Source: OECD/DAC, *International Development Statistics*, updated Jan. 30, 2002

Table 3.4 - Malawi Population, Gross National Income, GNI per capita 1960-1990										
	Population	Pop	Decade	GNI	GNI	Decade	Raw GNI	GNI per	GNI percap	Decade
	(thousands)	Growth	Ave.	(Current	Growth	Ave.	per cap	capita	Growth	Ave.
		Rate	Rate	\$ million)	Rate	Rate	(\$)	(Atlas \$)	Rate	Rate
year										
1960	3529			175			50	-		
1961	3608	2.24		178	1.71		49	-		
1962	3688	2.22		180	1.12		49	50		
1963	3770	2.22		183	1.67		49	50	0.0	
1964	3854	2.23		187	2.19		49	50	0.0	
1965	3939	2.21		224	19.79		57	60	20.0	
1966	4027	2.23		258	15.18		64	60	0.0	
1967	4143	2.88		273	5.81		66	70	16.7	
1968	4263	2.90		262	-4.03		61	60	-14.3	
1969	4383	2.81	2.44	275	4.96	5.38	63	60	0.0	3.20
1970	4513	2.97		281	2.18		62	60	0.0	
1971	4643	2.88		353	25.62		76	80	33.3	
1972	4778	2.91		399	13.03		84	80	0.0	
1973	4916	2.89		445	11.53		91	90	12.5	
1974	5058	2.89		543	22.02		107	110	22.2	
1975	5204	2.89		628	15.65		121	120	9.1	
1976	5354	2.88		670	6.69		125	120	0.0	
1977	5509	2.90		749	11.79		136	130	8.3	
1978	5682	3.14		922	23.10		162	160	23.1	
1979	5861	3.15	2.95	1022	10.85	14.25	174	170	6.3	11.48
1980	6046	3.16		1091	6.75		180	180	5.9	
1981	6234	3.11		1134	3.94		182	180	0.0	
1982	6427	3.10		1222	7.76		190	190	5.6	
1983	6718	4.53		1242	1.64		185	180	-5.3	
1984	6948	3.42		1253	0.89		180	180	0.0	
1985	7188	3.45		1223	-2.39		170	170	-5.6	
1986	7437	3.46		1164	-4.82		157	160	-5.9	
1987	7695	3.47		1175	0.95		153	150	-6.3	
1988	7960	3.44		1286	9.45		162	160	6.7	
1989	8230	3.39	3.45	1461	13.61	3.78	178	170	6.3	0.14
1990	8506	3.35		1702	16.50		200	200	17.6	

Source: OECD/DAC, *International Development Statistics*, updated Jan. 30, 2002

However, during this period, the Banda regime did little to promote the small-holder agricultural sector where the vast majority derived their livelihood (and in fact taxed the peasantry rather heavily), invested little in health or education, and instead began some of the President for Life's idiosyncratic investments in elaborate palaces and other pet projects such as Kamuzu Academy (addressed below). Up to a quarter of Malawi's male workforce continued to migrate to work in mines or on estates in South Africa, Rhodesia or Zambia throughout this period: in 1975, foreign exchange earnings from worker remittances were the second largest after tobacco exports. Banda also set up the Press Trust Holding Company which became his "private sector" instrument for establishing major equity holdings in virtually every sector of the economy to the point where it was accurate to say he personally owned a large percentage of the entire Malawian economy. Another major economic institution created in this period was ADMARC, the Agricultural Development and Marketing Corporation, which functioned as the government's marketing board to buy up small-holder surplus produce at government set prices (i.e. a major vehicle for government "savings" or surplus extraction in most years): the role of ADMARC as a centralized state institution (although technically a parastatal) controlling or constraining much of the nominally private economy was to grow over time.

Malawi started out very much dependent on aid from its departing colonial power. British aid had doubled all but one year in the transition period of 1960 to 1964, reaching \$30 million the first year of independence and constituting over 90% of total aid in 1964, which was in turn equivalent to 17.29% of GNI. Aid from the UK began to decline after 1965 through 1971 and stabilized thereafter while the Malawian economy continued to grow. Total aid growth averaged a modest 6.58% annually from 1965-1974 as the number of donors grew<sup>220</sup>: by 1974 the donor club included Belgium, Denmark, Japan, Netherlands, Norway and Sweden along with the UK and Canada, Germany and the United States, the latter three having started aid in 1964 following independence. Aid as a percentage of GNI declined through 1973 reaching a low point of 6.68% in the latter year.

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<sup>220</sup> Although in constant dollars, aid declined in 6 of the 9 years in this period: see Table 3.3 column 6.

The 1970s as a whole appeared to be a decade of rapid growth with an average GNI growth rate of 15.59% for the boom years of 1971 to 1979 (14.25% for the decade as a whole including 1970.) Although Malawi had a high population growth rate of almost 3% over the decade, per capita GNI almost tripled from \$60 a year in 1970 to \$170 in 1979 thanks to a healthy 11.48% average annual rise. (But note that GNI per capita by itself takes no account of distribution and inequality.) The mid-1970s was also the period when Malawi was drawing praise for its efficient civil service and was generally seen as something of a model for successful export-oriented and private sector-led growth in a poor and agricultural LDC with no mineral wealth. By the very end of the decade – 1979 – and definitely within the first years of the next, the fragility of this model began to become apparent, particularly in terms of its vulnerability to external shocks plus its complete failure to address poverty and the non-estate agricultural sector.

Having weathered the first oil price shock of 1973 very successfully and buoyed by robust growth from its modest economic base, the Banda regime did what many other LDCs did in the 1970s and borrowed extensively on commercial terms. This seemed sustainable until the Malawian economy suffered a rapid series of external shocks or setbacks. The second global oil price shock of 1979 and the rapid rise in international interest rates were certainly two of these, but perhaps more important and specific to Malawi was first the dramatic deterioration in its terms of trade from 1977-80, serious drought in 1979-80 with impact extending into 1981, and finally the beginning of major disruption to Malawi's prime transport and trade routes via rail to the Mozambican ports of Beire and Nacala due to the escalating civil war in that neighboring country. The changes in terms of trade involved declines in the prices of tobacco and tea by up to 36% plus the rise in import prices of oil and other goods, all estimated to produce a combined 9% drop in gross domestic income over that three year period.<sup>221</sup> The drought required the import of significant amounts of food, primarily maize, two thirds of which was at commercial rates (as opposed to food aid), and it revealed a major weakness of the export oriented focus on tobacco, tea and sugar. Malawi's vulnerability to drought would prove to be a major recurrent problem in the 1990s and up to the

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<sup>221</sup> Harrigan , *From Dictatorship...*, pp. 40-1.

present and would cause a rollercoaster-like cycle of apparent booms and busts in the country's agricultural economy. The escalating war in Mozambique between the Frelimo government and the Renamo opposition (which was sponsored by South Africa) closed land-locked Malawi's main commercial routes to the outside world and required the rapid development of more expensive alternatives via Zambia and Tanzania that added to the prices of both imports and exports.<sup>222</sup> The war also caused a huge influx of refugees into Malawi later in the 1980s.

These crises combined with the increasing debt burden produced dramatic balance of payments problems starting in 1978: the balance of payments current account deficit as a percentage of GDP accelerated from 6.71% in 1977 to 16.81% in 1978 and then to 19.61% in 1979.<sup>223</sup> Even though aid accelerated rapidly by some 25% in both 1977 and 1978, Malawi still turned to the IMF in 1979 for a \$64 million loan package, but the onset of the drought and then the growing transportation problems quickly intensified the crisis and made the terms and conditions of those loans unsupportable. The Banda regime then turned to the World Bank for the first of its three Structural Adjustment Loans (SALs) over the course of the 1980s that would try to address not simply the immediate balance of payments and debt problems, but also the roots of its problems.<sup>224</sup>

Harrigan (2001) overviews and critiques the entire evolution of economic policy in independent Malawi and focuses particularly on the "initial" phase of structural adjustment from 1981 to 1988. During these years, the World Bank and the IMF led donor efforts in promoting what at the time became a fairly standard neoliberal approach to adjustment and development in Malawi focused on fiscal discipline, export orientation and concern with rent-seeking behavior that distorts or prevents proper free market dynamics and incentives. The three World Bank SALs, approved in June 1981, December 1982 and December 1985, were associated at least chronologically with a mild recovery in 1982 through 1985 following the slowing growth of 1979-80 and the clear recession in 1981 (when GDP declined 5.3 %, 8% on a per capita basis), but

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<sup>222</sup> *Ibid.*

<sup>223</sup> *Ibid.*, p. 21.

<sup>224</sup> *Ibid.*, pp. 44-5.

Malawi then witnessed another recession in 1986 and more slow growth from 1987 through 1989 (GDP growth was actually negative on a per capita basis for all four years running).<sup>225</sup> The only notable success of the SAL period was in improving the country's balance of payments deficits and debt servicing in the short run.<sup>226</sup> Proposals for a fourth SAL were abandoned in 1987 as the Bank shifted to a new more structuralist (vs. orthodox neo-liberal) approach and to sectoral loans. It thus acknowledged the ineffectiveness of its SAL-based approach despite the fact the compliance by the Banda regime with the economic conditionalities of the loans had generally been quite good. Elements of incoherence in the Bank strategy and divisions amongst its staff had played a part here, most notably when those focusing on fiscal discipline pushed for the elimination of fertilizer and other agricultural subsidies that those focused on agricultural development saw as key to their strategy. Harrigan argues that the Bank's approach (which it convinced other donors to support) was fundamentally misguided in that it essentially sought to continue the Banda regime's export-oriented and estate based agricultural development policy and thus failed to come to grips with both its exhausted and limited potential and the underlying structural problems of the Malawian economy that were rooted in the subsistence and small-holder agricultural sector that most of the population depended on.<sup>227</sup> The poor farmers in these sectors had experienced decline and decreased per capita food consumption even as the estate sector and its exports grew. The Bank focused on deteriorating terms of trade and continued to treat the Malawian economy as market-oriented and the state as non-interventionist when in fact Banda dominated both state and economy personally to an extent that ideas like rent-seeking failed to capture the overall centralization of the system. Harrigan locates the underlying problems in Banda's failure to use the temporary

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<sup>225</sup> Following Harrigan, the statistical narrative and interpretation here are based on GDP data from the World Bank's World Development Indicators rather than the OECD/DAC IDS's GNI data (which tell a very different story.)

<sup>226</sup> Debt service peaked for Malawi in 1986 at 54% of export earnings and 13% of GNI. By 1990 those figure declined to 29% and 7% respectively, and by 2001 they stood at 8% and 2%. (World Bank World Development Indicators Online - <http://devdata.worldbank.org/dataonline/>, accessed 12/21/03).

<sup>227</sup> Perhaps ironically, one of the Bank's own evaluations of this period by R. Gulhati bore the title *Malawi: Promising Reforms, Bad Luck*, World Bank Economic Development Institute, Development Policy Case Series, No. 3 (Washington: World Bank, 1989).

successes of the estate-sector strategy in the first fifteen years of independence to invest in developing the rest of the agricultural economy.<sup>228</sup>

The World Bank shifted its approach starting in 1987 from the SAL approach to what could be termed the SECAL approach that was embodied in Sectoral Adjustment Loans (SECALs) starting with the Industrial and Trade Policy Adjustment Program (ITPAC) in May 1988 and followed by the Agricultural Sector Adjustment Programme in 1990. These new programs largely addressed aspects of the economy that had been neglected under the earlier SAL approach especially poverty alleviation and small-holder productivity, and according to Harrigan, they were in many respects successful. With the exceptions of inflation and the balance of payments current account deficit (the one success of the previous phase), Malawi's economic performance from 1988 to 1992 actually exceeded Bank targets and compared quite favorably to other Sub-Saharan LDCs in macroeconomic areas such as GDP growth, agricultural growth, investment, export and import growth. GDP grew by 6% in 1990 and 9% in 1991 (GNI figures were 13.6% in 1989, 16.5% in 1990 and 18.9% in 1991.) The Bank's new approach enjoyed support from other donors: "USAID also stated that it expected Malawi to become the biggest 1992 aid recipient of American aid in black Africa."<sup>229</sup> However, while USAID was making such official comments, the U.S. Congress was passing resolutions threatening to cut aid to Malawi due to the Banda regime's poor human rights practices, and this expectation was not realized. In Harrigan's view, the promising new development impact of the SECAL phase strategy was cut short in 1992 by three exogenous shocks: the worst drought "in almost a century", the expanding influx of Mozambican refugees, and finally in May of that year by the suspension of non-humanitarian aid by the bilateral donors.

While Malawi had shown some signs of decreasing its dependence on aid in the first decade of its independence, aid had a resurgence in terms of growth from 1974 to 1979, then four years of decline again as the country and the world struggled to come to grips with the debt crisis

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<sup>228</sup> Harrigan, ch. 2 & 3. An earlier and influential version of her argument is found in Jane Harrigan, "Malawi" pp. 201-67 in Paul Mosley, Jane Harigan and John Toye, eds., *Aid and Power: The World Bank and Policy-Based Lending, Volume 2 – Case Studies* (London & NY: Routledge, 1991).

<sup>229</sup> Harrigan, *From Dictatorship to Democracy*, p. 282 and ch. 8 generally.

and consequent austerity heading into the era of structural adjustment. From 1984 on, however, aid flows grew as the donor community became more involved in determining economic policy in Malawi irrespective of the varying success of adjustment programs. From its last low point in 1983 at \$116 million (\$210 million in constant 1999 dollars), total net Official Development Assistance rose to \$182 million in 1984 (\$346 million), to \$376 million in 1987 (\$450 million) and to \$503 million in 1990 (\$539 million) (see Table 3.3). As a percentage of Gross National Income, aid rose from 9.37 % in 1983 to 29.76% in 1989. In another revealing comparative statistic, as a percentage of central government expenditures aid to Malawi rose from 33% to 105% in that same period, suggesting that the donor community was not only taking over policy from the government, but also taking over its functions in some sense.<sup>230</sup>

The largest part of the rise in aid in the mid to late-1980s came from multilateral sources: in 1990 as a final snapshot year, multilateral aid was \$302 million out of a total aid pool of \$539 million (in constant 2000 dollars) or 56%.<sup>231</sup> Before 1983, the majority of aid was from bilateral sources in most years. Of the multilaterals, the International Development Association (IDA) of the World Bank was the largest donor (\$102 million in 1990). The largest bilateral donor to Malawi has been Great Britain, the former colonial power: the only years through 1990 in which it was not the largest bilateral donor were 1986 (when it was Germany) and 1987 (when it was Japan.) In 1990, the UK provided \$58 million, followed by Japan at \$57 million, Germany at \$48 million, the United States at \$26 million, Netherlands at \$9 million, France at \$8.5 million, Canada at \$7 million, Denmark at \$6 million, etc. (\$136 million total bilateral aid from EU members.) Multilateral donors in addition to the IDA in 1990 included: the World Food Program at \$46.5 million (humanitarian aid not included in ODA), the European Community at \$43 million, the UN High Commission for Refugees (UNHCR – also humanitarian, not ODA), the IMF's SAF and

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<sup>230</sup> Aid as a % of government expenditure is from the World Bank's World Development Indicators (2003), but unfortunately only appears to be collected through 1990 and then discontinued.

<sup>231</sup> All comparative donor statistics in this paragraph (all in constant year 2000 dollars), are from the OECD/DAC *International Development Statistics* database.

ESAF facilities at \$26 million, the African Development Fund at \$16 million and the UN Development Program (UNDP) at \$15 million.

Despite the reputation of Malawi under Banda as a relatively good and compliant structural adjuster during the 1980s, the country's economy and people clearly suffered during this "lost decade" of failed adjustment and stagnant development: whereas GNI per capita had grown from \$60 in 1969 to \$170 in 1979 with an average annual growth rate over the decade of 11.5%, in 1989 it was back at \$170 despite having risen to \$190 and then fallen to \$150 over the course of the '80s (average annual growth: 0.14%).<sup>232</sup> 1990 marked the year when the UNDP introduced its first version of the Human Development Index incorporating GDP, life expectancy and literacy into a formula of relative deprivation from maximum observed values. Malawi ranked 14<sup>th</sup> from the bottom of this index with an HDI of .250 (.286 for men, .219 for women).<sup>233</sup> Despite these hardships, the Malawian economy appeared to be starting to grow significantly again in 1990, unlike the Kenyan economy which appeared to be slowing down.

### ***7. The Baselines for Assessing the Kenya and Malawi Cases: An Analytical Approach***

In order to trace, "measure" or otherwise attempt to analyze and assess the impact of prodemocratic aid conditionality and donor policy in general on the politics of Kenya and Malawi and their potential democratization, a baseline of comparison is necessary. Given that the beginning of the democratic transition attempt in both countries preceded the application of political conditionality, even of the preliminary bilateral form that preceded the multilateral conditionality of

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<sup>232</sup> World Bank's WDI provides PPP or purchasing power parity adjustments which translate the same \$170 in 1979 and 1989 into \$280 and approximately \$400 respectively.

<sup>233</sup> Human Development Report 1990, Technical Notes p. 8  
[http://hdr.undp.org/reports/global/1990/en/pdf/hdr\\_1990\\_technotes.pdf](http://hdr.undp.org/reports/global/1990/en/pdf/hdr_1990_technotes.pdf) accessed 12/21/03. Kenya ranked 3<sup>rd</sup> from the top of the "low human development" category or 42<sup>nd</sup> from the bottom with an HDI of .481 (.510 for men, .449 for women.)

primary interest here, each comparison has two points of reference: a) Kenya or Malawi before the democratic transition attempt began, and b) the transition attempt before conditionality was applied. This section will address the first, while the next chapters will consider how the second period may have changed the context for conditionality. This section will consider questions of regime type, historical dynamics and precedents, specific political variables and issues of political economy before turning to issues of aid dependency and external relations. It will then outline expected outcomes in terms of the specific hypotheses framed in Chapter 2.

#### Historical Legacies, Political Culture, Clientelism and the State

Kenya and Malawi share certain aspects of their history, most notably the central fact of British colonial rule: Malawi was declared a British Protectorate in 1891, Kenya in 1895. In both colonies there was some effort to incorporate limited black representation into the settler-dominated colonial councils in the 1950s, but after some limited political competition under British-style Westminster constitutions at and immediately after independence, both countries moved to a nationalist and national unity-style one-party system that claimed both to transcend any tribalism or sub-national identity in a “democratic” legitimacy that represented all the former colony’s African inhabitants and to provide leadership for national development. Both changed their initial independence Westminster-style parliamentary systems after just a year or two to republican Presidential systems while retaining a process of Parliamentary elections under their one-party systems, but as already noted above, the degree to which these elections were competitive or open and free or fair differed markedly. In Kenya, membership in KANU and participation in grassroots elections were both relatively open and norms of free and fair competitive elections developed during the Kenyatta era and even into the initial years of the Moi regime (i.e. until 1982.) In Malawi, by contrast, even in the years when parliamentary candidates were allowed to compete in district elections, the entire process was heavily regulated and manipulated by the centralized control of the MCP and ultimately Banda himself. One important factor to remember in comparing these

political and organizational realities is the difference in geographical and demographic scales: Kenya encompassed some 21 million people in 1989 within its 569,000 square kilometers whereas Malawi contained some 9 million within 118,000 sq. km. Nairobi at 1.3 million people was almost four times larger in that year than Blantyre, the largest city in Malawi at around 350 thousand.

Viewed from the perspective of 1988 and the “new” style of elections the Moi regime instituted that year (e.g. “queue” voting), the Kenyan state was clearly a highly centralized and to a significant extent “personalist” authoritarian regime with barely any real democratic and only a few liberalized features: the elections of that year were extensively manipulated by the regime<sup>234</sup>, opponents were harrassed, jailed and indicted on dubious charges, and while some space remained for civil society and the free press, both were subject to disruption and intimidation. However, as the sections above discussed, the attempt by Moi and KANU to create a “party-state” aspiring to monopoly control over Kenyan society dated only back to approximately 1982 and was preceded by a more liberalized and partially competitive regime that some even thought warranted the label of “one-party democracy.” Even while many in Kenya had supported some of Moi’s initial actions to reduce Kikuyu hegemony, it was the growing reaction of Kenyan society to the dismantling of the Kenyatta era regime and to recurrent economic crisis together with the perception of a new international context after the fall of the Berlin Wall that led to a broad movement for democratization. The legacy of the pre-transition period in terms of regime type was thus mixed because the “new” authoritarianism of Moi’s Nyayo regime was seen as newly oppressive and had not become habituated or fully consolidated, while the legacy of greater openness (albeit still limited) under Kenyatta exerted a powerful force against the legitimacy of Moi’s actions.

By comparison, Malawi’s regime type and political legacy were much more unequivocally authoritarian: despite the trappings of parliamentary government and even the competitive district elections for part of the period in question, Banda maintained centralized and even personalized control over the country and allowed no independent political power bases or even strong

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<sup>234</sup> According to Throup and Hornsby, “The result in 1988 was a rigged and shambolic contest in which at least one third of the electoral contests (over 60 seats) were rigged or manipulated blatantly to ensure the ‘right’ candidate won.” *Multi-Party Politics in Kenya, Kenya* (London: James Currey, 1998), p. 42.

personalities to emerge in his cabinet or virtually anywhere in Malawian society. This was true until the late 1980s, when advanced age and declining health limited the ability of the “President for Life” to micro-manage any aspect of Malawian life he chose to concern himself with. Ironically, even though he certainly enjoyed strong popular support at independence and significant legitimacy with at least a portion of the population right up until his ultimate defeat in the 1994 elections (when he received a third of the vote), Banda never stood for direct Presidential election in even a symbolic unopposed plebiscite before 1994: he took office as the Prime Minister and parliamentary leader of the MCP in 1964 and then was appointed President and later President for life in the constitutional switch-over to a republican form of government. Kenya, on the other hand, extended the symbolism of electoral legitimacy to its head of state and held presidential elections (albeit unopposed after 1963) every five years, and Moi did not move to change the constitution to make the country a de jure one-party state until 1982 (vs. 1966 in Malawi.) In his failed attempt to create a centralized party-state in the 1980s, Moi was essentially trying to attain what Banda had already achieved in the late 1960s and early 70s in Malawi.

Kenya also possesses a broader historical legacy which included experience with electoral competition going back to pre-independence Legislative Council elections in 1957, relatively peaceful transitions of power (only one really, from Kenyatta to Moi) and transfers of power (again only one, at independence from the British to KANU.) But, on the negative side, the legacy also includes a history of insurrection in the form of the Mau Mau rebellion (1952-56), although this could be considered a relatively mild conflict by African standards.<sup>235</sup> Furthermore, Kenya has some history of coup plots and attempts (1964 – minor mutiny not aimed at state power, 1971, 1978 & 1985 –plots, 1982 – attempt lasted 2 days, less than 200 deaths, but over 1,000 purged from military), although again this could be considered minor by African standards. It also has a history of significant political assassinations (Pinto, Mboya, Kariuki, and after 1990, Ouko and

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<sup>235</sup> The Mau Mau rebellion was largely fought between rebel and loyalist Kikuyu and involved up to 25,000 African deaths, but only something over 100 white settlers died in the conflict. See David W. Throup, *Economic and Social Origins of Mau Mau* (London: James Currey, 1987) and John Lonsdale and Bruce Berman, *Unhappy Valley : Clan, Class and State in Colonial Kenya* (London: James Currey, 1991.)

Muge.) Kenya had a tradition of electoral competition with corresponding understandings or norms of free and fair competition among candidates. However, it also had a history of the suppression of competing political parties (KADU – suppressed via enticement and cooptation, KPU, subsequent efforts by Odinga to form opposition parties), yet that didn't prevent a major shift in the ruling coalition within KANU such that Moi eventually replaced the Kenyatta coalition with an updated version of the old KADU coalition of minor tribes. This legacy is thus also mixed.

In terms of behavioral indicators of democracy and stability, Malawi's record is both less democratic and less volatile. Malawi's early pre- and post-independence elections appear to have had an even more restricted franchise than those in Kenya, but the MCP reportedly used intimidation against potential opponents even then, and there was nothing comparable to the KANU vs. KADU pluralism of Kenyan politics. The campaign for independence in Malawi was largely non-violent, but the post-independence cabinet crisis produced two attempts at armed insurrection led by ousted ministers that failed miserably (in 1965 led by Chipembere and in 1967 led by Chisiza.) These seem to have been more emblematic of the futility of armed revolt than of establishing any precedents for resistance. Likewise the use of both formal and informal violence against perceived opponents or fallen lieutenants of Banda seemed to establish a tradition of punishment for those seeking power: all four of those who served as MCP Secretary General (nominally the number 2 position after Banda) between 1973 and 1983 were either executed (Nqumayo), killed (Matenje) or purged and imprisoned (Bakili Muluzi and Aleke Banda.)<sup>236</sup> Scores of lesser MCP members and perceived opposition figures were imprisoned. Banda's secret police also assassinated at least one exiled opposition leader in Lusaka, Zambia. The overall legacy here was one of the successful antidemocratic suppression of political opposition.

Looking to additional dimensions of political culture, Kenya also has at least an official tradition of nation-building and national unity that included norms of representation for all ethnic communities. Its national culture is in part associated with promoting the use of Swahili as the

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<sup>236</sup> Decalo, *The Stable Minority*, pp. 69-70. Gwanda Chakwamba could be added to this list of notables: he was imprisoned on apparently trumped-up charges linking him to Nqumayo when he was Parliamentary Chief Whip, Head of the Malawi Young Pioneers (the MCP youth league) and MCP chairman for populous Southern Region.

“national” language (while English is a second “official” language of Kenya.) Long a commercial lingua franca in East Africa since before Western colonialism, Swahili is a blend of Bantu languages and Arabic that has been codified in the latter part of the 20<sup>th</sup> century, but is only the primary language for coastal communities in Kenya and Tanzania. Swahili is the vernacular for a whole set of political concepts including Uhuru (freedom), Umoja (unity) and Ujamaa (self-reliance) that are supposed to convey an authentic indigenous understanding of African-style (or East African) “socialism” and democracy.<sup>237</sup> In Malawi, Banda likewise spoke of national unity and transcending ethnic identities in a new national, yet authentically African identity, and of the need for unity in the pursuit of national development. However, much of his discourse centered on the key role played by himself - the “Ngawazi”, his special honorific, akin to a savior of the nation in leading them to independence, protecting them from subversion and orchestrating all the benefits of development attained under his rule. Banda did promote Chichewa as a national language, but clearly preferred English as the elite language for his little Plato-styled Republic in which he played the role of benevolent dictator, but with little philosophy beyond being the de-facto king and absolute sovereign and owner of the nation.

While a cultural and political rhetorical tradition of appealing to national unity, to democracy, development for all and to the overcoming of tribal divisions was thus established in both countries, actual institutional politics in Kenya from independence through 1988 were highly focused on clientelism (and hence on class or economic hierarchy and networks), on localism and on ethnicity. The resulting clientelistic and patrimonial political culture is primarily instrumentalist in its approach to politics as a means of economic advancement, and the normative rhetoric of unity

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<sup>237</sup> Much of this political vernacular was developed in neighboring Tanzania under the rule of Mwalimu (Teacher) Julius Nyerere and had a decidedly more leftist and populist slant than the way the same concepts were interpreted under Kenyatta in Kenya. On the cultural side of nation-building in Kenya, see ch. 5 “Social and Cultural Changes” , and ch. 8, “The Construction of a National Culture” in B.A. Ogot and W.R. Ochieng’, eds. *Decolonization and Independence in Kenya: 1940-1993* (Nairobi/London/Athens OH: EAEP/James Currey/Ohio University Press, 1995.) On the importance of the Swahili language, see Ali Mazrui and Alamin Mazrui, *Swahili State and Society: The Political Economy of an African Language* (London: James Currey, 1995) and Mazrui and Mazrui, *The Power of Babel: Language and Governance in the African Experience* (Chicago: Univeristy of Chicago Press, 1998.) For broader approaches to culture and democracy in Africa, see Daniel T. Osabu-Kle, *Compatible Cultural Democracy : The Key to Development in Africa* (Ontario/Orchard Park NY: Broadview Press, 2000) and Pieter Boele van Hensbroek, *Political Discourse in African Thought: 1860 to the Present* (Westport CT/London: Praeger, 1999).

and development are likewise instrumental in legitimating a system rather than being internalized norms which actually govern behavior. The tension between principled commitment to democracy and an instrumentalist approach to politics, one that may see “democratization” or “multi-partyism” as advantageous in the short or even the long term, would become quite apparent later during the transition attempt as many erstwhile KANU politicians joined the movement for democracy. These included both those who had been driven out of the party pre-1990 and many who left voluntarily post-1990, most all of whom had hardly distinguished themselves as advocates of multiparty democracy or full liberalization while they enjoyed the benefits of the KANU regimes under Kenyatta and Moi. Many of these individuals would no doubt espouse the second perspective on Kenyan politics described above, that the Kenyatta regime was significantly democratic while Moi took KANU in an anti-democratic direction, but clearly this view clashes in important respects with the third perspective that views the Kenyatta regime as largely authoritarian. But this tension was also apparent before the 1988-1990 period: Oginga Odinga, the first vice-president under Kenyatta who split with KANU to form the left populist Kenyan People’s Union from 1966 until it was banned in 1969, tried on several occasions to form new parties (1982, 1990) and would become a major leader of the democracy movement after 1989, but as a form of protest he also publicly petitioned in 1979 and in 1987 to be allowed to participate in KANU if no other avenue was to be open, suggesting that clear principles may have been subject to compromise.<sup>238</sup> Kenya lacked an established or accepted culture of a loyal opposition as one key component of a democratic political culture.<sup>239</sup>

Much of the political history of Malawi since independence consists of the rise and then fall from grace of various members of the MCP elite who often ended up in prison for many years once they had either become powerful enough to threaten Banda (or later Tembo) or were seen as having failed the Life-President in some way or as having displayed too much independence of opinion. Many of these fallen members of the MCP would later become leaders in the movement for

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<sup>238</sup> Throup and Hornsby, *op.cit.*: 28, 65.

<sup>239</sup> For further perspective on Kenyan political culture, see Angelique Haugerud, *The Culture of Politics in Modern Kenya* (Cambridge/New York: Cambridge University Press, 1995.)

mutlipartyism and then the major opposition parties (particularly the UDF) after being released in the late 80s or during the liberalization in the two years leading up to the 1994 election.<sup>240</sup>

Ironically, many of these one-time political prisoners would acquiesce to and even join in a nostalgic rehabilitation of Banda both after the MCP's defeat in 1994 (his defacto retirement from politics) and especially after his death in 1997. The extreme case was Gwanda Chakwamba who was recruited into the MCP leadership almost as soon as he was released from prison in 1994 when the party was eager to expand its regional appeal in the run-up to the first multiparty elections. Some Malawian analysts and observers saw this overall pattern as a symptom of the sycophantic political culture that developed during the Banda years and appears to have carried over into the "democratic era": a recurrent image or theme in recent Malawian commentary on their own political culture is that of "chameleons" - of politicians and political leaders who change their allegiances, "ideologies" (if they can be called that) and parties opportunistically to promote their personal interests in changing political circumstances.<sup>241</sup>

Beyond regime type, legitimacy and political culture, the 1988 Kenyan elections signified the attempted transformation of the mechanisms of regime cohesion from a type of competitive clientelism to a controlled clientelism. In the former, local political entrepreneurs could organize a base of support, win a parliamentary district election and gain access to KANU and the national state and negotiate for participation in its patronage networks. Under Moi's attempt at controlled clientelism, independent or competing power bases were viewed with increasing suspicion, and loyalty was assured by making any political advancement or election controlled through the party and ultimately from the center and the Presidency. This also meant an effective narrowing of the base of the regime in ethnic terms from a system of relatively balanced representation under Kenyatta (even if the inner circle was dominated by Kikuyu and specifically those from Kiambu,

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<sup>240</sup> John Lloyd Lwanda, *Kamuzu Banda of Malawi: a Study in Promise, Power and Paralysis, 1961-1993* (Glasgow: Dudu Nsomba Publications, 1993), espec. Part 2; Africa Watch / Richard Carver, *Where Silence Rules: The Suppression of Dissent in Malawi* (New York: Human Rights Watch, 1990), chs. 2 & 6.

<sup>241</sup> Lewis B. Dzimbiri, "Competitive Politics and Chameleon-like Leaders," pp. 87-101 in Kings M. Phiri and Kenneth R. Ross, eds. *Democratization in Malawi: A Stocktaking* (Blantyre: CLAIM, 1998); and Harri Englund, "Introduction: The Culture of Chameleon Politics", in Englund, ed. *A Democracy of Chameleons: Politics and Culture in the New Malawi* (Blantyre / Uppsala: CLAIM / Nordiska Afrikainstitutet, 2002).

the first president's home), of open and competitive access to the state in which local ethnic communities picked their own leadership to one in which KANU and the President's office picked the official leaders and representatives of Kenya's communities. This coincided with a move to exert greater state control over civil society and a perceived reduction in the extent of liberalization and functional human rights.

In Malawi, Banda's style of rule and degree of centralized power go beyond the concept of clientelism: through the control of business licenses and most of the financial structure, Banda and the MCP could manipulate almost anyone's ability to make a living for better or for worse. Regime cohesion did not depend primarily on the economic glue of clientelism, for both the cult of personality focused on Banda and effective legitimacy that it generated, on the one hand, and the disciplinary force of coercion or the threat of it, on the other, seem to have weighed more heavily. In Kenya, Moi never enjoyed the strong personal legitimacy that Kenyatta had as leader of the independence movement, and the weight of coercion was considerably less than in Banda's virtual police state: clientelism was therefore more central. Banda made the most of traditional Malawian culture's respect for elder authority, a feature common across the country's ethnic groups (and the reason why Banda had been recruited by a leadership of the independence movement that was too young to tap this power), and he also rehabilitated traditional chiefs that had been downgraded under colonialism and generally cultivated a power base in conservative rural Malawian society. That said, the path to economic wealth in Malawi generally was most open to those in or close to the MCP hierarchy: Banda required his ministers to own estates and participate in his agro-export focused development strategy as a matter of duty, but also provided the finance to enable them to do so and reap the rewards that were entailed. The Banda regime was also much less tolerant of corruption whether petty or major, in part because the legal domination of the economy and system of state support for the "private sector" were deemed sufficient, while corruption was endemic to the KANU regimes under both Kenyatta and Moi. As noted in previous sections, the income inequality (and presumably inequality more generally) was more skewed in Malawi according to the

most recent and most “high quality” measurements, and the Malawian economy was less diversified and the country less urbanized in terms of population than Kenya.<sup>242</sup>

Turning to other conventional political, institutional and social variables that commonly figure in democratic and other regime transition attempts, both Kenya and Malawi from independence to 2002 exhibited continuous civilian rule and control over the military and other security forces. Unlike Malawi, Kenya had a relatively developed and independent civil society (albeit one the Moi regime moved to control after 1982), although in both countries churches and mosques were central social institutions with significant independence from state control. Kenya, the bigger country, also exhibits a higher degree of ethnic diversity (or fragmentation) with definite patterns of regional cleavage based largely on ethnicity, whereas Malawi, while still quite diverse, appears to have had more of a process of ethnic assimilation over time and in some regions, resulting in regional cleavages that are only in part ethnically based. Both countries have a modest degree of religious cleavage overall: largely Christian with significant Muslim minorities, but with many churches and denominations dividing the Christian population. These factors will be explored in more detail below.

In terms of gender relations and politics, there is no doubt that Kenya and Malawi, like most of the world, remain primarily patriarchal societies in terms of political power. The role of gender and women in Kenya’s attempted transition to democracy is still a somewhat submerged and under-analyzed dimension which the present work will in no way do justice to.<sup>243</sup> Gender in Malawi has received even less attention, although one analysis suggests that many women hold to a role as “keepers of tradition” that in at least some respects inclines them against active support or

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<sup>242</sup> See above fn. 46 for GINI statistics on income inequality.

<sup>243</sup> On the history and politics of Maendeleo Ya Wanawake, Kenya’s largest women’s organization, see Lisa Aubrey, *The Politics of Development Cooperation: NGOs, Gender and Partnership in Kenya* (New York/London: Routledge, 1997.) For an economic perspective, see Barbara Thomas-Slayter, *Gender, Environment and Development in Kenya: A Grassroots Perspective* (Boulder: Lynne Rienner, 1995.) On the role of women in Kenyan democratization see the writings of Maria Nzomo.

participation in “modern” political struggles for democracy or “human rights.”<sup>244</sup> The population growth and age dynamics of post-independence Kenya have already been remarked above. Those in Malawi are in most respects similar, but less intense: Malawi’s population growth rate was much lower in the 1960s and 1970s than Kenya’s (2.44% average growth in the 60s, 2.95% in the 70s vs. 3.62% and 3.93% for Kenya respectively), but they began to converge more during the 1980s (3.45% for Malawi and 3.81% for Kenya – see tables for data.) The AIDS pandemic that would become enormous in both countries in the 1990s was not yet visible in the early 1980s. Both countries experienced population pressure on available arable land. Despite the difference in population growth rates, per capita GNI rates were essentially the same in the 1970s and 80s (i.e. high in the 70s at around 11%, but almost no growth in the 80s; Kenya grew faster in the 1960s – 5.5% vs. 3.2%.)

### Civil-Military Relations

In the realm of civil-military relations and forces of coercion, Kenya and Malawi are among the minority of countries in Africa to maintain continuous civilian rule since independence with no successful coups. In Kenya, there was only one actual attempt. This can be credited to a combination of mechanisms and strategies on the part of the Kenyatta and Moi regimes. One strategy is structural counterbalancing or counterweight institutions: in the Kenyan case, the Army and modest Air Force and Navy were focused on external defense, while the so-called General Services Unit (GSU), a paramilitary branch of the police, functioned as an acknowledged Presidential guard that also engaged in riot control and the suppression of demonstrations.<sup>245</sup> In the 1982 coup attempt which originated in the Air Force, the GSU’s resolute defense of the Moi administration (even though the GSU was still largely Kikuyu dominated) ultimately galvanized the

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<sup>244</sup> Ulrika Ribohn, “Human Rights and the Multiparty System Have Swallowed our Traditions’: Conceiving Women and Culture in the New Malawi”, pp.166-177 in Englund, ed., *A Democracy of Chameleons* (2002). The role of rural women as heads of households under conditions of large-scale male labor migration is noteworthy.

<sup>245</sup> Jendayi Elizabeth J. Frazer, *Sustaining civilian control: Armed counterweights in regime stability in Africa* (Ph.D. Dissertation, Palo Alto, CA: Stanford University, 1994.)

Army to stop hanging back and likewise commit to supporting the regime.<sup>246</sup> An extensive police force and the intelligence Special Branch and Central Intelligence Department (CID) round out the institutions of coercion. A second strategy involved the preferential recruitment and promotion of officers (both senior and junior) so as to achieve stacking of the command structures towards ethnic groups and individuals loyal to the civilian regimes: Kenyatta inherited a Kamba-dominated force which he gradually shifted to Kikuyu dominance, and Moi then transformed the Army and the GSU over time to reduce Kikuyu in the upper ranks in favor of Kalenjin and other minor tribes and individuals beholden to him and his Nyayo regime.<sup>247</sup> Another mechanism of depoliticization and control was the use of foreign expatriate officers or “consultants” to manage and oversee the military: in Kenya, this was used sparingly because the presence of British officers and troops had actually been a factor in the minor Army mutiny of 1964, but Moi nevertheless used it when he posted a European as “acting” commander of the GSU in the initial years after his succession.<sup>248</sup> Yet another mechanism to generate military loyalty to the civilian regime was the inclusion of senior and under Moi even junior military officers into the patronage structures and patrimonial distribution system of the regime: military officers were encouraged to develop private economic interests on the side and were able to obtain large commercial farms via the government’s programs of Africanization of settler lands and later land development schemes.<sup>249</sup> Finally, Decalo suggests that in some part the continuity of civilian rule in Kenya can be attributed to a degree of genuine legitimacy built up by the KANU regimes, although he believes this certainly applies more to the Kenyatta regime than to Moi’s and overall is less of a factor (compared to the others just elaborated

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<sup>246</sup> Samuel Decalo, *The Stable Minority: Civilian Rule in Africa, 1960-1990* (Gainesville/London: Florida Academic Press, 1998): p. 22. (apparently written in early 1996 at the latest and much of it drafted earlier –1993). See also Boubacar N’Diaye, *The Challenge Of Institutionalizing Civilian Control: Botswana, Ivory Coast and Kenya in Comparative Perspective* (Lanham MD: Lexington Books, 2001.)

<sup>247</sup> *Ibid.*, pp. 19-21. The current head of the Kenyan military is actually an ethnic Somali. “Nyayo“ means footsteps – Moi’s motto or slogan meant to say that he follows in the footsteps or same path as Kenyatta, the founding father of the nation.

<sup>248</sup> *Ibid.*, p.25.

<sup>249</sup> *Ibid.*, pp. 28, 37-38. 239

above) than in other African cases of civilian rule in which legitimacy has played a stronger role (e.g. Malawi, Tanzania, Botswana.)<sup>250</sup>

As just noted, Decalo attributes stability of civilian rule and control over the military in Malawi more to legitimacy than to clientelism and economic inducements.<sup>251</sup> Banda's cultivation of his own legitimacy was largely successful by appealing to both traditional and nationalist bases for authority plus the fact that Malawi in comparison to much of Sub-Saharan Africa was "relatively free of cleavages and/or social strife."<sup>252</sup> Banda was then able to use this legitimacy to maintain control over the military, but he did use a few additional methods that reinforced his authority. The first combined structural counterbalancing or counterweight institutions with basic professionalization and de-politicization: the coercive functions of the MCP party state were divided, and the political functions of internal policing, political control and suppression of opposition were given solely to the Malawi Young Pioneers paramilitary (MYP) and to specialized units within the Police Force, notably the Special Branch (intelligence) and the Mobile Unit. The Malawi Army was kept relatively small – 5 to 6 thousand troops, reasonably professional and focused on external defense, growing to that size only as Banda became more concerned with the possibility of external subversion by neighboring states that opposed his foreign policy of alignment with South Africa. The second method Banda used was probably the most common, namely careful selection of loyalists from among the officer corps to command the force. By comparison, the MYP numbered some 60,000 at peak, but were only lightly armed, although they did play a major role in suppressing the small armed incursions following the cabinet crisis (which did originate abroad) back when the Army was much smaller. The Police Mobile Unit was approximately 1,000 officers well armed and trained in riot control. The Army did have a degree of rivalry or institutional suspicion with both the Police and the MYP which would play an important role later during the transition process. The only noteworthy political fact about the Army was that

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<sup>250</sup> *Ibid.*, pp. 26-27, and ch. 4.

<sup>251</sup> Decalo subtitles his case study of Malawi "Dictatorship by Consent?," while he calls his Kenya case "Stability through Pork-Barrel Politics." (*Ibid.*)

<sup>252</sup> *Ibid.*, p. 84.

its commander from 1980 to 1992, General Khanga, was known to dislike John Tembo and was credited with being part of the group within the MCP and the state (including then MCP general Secretary Matenje and the Police Commander at the time) that vetoed a Banda trial balloon for a Tembo Vice-Presidency in 1983. Generally, the Malawi officer corps was “suffused, as in few other regimes in Africa, with the ethos of non-intervention in the political realm,” and this ethos could arguably be extended to defense of the legitimate political order, which at least until the changes of the early 1990s was Banda and the MCP.<sup>253</sup>

### Civil Society, Religion and Ethnicity

Moving to the civilian realm, the common element of civil society in both Kenya and Malawi was rooted in the churches and mosques. Beyond that little existed in Malawi that was not affiliated with the MCP apparatus. In Kenya, however, further elements could be found in traditions of local self-help (e.g. the Harambee tradition under Kenyatta), ethnic or locally based welfare societies (although Moi banned explicitly ethnic organization in 1979) and, in Nairobi and other urban areas, in modernization and the formation of professional associations. An additional factor in Kenya is the impact of foreign NGOs active in both rural and urban areas and typically in search of local counterparts for development cooperation, technical assistance and as recipients for funding. According to one well-placed observer, “the number of non-church foreign NGOs grew from 37 to 134, i.e. by 260% during 1978-87, and local NGOs by 115% from 57 to 133, an unprecedented rate of increase.”<sup>254</sup> The degree to which NGO or private voluntary organization (PVOs) in Kenya enjoy the “space” to be politically active and influential has been the focus of considerable conflict as the KANU government under Moi has attempted to exert control through regulation and cooptation.<sup>255</sup> In both rural and urban areas, churches have been bedrock institutions of civil

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<sup>253</sup> *Ibid.*, pp. 70, 90-91.

<sup>254</sup> Alan Fowler, “The Role of NGOs in Changing State-Society Relations: Perspectives from Eastern and Southern Africa,” *Development Policy Review* Vol.9 (1991): pp.53-84: 54; and Fowler, *NGOs and the Promotion of Democracy in Kenya*, Ph.D. Dissertation, University of Sussex, 1993.

<sup>255</sup> In addition to Fowler (*ibid.*), see Stephen Ndegwa, *The Two Faces of Civil Society: NGOs and Politics in Africa* (West Hartford CT: Kumarian Press, 1996); and Andrew Clayton, ed. *Governance, Democracy and Conditionality: What Role for NGOs?* (Oxford: INTRAC, 1994) espec. case studies 4 & 5.

society and ones that cannot simply be directly coopted by KANU as unions and women's organizations have been. Some churches have consistently been an independent civic society base for moral discourse that tries to hold the government accountable, criticizes and demands reform, for education and mobilization of society and for institutional efforts at advocacy, political initiative and even political organizing, though usually in officially non-partisan fashion such as voter education.<sup>256</sup> In many cases, civil society in Kenya has inevitably reflected the political divisions of the country in the form of polarization between more conservative, apolitical or clearly pro-KANU churches and NGOs versus those that have been more critical of government policies and failings and more supportive of calls for democratization.

Ethnic identity is a virtually inescapable factor that permeates civil society not only at the rural or local level, but also at the most cosmopolitan, urban and national levels. Kenyans can typically identify each other's ethnicity fairly readily by surname or in person if not down to the specific sub-tribe, then certainly at the level of linguistic groupings. There are thus some 14 major ethnic groupings that further break down to somewhere in the vicinity of 45 to 50 identifiable sub-tribes.<sup>257</sup> Even major tribes such as the Kikuyu that do not have distinct sub-tribes are nevertheless sometimes divided by local allegiances and networks: looking forward, in the 1992 elections two opposition Kikuyu candidates along with a Luo candidate would run against each other and thus hand the election to Moi. While historians argue cogently that ethnic or tribal identities were in some important aspects transformed, solidified and rigidified by colonialism, there can be little doubt that they have persisted and sustained themselves over more than 25 years of independence.

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<sup>256</sup> David Throup, "Render unto Caesar the Things that are Caesar's: The Politics of Church-State Conflict in Kenya, 1978-1990," in Holger Bernt Hansen and Michael Twaddle, eds. *Religion and Politics in East Africa* (London: James Currey, 1995); and Galia Sabor, *Church, State and Society in Kenya: From Mediation to Opposition, 1963-1993* (Frank Cass, 2002). On the politics of the Islamic minority in Kenya, see *Islam and Politics in Kenya*, Arye Oded (2000).

<sup>257</sup> See Throup and Hornsby, *Multi-Party politics in Kenya*, Figure 1.1 The major cultural and linguistic groupings are (in descending order of size): Kikuyu – 21%, Luhya – 14%, Luo – 13%, Kalenjin – 11%, Kamba – 11%, Mijikenda – 5%, Meru – 5%, Gusii – 5%, Maasai – 2%, Embu, 2%, Somali – 2%, Boran – 1%, Samburu – 1%, Turkana – 1%, Iteso – 1%, Pokomo – 1%, Kuria – 1%, non-africans – 1%. For considerations on the correctness of the use of the term "tribe", see African Policy Information Center Background Paper, "Talking About "Tribe": Moving from Stereotypes to Analysis" (November, 1997; accessible at [www.africaaction.org/bp/ethnic.htm](http://www.africaaction.org/bp/ethnic.htm)). I use it in reference to Kenyan politics because it is used in Kenyan politics, but it does have unfortunate and misleading connotations to some degree for a Western audience.

In Malawi, an important factor is the ethnic favoritism practiced by Banda, a member of the Chewa from the Central Region of Malawi, in trying to "Chewanize" the country. This was reflected both in making Chichewa the official language and in the purge (not for the first time) of many northerners from the civil service and the educational system in February, 1989, a move that increased tension and fed the incipient opposition movement in the North.<sup>258</sup> Malawi is a complex patchwork of ethnic and Bantu linguistic groups: the 1945 census identified 27 distinct groups, one 1950 study identified 25, a 1965 study then grouped these into 9 categories.<sup>259</sup> Major linguistic groupings allow the further reduction to five groups accounting for some 93%+ of the population. Malawi is also a long, thin strip of a country geographically running north/south, and has long been divided administratively into Northern, Central and Southern Regions. The Chewa are the largest grouping and account for some 46 to 50% of the total population with their highest concentration in the Central Region (some 30% of the total population) and the rest in the Southern. The other major ethnic groups in Malawi include the Lomwe at 15 to 20% and located in the south, the Yao at 14% and also in the south, the Ngoni at 9% and located in all three regions, and finally the Timbuku at 6 to 9% and located in the Northern region., While the Chichewa/Nyanja language was already used as a lingua franca among many of Malawi's different ethnic and linguistic groups before Banda's official declaration of it as the second official language along with English, the Chitumbuku speakers of the Northern province were most resistant to this move and seem to have taken particular pride in their linguistic distinctiveness. Overall, ethnic cleavages have been less pronounced in Malawi, but are a factor in regional cleavages. The ethnic fragmentation score for Malawi according to one commonly used index is .691, slightly above the mean for low-income

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<sup>258</sup> For historical reasons relating to the course of missionary activity in Malawi going back to David Livingston in the 1860s before the British formation of the Nyasaland Protectorate in 1891, northerners tended to receive better education and were disproportionately represented in the civil service and teaching profession as a result. See Carver, *op.cit.* ch. 7. See also Leroy Vail and Landeg White, "Tribalism in the Political History of Malawi", pp. 151-192 in L. Vail, ed., *The Creation of Tribalism in Southern Africa* (London: James Currey, 1989).

<sup>259</sup> For discussion of the complexity of these typologies see, Deborah Kaspin, "The Politics of Ethnicity on Malawi's Democratic Transition," *The Journal of Modern African Studies*, Vol.33, no.4 (1995), pp. 595-620; and "Malawi Country Profile", pp. 539-546 in Donald George Morrison, Robert C. Mitchell and John N. Paden, *Black Africa: A Comparative Handbook* 2<sup>nd</sup> ed. (New York: Paragon House/Irvington, 1989). The figures that follow are from these sources, and the variations stem from use of the 1945 colonial vs. the 1966 post-independence census figures.

countries (.640). By contrast the score for Kenya with its larger population and land area is .877, the third highest score on the index (the high was .885.)<sup>260</sup> The “ethnic arithmetic” in terms of the number and size of major cleavages, the tally of the potential ethnic or regional coalitions, and their electoral significance for the two case countries will be analyzed further in the transition attempt chapters.

### Political Economy

Some analysts caution against being taken in by “the shadow theater of ethnicity” which can obscure the fact that ethnic identities are less essential or primordial facts than a historical and sometimes flexible vehicle for pursuing what are primarily economic interests.<sup>261</sup> In this view, ethnic identity is inextricably bound up with issues of class, inequality, distribution and economic access in a system that is typically far from a free market. Likewise, others have argued that civil society and its development cannot be separated from the structural characteristics and changes of both the economy and the state. Although Kenya and Malawi share the fact that agricultural commodity exports make up a major portion of their economies, they otherwise differ significantly in terms of overall economic development, and the size and complexity or differentiation of the economy. Furthermore, while coastal Kenya has served as something of an economic hub for all of East Africa, land-locked Malawi’s economic story is one of relative isolation and the logistical complications and therefore higher costs of trade with even its immediate neighbors (plus additional political barriers during much of the Banda years.) Kenya will be considered in greater detail below for that reason, while the more salient aspects of Malawi’s political economy for the question of democratic transition are highlighted nonetheless.

The Kenyan political economy has been analyzed extensively by a variety of scholars (especially in the late 1970s and early 80s during the so-called “Kenya debate”), and recent

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<sup>260</sup> The ethnic fragmentation scores come from Douglas W. Rae and Michael Taylor, *The Analysis of Political Cleavages* (New Haven: Yale University Press, 1970). For comparison, the mean for all countries is .469, and for advanced industrial countries it is .224 (but with notable outliers such as Canada? at .714 – higher than Malawi.)

<sup>261</sup> Jean-Francois Bayart, *The State in Africa: The Politics of the Belly* (London/New York: Longman, 1993 [orig. pub 1989]): Ch. 1.

analyses have focused on the division of the economy into four major sectors: a modest modern urban industrial sector, a large-holder export sector, a “competitive sector” and a state sector.<sup>262</sup> To this scheme we must add a medium-to-small-holder agro-export sector, which actually accounts for a higher percentage of exports than the large estate sector, and the tourism sector, which is relatively small in terms of direct employment but in some years has surpassed agriculture in terms of foreign exchange earnings and is also responsible for significant indirect employment. Other analysts may have omitted these sectors because they are arguably less distinct in that they overlap with other sectors and are less influential as political constituencies.

Lacking any significant extractable natural resources (i.e. minerals as opposed to game parks and wildlife) or any significant industry developed before independence, Kenya is still a largely agricultural economy.<sup>263</sup> The large estate farms that the colonial government gave to white settlers as a lure to come to Kenya typically grew coffee and tea as their primary export cash crops, and these crops were “reserved” for the white estate sector until the 1950s when black African small-holders were finally allowed to grow them commercially. These estates in Central Province, in what came to be called the White Highlands bordering the Rift Valley and elsewhere were targeted for “Africanization” at independence in 1963, and the U.K. and the World Bank funded a program to buy out the settlers that extended into the 1970s. Many of these estates were transferred whole to an emerging and largely Kikuyu class of large-holders, many of whom were also politicians and KANU officials, civil service, military officers or the otherwise well-connected in the Kenyatta regime.<sup>264</sup> The original settler export sector, as the core of the colonial economy from the U.K.’s perspective, had been highly dependent on the colonial state for support and

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<sup>262</sup> Frank W. Holmquist, Frederick S. Weaver and Michael D. Ford, “The Structural Development of Kenya’s Political Economy”, *African Studies Review*, Volume 37, Number 1 (April 1994): pp. 69-105 at 70.

<sup>263</sup> Official government statistics on the labor force are somewhat doubtful due to the practice of using the “informal sector” as a broad residual category which presumably includes subsistence agriculture and probably most small-holder commercial farming. In 1997, GOK statistics claimed only 240,000 employed in “private sector” (large-holdings?) agriculture and forestry, 65,000 in public sector agriculture and forestry, and close to 3 million in the informal sector out of a total workforce of only 4.7 million (16%) in a population estimated at 28.7 million. Kenyan Ministry of Planning and National Development, *Economic Survey* as cited in EIU Kenya Country Profile 1998-99: Reference Table 11, p. 43.

<sup>264</sup> In addition to Holmquist, et al., see Robert Bates, *Beyond the Miracle of the Market: The Political Economy of Agrarian Development in Kenya* (New York: Cambridge University Press, 1989.)

preferential treatment in areas such as infrastructure, cheap labor, finance/credit and marketing, and the post-independence state continued this role virtually unchanged except for the fact that it now administered an Africanization program that was a tremendous source of patronage and patrimonial largesse. The lead role of this sector in the overall economy continued even as the state role shifted in the direction of liberalization and less intervention in the 1980s, as coffee and tea were supplemented by horticultural products like pyrethrum and flowers (which by the mid-1990s began to rival coffee and tea as foreign exchange earners; tea surpassed coffee in 1989), and as tourism moved to the fore as the nation's top foreign exchange earner in some years starting in the 1980s, in part due to the boom and bust nature of the international markets for tea and coffee and to recurrent local crises in the form of drought.

The modern and largely urban industrial sector was the most dynamic sector of the Kenyan economy from 1965 to 1980 when it grew at an average of 10.5% annually compared to 6.4% for services and 4.9% for agriculture as a whole.<sup>265</sup> The overall focus or strategy of this sector was import substitution up until the mid-to-late-1980s with the exception of some focus on production for a regional market before the collapse of the East African Common Market (EACM) in 1977. This sector was at first characterized by a high degree of foreign ownership either wholly or through joint ventures between western multinational corporations (MNCs) and Kenyan partners from either the white, Asian (i.e. Indian) or especially the African communities, the latter's economic elite again being disproportionately Kikuyu during the Kenyatta years.<sup>266</sup> The government of Kenya (GOK) emphasized industrial development and particularly the Africanization of this sector through a variety of expenditure, credit and support programs (which

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<sup>265</sup> Source: World Bank, *World Development Report 1988* (World Bank: Washington DC, 1988) as cited in David Himbara, *Kenyan Capitalists, the State, and Development* (Lynne Rienner/EAEP: Boulder CO/Nairobi, 1994) p.3. From 1980 to 1986 the average annual growth rates for these three sectors declined to 4.1%, 4.2% and 2.8% respectively.

<sup>266</sup> The Asian or Indian community in Kenya numbered some 89,000 in a total population of over 21 million according to the 1989 census, down from a peak of 139,000 in 1969 due to a wave of emigration (mostly to the UK) in the 1970s (cf. Idi Amin's ouster of the entire Asian population in neighboring Uganda in 1972.) The white population of Kenya is comprised of members and descendents of the settler community who opted for Kenyan citizenship at independence, and it is somewhat smaller than the Asian community, and comparable to the large expatriate community in residence in Kenya. (also Kenya welcomes between 700,000 and 800,000 tourists a year for visits that average around 2 weeks.) EIU Kenya Country Profile, 1998-99.

did not extend to the Kenyan Asian community even though many of its major families could trace their roots in Kenya back many generations, even to before colonialism in some cases of early coastal merchants.) The apparent success of the Africanization efforts in this sector led to the announcement by one analyst of the emergence of a truly national (African) bourgeoisie after the number of black owned firms surpassed the number of Asian owned firms in 1972. More recent analysis and even the GOK's own assessments have called that conclusion into question, however, and Himbara's 1994 analysis argues that the manufacturing sector and any real capital accumulation there are overwhelmingly controlled by the Asian community, and that both white and Kikuyu owned businesses underwent significant waves of failure after each lost the major state support they had come to rely on (after independence and after the Moi succession, respectively.) Bolstered by their own intracommunal capital sources and credit arrangements dating back to their colonial era merchant class role, Asian dominance in this sector increased as they bought out failing white, black and foreign owners, especially as foreign firms began a major trend of disinvestment from Kenya over the 1980s. A significant percentage of foreign multinationals pulled out of Kenya in the 1980s following the break-up of the East African Common Market in 1977.<sup>267</sup> The EACM had promised a much larger local market encompassing Kenya, Uganda, Tanzania and possibly neighboring countries for which Kenya would logically be the most advanced "hub" country for industrial production. While the Moi succession in 1978 was unexpectedly smooth, this was followed in 1982 by the attempted coup, and by the early 1980s the deterioration of Kenya's infrastructure and other previously obscured failures of state capacity were evident in the general slowing of economic growth, which together with the rising international criticism of human rights violations by the regime, darkened the previously bright investment image of Kenya as an island of stability and efficiency in an otherwise chaotic region.

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<sup>267</sup> Chege cites a variety of sources to the effect that 10 out of 57 British firms pulled out, "most of the 100 or so" US firms left and by 1991 only 2 out of an original 14 Japanese firms still maintained operations in Kenya: "Swapping Development Strategies", p. 287 fn.46. Leys in the same volume puts the US disinvestment at only "25 out of 140 companies": "Learning from the Kenya Debate," p. 235. Citing World Bank data, O'Brien and Ryan note that new foreign direct investment from 1980-96 peaked at \$79 million in 1980 then declined to a low of \$11 million in 1984, rebounded in 86-7 and 89-90 with a high of \$62 million in 1989, then crashed to single digits from 1991-3: "Mixed Reformers: Kenya," p. 511 in Devarajan, et al., *Aid and Reform in Africa*.

The “competitive sector” is basically the residual category to include all the small scale/small-holder subsistence and commercial farming and all the small scale, low-tech, low productivity and low wage enterprises that constitute the bulk of the Kenyan domestic economy. It also includes the so-called “jua kali” (Swahili for “hot sun”, as in “out in the...”) informal sector of artisans and small scale manufacturers, which has attracted increasing attention since the 1970s from donors and economists as a potential incubator or source for indigenous African entrepreneurs who might develop into more modern sector industrialists with the right kinds of outside support and opportunities. The competitive sector is not characterized by much in the way of organization as a political constituency either of employers or employees. It does have important overlap with the small-holder agricultural export sector as well as providing inputs to the other sectors and being a potential labor reserve for those sectors. As its name suggests, this sector approaches the characteristics of free market competition more than the other sectors of the Kenyan economy.

Finally, the state sector includes not simply the official branches of the state itself, but also all the various parastatal or state-owned enterprises that have been created, some dating back to well before independence. The state sector has been the largest formal employer in Kenya at least into the early 1990s: from 1970 to 1983 it expanded its share of hired employees from 40 to 48% of the national total.<sup>268</sup> Wage and salary rates in the state sector are comparable to those of the modern industrial sector and likewise far above those prevailing in the competitive sector and the hired labor side of the agro-export sectors. Employment in the state sector has often been based on patronage more than merit, and this tendency was increased under the Moi regime’s affirmative action policies for non-Kikuyu and non-Luo ethnic groups (especially his own Kalenjin group) who had arguably been relatively excluded under Kenyatta. (Kikuyu also enjoyed a historical advantage in terms of access to education dating back to colonialism, and thus arguably dominated both on merit and due

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<sup>268</sup> Holmquist, et al. “Structural Development of Kenya’s Political Economy,” p.84; and Michael Chege, “The State and Labour in Kenya,” pp.248-64 in Peter Anyang’ Nyong’o, ed., *Popular Struggles for Democracy in Africa* (London: Zed Books, 1987.) For a longer historical perspective, see Paul Collier and Deepak Lal, *Labour and Poverty in Kenya, 1900-1980* (London: Oxford University Press, 1985.)

to favoritism under Kenyatta.) Many parastatals and government bureaucracies were both extremely inefficient and the locations for considerable corruption, both of which made them increasingly heavy drains on the fiscal capacities of the state and therefore targets for structural adjustment reforms. Overall state policy under Kenyatta favored the agro-export, industrial and state sectors while largely ignoring the competitive sector. Under Moi this trend largely continued with the exception that his government took a more selective approach to the large-holder and industrial sectors, not wanting to undermine these key growth sectors, but nevertheless wary lest the state continue to promote Kikuyu interests that were not supportive of the regime. The Moi regime was also somewhat more positive towards the competitive sector and particularly the jua kali sector in part in response to a broad trend of increasing donor interest in informal sectors of developing economies. Over the course of the 1980s, the fiscal drain of the state sector, the unwillingness and/or inability to effectively tax the agro-export and industrial sectors, the increasing demand for social services and education driven by rapid population growth, as well as rising costs for capacity for repression and the maintenance of social stability, all these trends confronted (and helped cause) a slowdown in economic growth that spelled severe fiscal crisis for the Kenyan state. This constellation of problems was only solved in the short term by increasing levels of foreign aid.

The Malawian economy was arguably simpler than Kenya's, in part simply because it was smaller, in part because the institution of Press Trust concentrated control of such a large percentage of the nominally private sector, but also because it lacked much of a tourism sector, its industrial sector was a relatively smaller percentage of the overall economy, and its competitive sector was more dispersed in the rural economy given the country's lower level of urbanization. Finally, the parastatal sector was less developed as Banda left more of the economy to his private sector oligopolistic or even monopolistic institutions, although in some ways Press Trust could be considered an unconventional form of parastatal enterprise. Nonetheless, urban industrial workers, although a small percentage of the overall workforce, would play an important role in the political events of the early 1990s, a fact that might only have been predicted by the relative neglect of the industrial sector and its consequent failure to thrive. (In fact, after trade liberalization in the 1990s

and the collapse of several firms due to cheap imports, the concept of deindustrialization began to be raised in Malawi.) As noted above, the initial structural adjustment programs of the 1980s largely repeated Banda's initial emphasis on export agriculture via the estates sector, but Harrigan argued that post-1987 SECAL adjustment policy finally began to address the vast smallholder agricultural sector and to steer the economy in a positive direction until external shocks (drought, refugees and political conditionality) intervened.

The political implications of the sectoral divisions of the Kenyan or Malawian economy and of corresponding governments policies for an attempted democratic transition are not entirely straightforward. Attempts to read political interests and actions directly off of a structural economic analysis have a long tradition in both Marxian and non-Marxian approaches to social science, but have not proven reliable. In the oscillation of democratic "transitology" from purely structural approaches derived from either modernization theory or historical institutionalism and class analysis to purely action/strategic perspectives and game theory, a recent attempt to bridge the obvious gaps has focused on "the effects of (short-term) economic conditions on the preferences, resources and strategies of key political actors in the transition 'game'...(influencing) the timing and terms of democratic transitions and post-transition alignments."<sup>269</sup> A key variable here is whether the incumbent authoritarian regime faces an economic crisis and how the crisis affects its own power base and those of other potential political actors.

In Kenya in 1988, the economic status appeared somewhat mixed. The immediate situation was not one of outright crisis – in fact the recession of the 1982-1985 period seemed as though it had been left behind as the economy grew faster from 1986 to 1988. The overall GNI growth rate from 1985 to 1989 returned to an average 6.4%, normally a respectable if not extremely high rate. On the other hand, due to high population growth and its ongoing or exponential effects, per capita GNP growth had stalled: from an average of over 10% in the 1970s, it had fallen to an average of 0.29% in the 1980s, and as noted above, if adjustments for changing terms of trade are also factored

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<sup>269</sup> Stephan Haggard and Robert R. Kaufman, "The Political Economy of Democratic Transitions," *Comparative Politics*, April 1997: pp.263-283: 263 & 266.

in, it was in fact already negative for all but 2 years in the 80s. Furthermore, the signs of impending crisis were arguably already evident: the persistent trade and budget deficits that could only be covered with increasing amounts of foreign grant aid ( a nice option to have compared to the alternative of increasing an already high debt burden.) While overall GDP or GNI statistics simply show a slowing of the rate of overall growth in 1989 and 1990 to between 4 and 5% from the higher rates (at least according to GNI) of 1986 to 1988, but all agree that GNI/GDP per capita growth rates ground to a halt starting in 1989 and showed no growth in 1990 (or until 1994 as time would show.) In Malawi, however, the economy grew significantly from 1988 through 1990 (through 1991 in fact) with healthy per capita GNI growth rates of 6.7% in '88, 6.3% in '89 and 17.6% in 1990. The “economic crisis” factor thus weighs differently in the two cases entering into the transition attempt period.

### ***8. Antecedent Variables and Predictions for Transition***

The “baseline” conditions of the two case countries can now be compared to the abstract hypotheses on antecedent variables derived in Chapter 2 to generate some predictions. This exercise may seem artificial in that the variables are considered individually, and there are (as yet) no hypotheses on the interrelationship of these separate and abstract variables: the attempt to analyze and ascertain the interaction and relative importance of these variables will be made in the context of the historical narratives in the case study chapters. As a reminder, Table 2.2 is reproduced below:

**Table 2.2**

**General hypotheses from the Comparative Politics of Democratization – Antecedent Variables for Conditionality Policy (designated "D"):**

D1. **The military/coercive institutions of the state:** The support of the military and its coercive power is a key factor for or against a democratic transition: the actual or potential autonomy of the military from an authoritarian regime increases the possibility of neutrality or active support for democratization and greatly increases the probability of successful transition, whereas the lack of such autonomy usually means active repression of prodemocratic movements and the increased probability of a failed transition.

D2. **Civil Society:** The greater the autonomy and development of civil society as an independent sphere of social organization and power, the greater the likely strength of prodemocratic movements and the greater the chance of success in transition attempts.

**D3. Cleavages and Social Identities:** The more segmentary and conflictual the pattern of cleavages and identities in a society (as opposed to overlapping or crosscutting and cooperative), the more difficult the challenge of democratization and the lower the probability of successful transition attempt.

**D4. Democratic History:** The greater the past experience with democracy, the more positive that experience and the greater the still extant legacies of political participation and competition, the easier the transition from authoritarianism and the greater the probability of a successful redemocratization attempt.

**D5. Economic Crisis:** Economic crisis and the disappointment of economic expectations can undermine any government, authoritarian or democratic, but is more likely to lead to regime change in the former case and a change of government in the latter. (However, prolonged crisis can undermine democracy if it leads to a situation of perceived paralysis or impasse.) Economic crisis can therefore make democratic transition more likely, while also making subsequent democratic consolidation more problematic if the crisis persists.

**D6. Regime Type & Factionalism/Decay/Reform:** Collective and institutional forms of authoritarianism, on the one hand, such as military rule, bureaucratic authoritarianism and more competitive forms of single-party rule are subject to internal divisions at times of regime crisis and democratic challenge that may yield "reformers" and "hard-liners" factions that remain within regime. More personalist or centralized dictatorial forms of rule, on the other hand, such as "big man" neo-patrimonialism or ethnic minority rule will drive would-be reformers out of the regime and into the democratic opposition or in a minority of cases turn as a whole towards reform given the choices of the ruler. Conditionality will generally be more effective in eliciting compliance in the former category of regimes: in the latter, effectiveness probably depends on the more demanding task of swaying the central decision-maker(s) directly, rather than promoting existing divisions within the regime.

**D7. Regime Cohesion:** The more an authoritarian regime relies on economic clientelism, patronage, successful economic performance more generally and/or on external legitimation to maintain regime cohesion, the more effective conditionality policies will be; conversely, the more a regime's cohesion depends on security interests, on non-democratic ideology or cultural interests, the less effective aid conditionality will be.

**D8. Trade Internationalism versus Protectionism:** Economic internationalists with strong interests in trade will be more responsive to prodemocratic conditionality than protectionists, and therefore authoritarian regimes dominated by internationalist coalitions are more likely to comply with conditionality than those dominated by "statist-nationalist-confessional" and protectionist coalitions.

Starting at the top with Hypothesis D1, both Kenya and Malawi have histories of civilian control over the military and of military non-intervention in politics, albeit within the context of mostly authoritarian civilian governments and presumably a degree of loyalty to the KANU and Banda regimes. These might nevertheless be relatively positive factors for the possibility of democratization to the extent that a general organizational culture of non-political professionalism and autonomy from domestic political conflict means the military will be unwilling to suppress domestic prodemocratic movements. The situation in both countries is complicated by the differentiation of special coercive forces specifically for political uses and what was referred to above primarily in explaining the relative absence of coups as the practice of structural counterbalancing or counterweight institutions. This then also adds the possible dynamic of inter-branch rivalry or even conflict in both countries (e.g. Air Force vs. GSU in Kenyan '82 coup attempt, Army vs. police vs. MYP in Malawi.) The existence of the MYP in Malawi as an organized

and relatively disciplined paramilitary force of considerable size (10x the Army) and with a very political mission is particularly troubling for the democratization outlook. The one bright spot for the Malawi picture might be the Army professionalism's basis in the legitimacy of the civilian regime (and perhaps even its claim to democratic legitimacy, however contrived), but only if that commitment is abstract and capable of being transferred to a new and even more legitimate government rather than somehow focused on the personal legitimacy of Banda alone. Kenya's "political economy" of civil-military relations with officers involved in government patronage networks presents a more complicated picture. Still, relative to all the countries in Africa and elsewhere in which the military has been eager to seize power and then only rarely interested in democratization, Kenya and Malawi don't rate too badly. The prediction or expectation therefore is that in Kenya the military factor is neutral for democratization, while in Malawi, due to the MYP, the factor is moderately negative.

The second hypothesis (D2) regarding civil society is more straight forward. The relative openness of Kenya civil society with its development of autonomous organizations (including non-ethnic organizations beyond the churches) is a clear plus for democratization prospects, while Malawi's civil society was clearly stunted by some 26 years of more oppressive MCP rule. Nevertheless the churches in Malawi were a largely autonomous and highly legitimate, albeit generally apolitical set of organizations that could provide some basis for mobilization and for moral authority counterposed to the Banda regime. This factor is thus positive for Kenya and at best neutral or even slightly positive for Malawi.

Hypothesis D3 on Social Cleavages translates to a fairly direct prediction that if ethnic fragmentation, regionalism or religious differentiation generally impede democratization, then Kenya faces more of a significant problem in this regard than Malawi. This factor is clearly negative for Kenya and moderately negative for Malawi.

Democratic legacy or history (D4), on the other hand, clearly favors Kenya where some real experience with relatively free and fair elections and consequent norm establishment is part of the collective memory. This does not mean that Kenya's political history is an entirely positive factor,

for it also contains political violence. In Malawi, the very limited democratic experience around independence or later parliamentary contests is smothered by the pervasive authoritarianism of the Banda regime. The one positive thing that can be said for Malawi's history is that it yields a legacy of relative stability and low levels of violence, although even this can be interpreted as resulting from successful repression. In terms of democratization, this variable is positive for Kenya and negative for Malawi.

Economic crisis (D5) does not seem to be a correct description of the short-term status of either case country in 1990 according to macroeconomic GDP or GNI statistics: in fact the Malawian economy was showing significant growth after having stalled in the mid-80s, while the Kenyan economy appeared to be slowing but still grew at a modest rate. Taking a longer term perspective, however, both countries had almost no cumulative growth in per capita income over the course of the 80s. Given the levels of inequality in the two countries, it is also reasonable to assume that this lack of growth may have actually meant decline for much of the poor majority in each country who had less ability to insulate themselves economically. But taking the GNI per capita numbers as a guide, Malawi was equaling or even surpassing its previous high point in 1990, whereas Kenya was still only at around 85% of its high point from 1981. In terms of the hypothesis that economic crisis facilitates democratic transition in the short run, then this factor is moderately positive for Kenya and negative for Malawi in 1990, but would become clearly positive with economic declines in both countries by 1992.

While the Moi regime in Kenya from 1988 to 1990 could only be considered a failing attempt to consolidate a party-state of the sort that Banda had run for over 25 years in Malawi, nevertheless from the perspective of Hypothesis D6 on Regime Type, both countries appear to fall on the more personalist side of the divide which the theory posits will be more problematic in terms of democratization (and compliance with conditionality.)<sup>270</sup> Although the KANU regime was

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<sup>270</sup> The hypothesis was derived from theorizing on democratic transition that contrasted the pact-making approach popularized by O'Donnell and Schmitter for Latin American and Southern European cases (with its focus on reformer/hardliner conflict with a regime and moderate/radical conflict in the democratic opposition, and then on reformer/moderate convergence in pact-making) with criticism from scholars such as Snyder looking at African cases and arguing that personalist dictatorships more often need to be overthrown from without or within sometimes

clearly more factionalized and less personalist than Banda's MCP, the key indicator for assessing D6 in 1988-1990 is that any politically "reformist" element in KANU was being driven out of the party and into the opposition and that Moi was still in fairly firm control of his party and government, able to impose his will and elicit compliance or to purge independent-minded members. These dynamics would shift later, but in 1990 there appeared to be no reformist potential democratizers in KANU for the emerging domestic prodemocratic movement or its international allies (including donors) to work with or support against hard-line faction. Regime type is therefore clearly negative for Malawi and moderately negative for Kenya as a predictor of democratization.

Regime cohesion (D7) as already analyzed above (pp.48-9) indicates that the Moi regime was more dependent on clientelism and economic interests for its cohesion than for non-economic interests, while the Banda regime relied more on cultivating a culturally and personally based legitimacy. This is not to say that both regimes did not utilize a full mix of cohesion mechanisms including coercion, but rather only to identify a dominant characteristic. Given that economic interests are presumed to be more amenable to compromise and negotiation in general that could allow for democratization (and more sensitive to the costs of conditionality in particular), clientelist or economically-based regimes are considered less resistant to democratization. This factor is therefore positive for Kenya and negative for Malawi.

The final hypothesis from this set relating to Trade Internationalism versus Protectionism (D8) can be considered a more specific variation on D7 related to trade interests as opposed to economic interests in general. Both Kenya and Malawi and their respective ruling elites under Moi and Banda clearly had a strong economic interest in export agriculture and therefore trade, as well as some interest in attracting foreign investments provided they maintained an element of control and profit in those investments. In neither country could the interest in import-substituting industries (a traditionally protectionist interest) be seen as rivalling that of the agro-export sector in

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violently to achieve democratization. D6 modifies this logic to address conditionality. See Ch. 2, above, pp. 11-12, 22-23.

terms of overall political power or policy influence: the elites in question were in fact typically one and the same. Interest in trade in one sector is not necessarily a general interest in free trade, and the patrimonial states of Africa often not only had an interest in maintaining their own tariffs and restrictions that provided revenue and opportunities for corruption or rent-extraction, but they also were typically “protectionist” in the sense of resisting the general liberalization and overall economic policy intervention that economic conditionality and structural adjustment represented. The bottom line here is that neither Moi and KANU nor Banda and the MCP were very inclined to reductions in trade that meant reduced agro-export incomes or to general disengagement from the international economy as a price they were very willing to pay to resist reforms (although Banda was already used to a degree of pariah status vis a vis other African states): other options involving negotiation, partial or even sham compliance all seemed more attractive. In this sense, both are internationalists and this variable is positive for both countries.

The hypotheses considered so far and resulting predictions can be summarized in the following table:

<b>Table 3.5 Predicted Variable Impacts on Democratization Attempts</b>		
<i>Hypotheses</i>	<i>KENYA</i>	<i>MALAWI</i>
D1 – Military/ Coercive Autonomy	Neutral	Moderately Negative
D2 - Civil Society	Positive	Neutral to Slightly Positive
D3 – Cleavages	Clearly Negative	Moderately Negative
D4 - Democratic History / Legacy	Positive	Negative
D5 - Economic Crisis	Moderately Positive	Negative, turning positive in '92
D6 - Regime Type	Moderately Negative	Negative
D7 – Regime Cohesion	Positive	Negative
D8 – Internationalism vs. Protectionism	Positive	Positive
Tally	5 Positive, 2 Negative, 1 Neutral	3 Positive, 5 Negative

Two other general antecedent hypotheses could be included here that derive from earlier modernization theory era (1960s and 70s) and various “prerequisites” analyses of democratization. One is simply that former British colonies were more likely to establish or maintain democratic regimes: both Kenya and Malawi obviously qualify as positive under this

broad rubric, even though they abandoned their initial post-independence Westminster style constitutions (actually Kenya's was never a simple Westminster system.)<sup>271</sup> The second is simply that less developed countries have a more difficult time sustaining democratization – low GDP per capita tends to prevent democracy. This hypothesis has been statistically true for most of the post-colonial era, but with India standing as a major counter-example regardless of debates on the quality of its democracy, and it figures prominently in recurrent arguments about the priority of development over democracy.<sup>272</sup> Needless to say, on this variable Malawi scores quite negative, while Kenya scores negative as well.

In addition to the above hypotheses derived from the comparative politics of democratization, additional hypotheses from Chapter 2 relate to variables that can function in an antecedent fashion (as well as acting as intermediate variables to the extent that they change or co-vary during the transition attempt): while they may vary and evolve during the conditionality phase, a baseline starting point can also be identified or posited. These will each be commented on in turn:

Selected from Table 2.3

**I. Direct Economic Effects** (hypotheses designated "E" for economic)

**A) Target Regime/Economy Variables**

**E1. Aid Dependency:** The more aid dependent a target country, the more effective conditionality will be.

**E1a. Percentage of Aid Affected:** The greater the percentage of total aid received that is affected by a conditionality policy, the more effective the conditionality policy will be.

**E1b. Budgetary Dependency:** The more dependent a target government is on aid for recurrent budget expenses, the more vulnerable to conditionality and more effective a conditionality policy targeting that aid.

**II Signalling Mechanism** (designated "S")

**A) Donor Variables -**

**S1. Breadth of Conditionality Coalition:** The broader the coalition of donors imposing conditionality and the more it encompasses the set of donor nations, the more credible the signal that an international

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<sup>271</sup> On British colonialism and democracy, see Myron Weiner, "Empirical Democratic Theory" in Ergun Ozbudun and M. Weiner, eds., *Competitive Elections in Developing Countries* (Durham, NC: Duke University Press, 1987.)

<sup>272</sup> One prominent variation on this theme from the Third Wave era of analysis is Huntington's own argument that a development zone or threshold exists, especially between the \$1,000 to \$3,000 per capita GNP levels (in 1976) that seems to favor democratization, while the \$250 to \$1,000 per capita zone contains some successes, but many problematic cases of attempted transition. Below \$250, he argues, is extremely difficult with only a few examples of success: Samuel Huntington, *The Third Wave*, pp. 59-72. 1976 GNI/capita: Malawi \$120, Kenya \$240.

norm has emerged and will continue to be enforced in the future with attendant costs, and therefore the more effective the conditionality policy.

These hypotheses speak to the most central baseline condition for the effectiveness of prodemocratic aid conditionality (as opposed to an antecedent variable for democratization in general) – namely aid dependency. This is a pre-existing or antecedent condition. Budgetary dependency simply tries to focus the measurement of this variable more tightly on the target regime. The question of relative dependency can be assessed in terms of changes within a single country over time and of comparison to other countries and various possible international averages: see below - Table 3.x Clearly Kenya and Malawi have become more aid dependent over time with major surges in aid dependency indicators in the late 1980s, and they are more dependent relative to the average of other countries the UN classifies as Least Developed. So as a baseline factor predicting conditionality impact, this is clearly positive for Kenya and very positive for Malawi.



Breadth of conditionality coalition is obviously a variable related to the conditionality policy/episode, but it has a baseline antecedent in terms of the total number of existing donors to a given country (which given the finite number of donor sources in the world also relates to the remaining number of potential new donors/black knights or rescuers/aid sanctions busters): the larger the number of existing donors, the larger the presumed collective action costs in terms of building a consensus and an effective conditionality coalition. Not all donors are equal in size/amount of aid: the largest donors must be included in any effective coalition, or alternately may be so large that they can impose significant conditionality pressure acting unilaterally (although other donors could conceivably increase aid to fill the gap.) Lancaster comments that Kenya in particular had been using a deliberate policy of “balanced benefaction” in encouraging as many donors as possible to defuse the impact of political pressures from any one donor.<sup>273</sup> Kenya has more total donors so as a baseline factor should be more negative than Malawi, but issues and precedents of donor consensus and coordination for each country should also be considered. This therefore leads to the next hypothesis.

S2a & b. **Competing Donor Interests:** The more aid to a target country is important to other, non-democratization donor interests, the more likely there will be conflict over the conditionality policy a) (domestic) within donors polities or governments and/or b) (international) between donor governments and institutions in a conditionality coalition, with the consequences that 1) the less likely a conditionality policy is to be deployed, or 2) if deployed, the more likely its implementation is to be compromised, or 3) the more likely the target can mobilize counter-leverage to undo the policy or compromise its implementation.

Donor interests may be characterized by constancy or flux, but in either case the constellations of interests at the beginning of the transition attempt and/or conditionality period serve as a baseline that may either guide donor actions or help highlight subsequent shifts in interest. In broad historical terms, donor interest started to shift with the ebbing of the Cold War which occurred first in Sub-Saharan Africa in the early 80s in terms of Soviet curtailment of aid and subsequent mid-80s cooperation with the U.S. to resolve the Angola and Namibia impasse, remove South Africa and Cuban troops, etc. In terms of Kenya and Malawi, as has been often said about

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<sup>273</sup> Carol Lancaster, *Aid to Africa: so much to do, so little done?* (Chicago/London: University of Chicago Press, 1999): pp. 33-34.

other anti-communist Cold War allies and aid recipients, with the fading of the international communist threat and the global geopolitical chessboard it entailed, a major donor interest for aid also faded. The associated tolerance for human rights abuses and anti-democratic behavior also began to dissipate at the same time that the international human rights movement continued to gain strength. So while democratization and human rights interests were gaining strength and coherence (see next hypothesis), other interests besides Cold War geopolitics remained. One was the simple interest in stability, in the avoidance of humanitarian, economic or violent conflict disasters that might (thanks to strengthening or emerging norms again, see below) result in public and political pressures for major interventions. This interest was general among donors to some degree, but was particularly strong for those countries with the capability or special historical ties and responsibility for intervention, i.e. the UK as former colonial power, the US as global hegemon at least militarily, and the UN as the closest international organization to a sovereign world government, and collective actor of last resort. The UK had a particular interest in avoiding having thousands (perhaps even a few tens of thousands) of whites and Asians with British passports become refugees or emergency immigrants from Kenya to London in a scenario similar to Idi Amin's ouster of the Asian population from Uganda. Many donor countries stability concerns were particularly pronounced for Kenya not only because it was viewed as an island of stability in an unstable part of the world, but because it was still a major tourist destination for Westerners, hence more rescue/intervention worst case scenarios. Malawi by way of contrast was only a minor tourist destination and had a much smaller Asian and white expatriate community, so similar concerns obtained but on a smaller, less significant scale.

Stability as an interest also dovetails with commercial and economic interests that require stability to be realized or maintained and that are concerned with risk and simple disruption of business as usual. Although multinational disinvestment from Kenya in the 1980s was addressed above, the UK still had significant private investment there, other European countries plus Japan and to some degree the U.S still had investment and trade interests. Japanese aid policy in 1990 was notoriously driven by trade interests including in Kenya, while French policy towards Kenya

centered on interests in repayment of some shady loans that allowed French companies to obtain lucrative contracts with the Kenyan government (the Turkwell Gorge hydroelectric project). Foreign direct investment in Malawi was again much smaller and less significant, especially since tobacco estates in particular were losing some long-term investment appeal.

Geopolitical interests were refocused on regional issues and threats, some newly emerging and some old and previously suppressed by the overlay of Cold War pressures. In Kenya's case, the country's potential role in relationship to crises and conflicts in neighboring countries (e.g., Sudan, Somalia, Ethiopia not so long before, Rwanda's civil war just starting to come onto the radar screen) plus its proximity to the Persian Gulf (hence the US defense pact and joint military training exercises dating back to 1980) have given it an importance to key donor countries that can conflict with maximum pressure to reform politically. (To anticipate this dynamic, it has been said that political conditionality sanctions in Kenya took place in a window of opportunity between the first Gulf War and the U.S. intervention in Somalia in December 1992.) In the case of Malawi, the major regional concern that persisted involved the war in Mozambique, South African and Banda's alleged support for Renamo there, and the fact that refugee flows into Malawi were approaching 1 million people already in 1990. The regional dynamic in Southern Africa started to shift, however, with the release of Nelson Mandela in 1990.

To summarize, a major shift in some key donors interests occurred with the end of the Cold War, but a variety of donor interests still existed that could conflict with a new and more powerful normative reform agenda. The key difference is that none of these other interests would dominate or automatically trump normative concerns the way Cold War geopolitics had for the previous 30 years. Other donor interests were more pronounced in Kenya, so presumably this variable should be 'coded' somewhat more positively for Malawi, but it is basically positive in both cases.

**S3. International Norms:** Increasing normative support for democratization in international political culture (international law, treaties, international organizations) over time will lead to diminishing normative constraint for prodemocratic conditionality policies (i.e. constraint based on norms of non-intervention), increasing frequency of conditionality policies, increasing bandwagoning for conditionality coalitions, increasing ease and legitimacy in deploying companion policies and pursuing external state to target civil society transnational linkages ("trans-state" linkages), and therefore increasing success for prodemocratic conditionality policies. Assembling, maintaining and managing donor coalitions for conditionality will be facilitated to the extent that upholding and promoting the norm of democratization is officially institutionalized in some ongoing international organization or

forum, and such insitutionalization will constitute a major signal to all authoritarian regimes of the credibility of the norm and its probable enforcement.

The growth and institutionalization of democratic and “good governance” norms has already been touched upon in Chapter 1.<sup>274</sup> The relevant point for the present baseline assessment is that while numerous donors had made at least rhetorical commitments to promoting democratization by 1990, and political foundations like the National Endowment for Democracy (NED), the Westminster Foundation and the German party Stiftung (nationally funded foundations associated with each party with seats in the Bundestag) had been operating for several years, broader and deeper institutionalization lagged and was just beginning to take shape both at the individual donor and the collective donor or international regime level. (The OECD/DAC *Guidelines on Participatory Development and Good Governance*, an initial modest effort at norm setting, would not be issued until 1995.) Kenya and Malawi were among the early cases in which practice preceded institutionalization in many ways. So this variable is moderately positive in 1990, but much of its development and impact still remained in the future.

### C) International Audience Effects

**S7. Crisis Perception and International Investor Confidence:** The more the imposition of aid and/or financial conditionality contributes to an external perception of economic and/or political crisis, risk or instability with regard to the target regime and country, the more international investors will refrain from investing in the country, entering into business with the regime (at least on credit) and the more they may seek to withdraw existing investments. This will result in indirect economic costs to the target regime and economy (indirect with respect to the conditionality policy) and will constitute an additional signal to the regime regarding future costs of noncompliance, thus increasing the impact and probable effectiveness of the conditionality policy.

This hypothesis is clearly framed in terms of the signalling effect of conditionality imposition for the broader audience of investors, but there is nevertheless a baseline element worth considering. International investors had an existing attitude or level of confidence towards the two case countries in 1990 before conditionality was imposed: the disinvestment in Kenya during the 1980s has already been noted, and investors were certainly not flocking to invest in Malawi during

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<sup>274</sup> For a historical overview, see also Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington: Carnegie Endowment for International Peace, 1999) ch.2.

this period either. Some investment continued, but coming out of the decade of the debt crisis and the lack of growth (or actual economic contraction) in many LDCs such as those in Africa mean that the latter countries were not the favored “emerging markets” for investors compared to East Asia or the newly hopeful region of post-Communist Eastern Europe. Investors were wary of African countries, including even those that had been more compliant with Structural Adjustment (Malawi scores higher in that regard than Kenya, but is less of an attractive market overall.) The wariness of investors made them more receptive in terms of a baseline for subsequent signals from donors and the IFIs that political conditionality would provide. This variable is therefore positive for facilitating the impact of conditionality in terms of signalling and spill-over effects to private investment.

### III. Legitimation Mechanism ("L")

**L1. National Political Culture and Nationalist Backlash:** The stronger and more anti-interventionist the character of nationalism in a target state, the greater the possibility that a target regime will successfully orchestrate a broad backlash against prodemocratic intervention and against the domestic democratic movement, and therefore the less effective a prodemocratic conditionality policy is likely to be. Conversely, the greater the skill of a democratic movement in managing and balancing external support including conditionality so as to promote the expansion and mobilization of its own domestic power base, the more successful the movement and the policies of external support will be.

The anti-interventionist character of nationalism is clearly a baseline condition here that may or may not facilitate a backlash once conditionality is imposed. The quick answer for a baseline rating for the two case countries is that while both were anti-colonialist in their nationalism, neither embodied a more radical, leftist anti-imperialist ideology of either an explicitly Marxist or non-aligned variety: Kenya and Malawi in 1990 were still two of the most pro-Western countries in Sub-Saharan Africa. Banda’s friendly relations with South Africa and Rhodesia, plus his cultural Anglophilia, had even prompted criticism in the rest of Africa that he was still an agent of colonialism. On the other hand, Banda was more successful than Moi in creating a degree of nationalist and grassroots or traditional cultural legitimacy for his rule, but that legitimacy would prove hard to transfer to a successor like John Tembo once the succession issue loomed as

Banda's health and capacities declined. Given the absence of a strong anti-interventionist and anti-imperialist element in the political culture of either case country, this factor is neutral or even moderately positive: if democratization could be framed as making real the democratic norms that were supposedly still part of each polity and as the ticket to staying in the pro-western and aid-deserving club, then any attempts at orchestrating a broad backlash could be overcome.

**L2. National Political Culture and Instrumentalism:** The more instrumentalist the conception of democracy in local political culture of a target country, or the stronger any instrumentalist factions of the democratic movement are compared to principled factions, the more problematic both the cohesion of the movement before and during a transition and the consolidation of democracy after a transition are overall, and the lower the domestic perception of legitimacy of the movement will be. The lower the perception of movement legitimacy, the less it will be able to garner any additional legitimacy boost from external conditionality against the regime, and hence the less ultimately effective a prodemocratic conditionality policy will be.

Evidence of an instrumental rather than a truly normative approach to democracy can readily be found in the political cultures of Kenya and Malawi: one could argue that the very notion of one-party democracy already compromises essential norms of democratic freedom, civil rights and political equality, especially when the practice of one-party democracy entails suppression of any competition for the Presidency and makes the position more that of a monarch than a democratic representative of the nation. A key indicator of instrumentalism can be found in the behavior of an opposition or of dissenters within the one-party system: in this dimension, Kenya appears to fare worse than Malawi in that virtually the entire political class after independence (with the eventual exception of Oginga Odinga and those who formed the Kenya People's Union) colluded in the merger of KANU and KADU. In Malawi, however, the cabinet crisis can perhaps charitably be interpreted as a democratic effort to oppose Banda's authoritarianism right away, and dissidents went into exile where many continued to campaign for decades for democracy in Malawi (some on the other hand advocated socialist revolution as a priority over electoral democracy.) The simple fact that many in the political elites of both countries first participated actively in the one-party system and then fell from favor and belatedly converted to being advocates of multi-partyism suggests that either they had a casual regard for democratic values and then saw the light, or that

they still have an instrumental approach to democratic politics. Conversion is a possibility, though, and can actually go in either direction (i.e. one-time true democrats can over-compromise) which is why this is not strictly an antecedent variable. Either way, the political cultures of the two countries are not on particularly firm democratic ground. This variable is on balance negative for both countries.

The baseline values of this second set of conditionality and “antecedent plus intervening” variables are similar with the first three being somewhat more positive for Malawi. These results are summarized in the following table:

<b>Table 3.7</b>	<b>Baselines for Antecedent/Intervening Variables, part 2</b>	<b>Predicted Impacts on Political Conditionality</b>
<i>Hypotheses</i>	<i>Kenya</i>	<i>Malawi</i>
E1. Aid Dependency	Positive	Very Positive
S1. Number of Donors	Possibly Negative	Neutral or Mildly Positive
S2. Competing Donor Interests	Moderately Positive	Positive
S3. International Norms	Moderately Positive (but growing)	Moderately Positive
S7. International Investors	Positive	Positive
L1. Nationalist Backlash	Positive	Positive
L2. Instrumentalism	Negative	Negative
Tally	5 positive, 1 Negative, 1 possibly Negative	5 positive, 1 Neutral or Mildly Positive, 1 Negative
Tally from Table 3.5	5 Positive, 2 Negative, 1 Neutral	3 Positive, 5 Negative
Grand Total Tally	10 Positive, 1 Neutral, 1 Possibly Negative, 3 Negative	8 Positive, 1 Neutral or Mildly Positive, 6 Negative

Looking at the combined results of both tables of baseline predictions as a crude and unweighted tally, the variables yield on balance positive expectations for democratization and the impact of conditionality, but they are also clearly more strongly positive in the Kenyan case. The Malawi case by comparison is more finely balanced. The predictions outlined here will be traced and evaluated in the following two chapters which examine the periods from 1990 to 2003 in detail, first for Kenya and then for Malawi.

## Chapter 4.

### **Kenya, A Case Study of Prodemocratic Aid Conditionality, Donor Intervention and Coopted Transition to Multipartyism, 1990-2003**

#### *1. Summary Introduction*

The case of Kenya from roughly 1990 to 2004 represents a case of slow, prolonged and at times coopted or hijacked democratic transition. It took 11 years from the application of political conditionality by the donors and the legalization of opposition parties at the end of 1991 to the free and fair elections of December 2002. In those 11 years, there were two less than fair but nonetheless accepted multiparty elections in 1992 and 1997. The opposition parties finally united in 2002 to defeat the Kenyan African National Union (KANU), the party which had ruled since 1963, through the years of de jure one-party rule (1982-1991), and then “converted” to multiparty democracy in 1991. President Daniel arap Moi, as leader of KANU and as “democratically elected” President in both 1992 and 1997, was initially credited with outfoxing the donors, dividing the opposition (or simply giving them enough room to divide on their own) and being both a master of Kenyan politics and a survivor. His luck ran out in 2002 when, faced with mandatory retirement due to term limits he authored and thus a ‘lame-duck’, he failed in his effort to engineer another KANU election victory for his hand-picked successor and to create a broader KANU coalition that could endure into the future.

Political conditionality produced some real democratic gains when it was first introduced in 1991 and tipped the balance in favor of multiparty electoral competition, but it also fell far short of the goal of full democratization at that point. Yet conditionality started a process of donor

engagement that, while fitful or erratic at times, also involved learning and renewed attempts to push Kenya forward not only in terms of economic reform (structural adjustment), but also political reform and democratization. Repeated instances of conditionality produced varying degrees of compliance, but did generally result in some real compliance and impact thanks to ongoing aid dependency. While hindsight allows us to posit a more coherent or forceful donor strategy, the major limitations in terms of progress in democratization do not lie in the area of donor action, but rather in the inability of the democratic opposition to stay united.

The struggle for democracy was fundamentally complicated and largely thwarted before 2002 by the overwhelming ethnic nature of Kenya's political culture and hence by ethnic factionalism within the supposedly democratic opposition that produced three major opposition presidential candidates in the 1992 elections and four in 1997. Given Kenya's plurality electoral system, this factionalism allowed Moi to win these elections with only 36% of the vote in 1992 and 40% in 1997. Technically speaking, he won these elections fairly. The primary problem with these two elections from a democratic point of view was not the national Presidential vote, but rather it was the Parliamentary vote that was marred by gerrymandering resulting in very skewed pro-KANU districting and by actual fraud in select districts that was localized enough to avoid serious national and international attention and managed to produce Parliamentary majorities for KANU.

In compiling and analyzing the historical narrative of Kenyan politics from 1988 to 2004, this chapter advances an interpretation that different forms of donor conditionality and influence were instrumental in different phases of that history in moving the democratization process forward. The first and most dramatic instance of conditionality's contribution was the imposition of formal multilateral conditionality in 1991 that clearly caused the Moi regime to do what it previously had vowed to resist, namely legalize opposition parties and accept the norm of multiparty democracy. The KANU government's approach to compliance with donor demands was essentially minimalist and their acceptance of democratic norms formal rather than sincere. Nevertheless, crossing the threshold to multipartyism and official democracy set in motion long term processes of habituation, eventual accommodation and of normative diffusion that would slowly change the political

relationship between government and opposition. The period after the 1992 election was actually one of setbacks and deliberalization as KANU took advantage of its victory and of the disillusionment of the opposition and of the donors. The donors for their part focused on restoring some constructive modus vivendi with the Moi regime and therefore, led by the International Financial Institutions (the IFIs: the IMF and the World Bank), on the structural adjustment agenda and the restoration of aid.

The democratization process reached another crisis point between the opposition and KANU in mid-1997 in anticipation of the elections in December of that year, and the donors responded with a new form and political use of structural adjustment conditionality. What was new was a more explicit emphasis on ending recipient government corruption, and what was political was the timing of its deployment and the lobbying of the IMF by bilateral donors who wanted older technical adjustment criteria to be ignored in favor of a corruption-related aid freeze that would put new pressure on the Moi regime. The bilateral donors also joined the Kenyan opposition parties in demanding legal reforms to even the electoral playing field and end harassment of the opposition, and the combined pressure of a new aid freeze and domestic mobilization produced the InterParty Parliamentary Group (IPPG) accord in September, 1997. This agreement between KANU and the opposition parties implemented those reforms, but it put off more fundamental and radical opposition demands for a complete constitutional overhaul before the election in favor of a constitutional review process promised for the next Parliamentary session and Presidential term. This agreement was thus brought about in large part due to donor pressure, and it represented a new threshold in the democratization process: it represented both an acceptance by KANU of the opposition as a legitimate interlocutor for the first time and a new level of agreement on norms of democratic competition. It also approximated a classic feature of many democratic transitions which is a pact or negotiation between moderate elements of an incumbent regime and of a prodemocratic opposition that reject the positions of more hardliner or radical elements on either side in favor of a compromise that opens the way for elections. Such a pact yields real democratic progress even if it is not as rapid and thorough as some advocate, and it can moderate conflict by

undermining the more extreme actors. Whereas in the period from 1993 to 1996 the structural adjustment agenda and the political conditionality agenda diverged, the electoral timetable in 1997 and the new focus on corruption as a bridge between the two agendas brought them back together, and once again aid freezes and donor demands produced compliance by KANU. Domestic mobilization was also a factor, but was unlikely to have produced such compliance alone.

The third major phase of conditionality is in some respects a simple continuation of the corruption emphasis within the structural adjustment agenda after the 1997 elections, but it is distinguished by its main effects which centered largely on delegitimation and direct economic costs to the Moi regime rather than on compliance with reform demands. Simply put, after the Moi victory in the December elections, the IMF and the World Bank did not make any major attempt to get back to “business as usual” as they arguably did in 1993-1995, but instead held a very firm line on corruption issues including the creation of a strong and independent Kenya Anti-Corruption Authority (KACA) and the prosecution of the major scandal to date (the so-called Goldenberg scandal). Negotiations on corruption and other structural adjustment issues continued until a new IMF package was approved in August 2000, but the IMF suspended disbursements a mere four months later in December due to noncompliance with the strict new timetable of reforms and actions. Ironically, KANU’s attempt at compliance with the establishment of KACA was ultimately thwarted by the parliamentary opposition which declined to pass the enabling legislation demanded by the IMF by the required two-thirds vote in August 2001. The opposition took this surprising action both because KANU had included an amnesty provision for crimes before 1997, and because the opposition also wanted to deny the government its desperately desired financial rescue package. The ability of the opposition in Parliament to thwart a major government initiative is also a testimony to the institutionalization of some democratic checks and balances. The result was that the Moi regime failed to enjoy the good graces of the IMF and World Bank for all but four short months of its second term of the multiparty era: the type of program aid and budgetary support it had once relied on heavily in the late 1980s and until the freeze of late 1991 was now virtually non-existent. The net effect was economic crisis for a government still oriented to aid dependent

development and to patronage, and apparent failure to satisfy the donors or the opposition or any other audience in addressing the corruption widely known to be rampant and presumed to be dragging the country down. The economic and legitimacy costs to the KANU government combined with the succession struggle within the party to hasten the implosion it experienced in the Fall of 2002 and to encourage defection of both senior members and average voters and thus defeat at the polls.

The authoritarian legacy of KANU rule and particularly the Moi years made it difficult for most Kenyans to believe that any real and thorough democratization of the Kenyan state would be possible without the defeat and departure of the one-time authoritarian incumbents. But Kenyan politics had already changed significantly from 1993 and the bitter aftermath of the first multiparty election to 2001 and the way parliament functioned and all parties prepared for the 2002 elections: significant democratization had already occurred before Moi entered retirement and KANU was defeated at the polls. As this chapter will demonstrate in detail, conditionality played a major role in starting the process in 1991, in moving it along in 1997 and ultimately in the final defeat of the old regime and the possibility of a serious commitment to democratic consolidation along with a new constitution under the Kibaki government elected in December 2002.

#### Historical Introduction and Chapter Roadmap

The imposition of political conditionality on aid to the Government of Kenya in November 1991 marks the first full-fledged example and test of coordinated multilateral political conditionality applied to foreign aid and international public finance. The 12 bilateral donors and 6 international financial institutions of the Donors' Consultative Group (CG) suspended new program aid allotments (a major portion of total aid) with resumption conditioned on political reform and progress towards democratization. This achieved one very immediate success in prompting the

lifting of the Kenyan constitutional restriction to a one party state under the Kenyan African National Union party (KANU) which has governed since independence in 1963.<sup>275</sup>

The Kenyan story can schematically be seen as one of President Daniel arap Moi's sudden flip-flop on the question of multiparty politics due to his capitulation to pressure by international donors. It can be picked up starting in August of 1991 with the formation of the Forum for the Restoration of Democracy or FORD as the umbrella coalition of various political opposition figures and organizations in Kenya who had been pressing for a multiparty system, free elections and an end to the Moi/KANU regime for over a year. Moi's government formally banned FORD on August 30th and renewed harsh criticism of foreign interference and support for the opposition. On September 22nd, Moi was quoted as saying that multiparty or 'Western-style' democracy would not come to Kenya 'for 200 years' because the country trails the West by that long in economic development.<sup>276</sup> In November, just days before a scheduled meeting of the Consultative Group to discuss future aid commitments to Kenya, Moi said a multiparty system in Kenya might be possible "in two or three years".<sup>277</sup> On Nov. 25th, the day the Paris conference began, he was quoted as insisting he would reject international pressure for democratic reforms even if it meant a loss of foreign aid, while his finance minister in Paris repeated the possibility of change within a few years.<sup>278</sup> The next day at the Paris conference, 12 governments and 6 international financial agencies agreed to forego the normal commitments of new aid to Kenya for six months to await "clear progress in implementing economic and social reforms", and George Saitoti, the vice-president and finance minister, claimed that he was satisfied Western donors "are not walking away from Kenya" and that the government "was not opposed to transformation to a multi-party system."<sup>279</sup> On December 2nd, barely a week after the new aid freeze, Moi announced a proposal to lift the constitutional ban on political parties other than KANU, and this move was duly ratified

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<sup>275</sup> The actual de-jure restriction to a one-party state had been in effect since a constitutional amendment in 1982, but no opposition party had been tolerated since 1969.

<sup>276</sup> New York Times (and Facts on File) - Nov. 14, 1991:867.

<sup>277</sup> "Moi's Choice" editorial, Financial Times, Nov. 21, 1991.

<sup>278</sup> "Kenyan President Indicates Rejection of Call for Reform" New York Times, Nov. 26, 1991: p.6.

<sup>279</sup> "Moi orders arrest of right-hand man in murder probe", Financial Times, Nov. 27, p.4; "Aid donors insist on Kenya reforms" New York Times, Nov. 27, p.1.

by a KANU conference the next day and by the Parliament a week later, thus appearing to yield to the international pressure Moi had vowed to resist.<sup>280</sup> Why this sudden rhetorical reversal and quick capitulation to donor pressure? Was it due to the overwhelming power wielded by the donors and the corresponding aid dependency of the Kenyan economy or regime? The legalization of opposition parties and the prospect that the elections already constitutionally mandated to be held the following year would now be competitive and multi-party at the presidential and parliamentary levels appeared to be great steps forward in democratization. But did they result in real or full democratization?

This chapter will examine the trajectory of Kenya's struggles for democratic transition from approximately 1988 until early 2004. It will first look at the period from 1988 to 1991 as one of the decay of the KANU one-party system's hold on Kenyan politics and the rise of the prodemocracy movement especially from the beginning of 1990: this period constitutes the beginning of the transition attempt and completes the baseline reference. The donors's Consultative Group (CG) meeting of November 1991 and the Moi/KANU response in early December constitute a turning point with the apparent decision for democracy by the regime. The consequences and reality of that decision will then be assessed first in the pre-election run-up and campaign period from December 1991 to the elections in December 1992, in the post-election/post-Moi victory adjustment period of 1993 to 1994, then (given Moi's hints at the possibility of calling an early election) in the extended run-up from 1995 to the 1997 elections, and finally in the second post-election period from 1998 to 2000. In each period, after a presentation of a historical narrative centered on the actions of three principal collective actors - the regime, the opposition, and the donors -, an analytic section will then process trace these actions, decisions and the underlying mechanisms and structures of the balance of power, and "measure" the intervening or condition variables of the hypotheses advanced in chapter 2 in order to assess the congruence with expected outcomes. Finally, the analytic sections will also address the status of the key themes and

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<sup>280</sup> "Kenyan Yielding on Multiparty Politics", New York Times, December 3, 1991, p.3.

arguments of the exporting democracy debate with a view towards building a cumulative judgement on their applicability and relative merit in this case.

## ***2. Kenya, 1988-2003 - The Analytical/Historical Narrative***

### Overview

The relevant history of Kenya as a case of political conditionality covers the decade stretching from approximately 1988 up until the present. The key periods involved are: 1) the period from the 1988 elections up until the donors imposed conditionality and froze aid in November, 1991, leading the Moi regime to legalize opposition parties, 2) the subsequent run-up to multi-party elections at the end of 1992; 3) the aftermath of Moi's victory and the gradual establishment of a new *modus vivendi* with first the donors (as represented by a resumption of structural adjustment assistance in 1994?) and then, to a much lesser degree, with the Kenyan opposition; 4) the run-up to the December, 1997 elections which can be dated as starting around mid-1996, and included what should be viewed as the second round of political conditionality starting in July, 1997; 5) the aftermath of Moi's second multiparty victory in December, 1997 and his final term on office (1998-2001); 6) the year-long run-up to the December 2002 elections; and finally 7) 2003-4, the beginning of a post-KANU era in Kenyan politics.

The history of the imposition of political conditionality in Kenya can be told in terms of the three main sets of political actors involved: a) President Moi and his KANU party government, b) the Kenyan opposition including individual activists and politicians, political parties and independent civil society organizations or NGOs, plus their transnational allies and c) the donor governments and international financial institutions. The dynamics of this history can be viewed as a multi-level or multi-player game in which each set of actors attempts to maintain cohesion and consensus internally and to exert leverage on both the other sets. In the triangle of relationships formed between these three actors, our major focus is on the authoritarian state which both the donors and the internal opposition are attempting to push towards liberalization and democratic

reform, but the relationship between the donors and the democratic opposition - the presumed allies in the struggle - is also of interest and potentially important.

The method in what follows will be to first present a relatively straightforward (but unavoidably selective) history of each of the periods enumerated above followed by an analysis of that period which draws on the theoretical approaches and hypotheses. Various elements of the theory will be relevant in some periods more than others. The histories and analyses of the periods will then be followed by a summary synthesis that seeks to evaluate the impact of conditionality and the explanatory power of the theoretical propositions.

### ***3. 1988 to 1991 - The Road to the CG meeting & Political Conditionality***

#### History

The first period from 1988 to 1991 represents the unraveling of Moi's project to transform KANU from an internally competitive party that many had hailed as a relatively successful example of one-party democracy under Kenyatta to a centrally controlled and more thoroughly authoritarian party that could successfully dominate not only the state, but Kenyan society as well. (Moi had had the constitution amended in 1982 to make Kenya a de jure one-party state). The 1988 elections represented a new level of KANU control over the process and apparent rigging of the results in many cases, and this produced widespread dissatisfaction among losing political candidates and activists and general disenchantment among the electorate. This period also encompassed a major change in the international context and in donor attitudes and policies both in general and toward Kenya in particular: the Cold War ended and donors began to give more serious attention to democracy and to "good governance" issues that were increasingly seen as necessary for effective structural adjustment. This change in donor outlook coincided with a downturn in the Kenyan economy and a peaking of the KANU regimes dependence on foreign aid in 1990. While the internal political dynamics of opposition to Moi and KANU gave rise to explicit calls for multiparty democracy starting in 1990, the external dynamic of aid conditionality began bilaterally in the same

year and both escalated together until multilateral aid conditionality was imposed in late November 1991 and produced the legalization of opposition parties and an end to the de jure one-party state in early December.

#### The Internal Dimension, 1988-89

The history is best picked up with the 1988 single party election that unsurprisingly reelected President Daniel Arap Moi to a third five-year term. The 1988 elections also represented the culmination of Moi's efforts since the attempted coup in 1982 to reshape KANU and Kenya's "one party democracy" from a system which had been highly competitive in terms of parliamentary elections and grassroots politics and even arguably representative below the presidential level during the Kenyatta era to one that was centrally controlled by the President through both the state and party apparatus.<sup>281</sup> Moi had introduced "queue voting" in KANU primaries in advance of these elections in which voters in their local districts lined up behind the candidate of their choice in a public vote that allegedly did not discriminate according to literacy but in reality offered ample opportunity for intimidation. Other internal party mechanisms were also used to disqualify or defeat candidates not to Moi's liking, and several established politicians such as Kenneth Matiba and Charles Rubia (both Kikuyu) were defeated and claimed they had been "rigged out" of their seats or their local KANU branch chairmanships in the case of Matiba. The 1988 elections signified a transformation of Kenyan politics from type of competitive clientelism, one in which local political entrepreneurs could organize a base of support, win an election and gain access to KANU and the national state and negotiate for participation in its patronage networks, to a controlled clientelism in which independent or competing power bases were viewed with increasing suspicion and loyalty was assured by making any political advancement or election controlled through the party and ultimately from the center and the Presidency. This change therefore created

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<sup>281</sup> See Jennifer Widner, *The Rise of the Party-State in Kenya: From "Harambee!" to "Nyayo!"* (Berkeley, CA: University of California Press, 1992.)

a new form of political exclusion and produced a set of losers and disenchanting politicians who would form one of the core elements of the movement for multipartyism.

Even as he changed the nature of the Kenyan political system, Moi still faced the challenges inherent in the fact that it remained a neo-patrimonial system with a strong basis in ethnicity. Moi had succeeded in overcoming Kikuyu opposition to his ascendance from the Vice-Presidency upon Kenyatta's death, and had to a large degree succeeded in replacing the Kikuyu core of KANU from the Kenyatta era with a version of the original KADU coalition of Rift Valley and other smaller tribes, notably his own Kalenjin grouping, the Masai and Nandi plus Muslims from the Coast Province, while still maintaining enough of a political balance within KANU and in the cabinet in particular and enough economic growth to keep from alienating the Kikuyu [or other large tribes such as the Luo]. The Kikuyu posed the greatest potential problem for Moi both politically and to a lesser degree economically: beyond having been major beneficiaries of the Kenyatta regime, the Kikuyu are the largest single ethnic group in Kenya and include an economic elite that, after the local Asian community, comes closest of any in Kenya to constituting an independent bourgeoisie with its historical base in export agriculture (especially tea and coffee) including large farms in what had been the "white" highlands under colonialism that were bought out and transferred to African ownership at independence. The Kikuyu have also been quite successful in small-holder agricultural export sector and thus have a reasonably developed middle class. Kikuyu politicians within KANU thus often had a significant power base independent of the state or party that Moi and his inner circle of Kalenjin, Maasai and other ministers viewed as beyond their control and a potential threat.

The 1988 elections signaled the beginning of new phase of power struggles within KANU that saw Moi fairly systematically drive out major Kikuyu politicians from both the cabinet and even the party and thus change the dynamics of ethnic competition in Kenya by forcing it outside the traditional KANU arena. Since ascending to the presidency, Moi had always had a Kikuyu Vice-President: Mwai Kibaki occupied that post since 1978. Kenneth Matiba, minister of transportation, was another prominent Kikuyu in the cabinet. By the end of 1988, both had been

severely demoted. First, Kibaki was replaced by Josephat Karanja as both Vice-president of the country in March and vice-president of KANU in September internal party elections and was relegated to minister of Health. Karanja was also Kikuyu, but was seen as lacking a strong independent power base and more beholden to Moi for his position. Similarly Matiba lost his local KANU branch chairmanship in September in what he claimed was a rigged election, and then was dropped as Minister of Transport in December and expelled from party for his complaints. Karanja was then forced to resign and was ousted from KANU in May, 1989. He was replaced as Vice-President of both the state and KANU by George Saitoti, a Masai, and for the first time in his regime, Moi did not have a Kikuyu Vice-President or any Kikuyu minister considered to be in an influential position or in his inner circle. Fourteen others, mostly Kikuyu, were expelled from KANU in June for alleged involvement with the underground Mwkenya movement, the largest group expulsion since the fall of Charles Njonjo, another prominent Kikuyu politician, in 1984.<sup>282</sup>

While the long-term historical struggle for democratization in Kenya can be viewed as beginning well before independence in 1963, the period following the September 1988 KANU and December general elections marked a shift in Kenyan politics, and 1989 marked a year of growing disenchantment as erstwhile members of the Kenyan elite, particularly among the Kikuyu, as well as the Kenyan population at large absorbed not only the changes that Moi and KANU had wrought, but also the changes in the world at large, particularly the fall of Communism in Eastern Europe and the end of the Cold War. An oft-cited and definite sign-post for the emergence of a critical mass for change in Kenyan civil society and for the beginning of an attempt to bring about a democratic transition in the country was the public call during a New Year's Day sermon at the beginning of 1990 by Rev. Timothy Njoya of the Presbyterian St. Andrew's Church in Nairobi for democracy and an end to one-party rule in Kenya as in Eastern Europe.

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<sup>282</sup> EIU Country Report, 1989, 3 (July 24): p. 7.

### The External Dimension, 1988-89

This period also represented, and not by mere coincidence, the fall of Kenya from its previous position as one of the African economies most favored by the international community: up until 1990, Kenya had been something of a model of capitalist development compared to most of Africa that despite some early rhetoric about African socialism pursued a pro-Western foreign policy and a relatively liberal economic policy. Kenya was viewed as one of the few economies in Africa where IFI loan portfolios and donor aid might actually perform and where at least some elements of structural adjustment policies were taken to heart. This gave Kenya considerable counter-leverage in bargaining with donors through the 1980s and allowed the Moi regime to more or less ignore those elements of adjustment policy that it disliked. Despite this policy "slippage", donors responded to Kenya's requests with increased aid over the course of the 1980s and thus provided the funding for Kenya's GDP growth of approximately 5% annually from 1985 to 1989.

Aid, and with it the Moi regime's level of aid dependence, reached a peak in 1990, by which time many key factors in the international policy arena had begun to shift in ways that undermined Kenya's previously privileged position:

- The Cold War was clearly over and had actually ended in Africa even before the democratic dominoes fell in Eastern Europe. The democratic transitions in Eastern Europe were also viewed as part of the larger wave of transitions not just from communism but from authoritarian rule more generally.
- The revival of the democratic crusade as a major feature of foreign policy rhetoric and to a lesser degree practice, one that had started in the early 1980s under the Reagan administration, had now spread to other major Western donors including even France and had begun to transcend its Cold War origins.
- Furthermore, the international human rights movement that began in the 1970s had also achieved a level of organizational development and sophistication, especially in terms of cultivating the development of and linkage with local human rights groups in developing countries, that allowed it

considerable impact in public opinion and therefore in Western foreign policy circles in some cases.

- The World Bank and to some extent the IMF as well, in trying to determine why structural adjustment efforts in the 1980s had been much less successful in terms of growth than expected, had begun to focus on questions of policy ownership and on political obstacles to adjustment, a focus that culminated in 1989 in the elaboration of "good governance" as a key component of successful reform and adjustment.<sup>283</sup>

In Kenya's case, this meant that the Moi regime came under increasing pressure over its human rights record in repressing dissent (this pressure actually started in 1987) and over its previously tolerated intransigence over some aspects of structural adjustment, particularly the persistence of government budget and current accounts/trade deficits that donors were no longer willing to finance. Erstwhile KANU politicians and perennial opposition figure such as Oginga Odinga began to agitate for multiparty democracy and to form alliances with the human rights movement with roots in the churches and the legal profession that had been growing since the mid-80s, a movement which in turn had transnational links to counterparts abroad. (see below) The issue of government corruption especially began to erode donors' patience and favorable disposition towards Moi and his KANU party. Furthermore, the economy began to decline in 1989 in what was interpreted as the eventual inability of the economy to grow based on increased aid alone: the aid flows had in fact helped postpone the more thorough-going reform that was needed in terms of streamlining and restoring productivity to the bloated public bureaucracy, privatizing or dismantling insolvent and subsidized parastatals that drained the public budget, and ending the corruption that caused pervasive inefficiency.

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<sup>283</sup> See the World Bank, 1989 *World Development Report* (Washington, DC: World Bank, 1990)

## Analysis

The initial period following the 1988 elections through 1989 thus bore witness to the beginnings of changes in both the internal and external elements of the power base of the KANU regime, in donor attitudes towards Kenya and in the Kenyan opposition. It saw changes in the representative base of the KANU regime as Moi responded to his own perception of the inherent insecurity of his government, the core of which had become increasingly limited to elites representing a small minority of Kenya's ethnic groups and separated from at least one very major faction of Kenya's economic elite representing the Kikuyu. Moi engaged in further exclusion of the remaining Kikuyu links to KANU in order to presumably insure the loyalty of the party and the existing state structure to him. This change in the patrimonial distribution system of the state and its earlier function of ethnic bargaining and balancing coincided with an economic decline for the country as a whole that was partially offset by increased aid, but the latter also brought with it increased demands for structural adjustment compliance, and that compliance would in turn threaten elements of the patrimonial basis of the state. The international status of the Moi regime began to change due to the failure or reaching of the limits of the aid-financed development strategy to maintain significant real growth, to the continuing resistance of the regime to serious and full adjustment compliance which in turn was viewed by most donors as the main reason for economic failure, and due to the ebbing of the Cold War which removed the anti-communist element of Moi's legitimacy to donor countries and brought his government's corruption and authoritarian repression into sharper relief. This recasting of the image of KANU and Moi was in large part caused by the transnational alliance between Western human rights organizations and their counterparts within Kenya that together had focused increasing international media and therefore political attention on human rights abuses since 1985. The growing activism of the civil society elements of the Kenyan opposition found new potential allies in those expelled from or simply increasingly disenchanted with KANU, and together they would succeed in generating large scale mobilization for democratization in the coming year.

The major element of the political equation that did not change during this period was the ability of KANU to use the power of the state to control the processes of formal politics such as elections and legal prosecutions, to exclude Kenyans from access to the party or the state and to engage in repression against those who protested. While the distributive power of the state in the medium to long-run was beginning to be questioned, the immediate repressive power of the state and its ability to essentially ignore the rule of law was unchanged.

#### *4. 1990-1991*

The events and political processes leading to the November 1991 aid conditionality decision involve the convergence of three related yet distinct issues involving human and political rights abuses, issues of corruption, and ongoing problems of current account deficits and lack of implementation of commitments to structural adjustment. The first two converged in highly symbolic fashion for both domestic and international actors on the murder of foreign minister Robert Ouko in February of 1990: Ouko, the highest ranking Luo in the government, was viewed quite favorably in international circles, and subsequent investigations by Scotland Yard detectives who were brought in on the murder case pointed to other members of Moi's cabinet whose corruption Ouko had apparently intended to expose.

#### The HR dimension

Since the Mwakenya detentions and trials of '86 and '87, human rights lawyers, the legal community and international groups like Amnesty International had been increasingly critical of the Moi government. Leading clergymen had joined the chorus responding to both the human rights abuses and the deteriorating economic situation. Disaffected politicians criticized the erosion of the political system as evidenced by fraud and intimidation in the 1988 elections. Coming close on the heels of the massive changes in eastern Europe, the Ouko murder seemed to fit in a macabre

tradition of the assassination of rising politicians<sup>284</sup> behind which government foul play was widely assumed. The murder of the prominent Luo minister set off anti-government rioting by students and in Luo communities, which in turn encouraged the pro-multiparty forces to redouble their efforts.

In May 1990, the government began to demolish slums in Nairobi, leaving thousands homeless and angry. Against this backdrop, Kenneth Matiba, a minister who had been expelled from KANU over the 1988 elections, and Charles Rubia, a former mayor of Nairobi, held a press conference to call for the legalization of opposition parties. Repression increased and Moi vowed to hunt down his opponents "like rats". Matiba and Rubia later attempted to get a permit for a mass rally on July 7th. The permit was denied, the two prominent ex-MPs requesting it were detained and instead of a rally, there were riots resulting in several dozen deaths at the hands of security forces. Bishop Muge, an outspoken critic of the government, was killed in a suspicious car crash in August.

All of these events were picked up by a now more attentive international community. Smith Hempstone, the new American ambassador since 1989, had already been quite outspoken against the detentions, corruption and human rights violations, earning him the wrath of Moi and the KANU government. He publicly pointed out in May that with the ebbing of the Cold War, the U.S. would be paying increasing attention to human rights and democracy in allocating its aid. In July, 1990, he negotiated the exit from the country of Gibson Kuria Kamau, a prominent human rights lawyer who had previously been detained and tortured and had now sought refuge in the U.S. embassy to avoid another arrest.

The U.S. Congress, responding to the events and lobbying by human rights groups and Africa lobbies like TransAfrica, withheld \$5 million in military aid in July to protest arrests of opposition figures and in a November visit by three Senators announced human rights conditions on the next year's \$15 million in military aid (out of a total aid package of \$60 million). Norway broke diplomatic relations completely in October and cancelled \$20 million in aid after the

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<sup>284</sup> Previous victims included Tom Mboya, also a Luo, and J.G. Kariuki.

expulsion of its ambassador over public statements opposing the apparent kidnapping in Uganda of Koigi wa Wamwere, a Kenyan dissident it had granted asylum. Denmark also announced a one quarter cut in its \$35 million aid program due to Kenya's poor human rights record, and five Nordic countries together issued a statement threatening to reconsider a total of close to \$80 million in aid for the following year. The Kenyan opposition openly called for a suspension of all foreign aid to the Moi government.

1991 saw increased discussion in many international contexts of the use of political conditionality on aid to promote democratization, as well as an increasing stress on 'good governance' by the IFIs as a key ingredient to successful implementation of structural adjustment packages. In Kenya, Moi had attempted to woo back members of the opposition by reforming KANU and revoking expulsions and suspensions of dissident ex-members (cf. Saitoti Commission on KANU reform), but with little success. Oginga Odinga announced the formation of a new political party, the National Democratic Party, in February and tried in vain to register it with the government. Rumors circulated in March that Moi would call a snap election in order to try and take control of the political situation. He then tried to court favor through a cabinet shakeup in May that included the indictment of a minister for corruption and the replacement of the attorney general with a respected liberal jurist, Amos Wako, who promptly released a detained opposition figure.<sup>285</sup>

This began a cycle of protests, arrests, international pressure for the release of political detainees, weak gestures towards reform alternating with repression and condemnation of the opposition as "agents of foreign masters" - a cycle that was to last until Moi's capitulation to donor pressure led to the legalization of opposition parties in December, 1991.

Rhetorically the Moi government maintained a steady stream of invective aimed at domestic and international critics, including calls by MPs for violence against domestic opponents, and a steadfast

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<sup>285</sup> Amos Wako had worked for the UN Commission on Human Rights in the 1980s, and his appointment was originally greeted with some degree of optimism by the Kenyan opposition. That favorable opinion would definitely wane, however, as time moved on and Wako displayed more loyalty to KANU than independence and impartiality on numerous issues.

refusal to discuss multipartyism. By late July, events were appearing to come to a head as the long-stalled Ouko investigation burst into the spotlight and into the very core of the Moi regime.

Witnesses at the inquiry into the murder testified Ouko had received threats from other cabinet ministers whose corruption he had attempted to stop or threatened to unmask, and they implicated Energy minister Nicholas Biwott, Moi's number two man. Moi had called in Scotland Yard investigators early on to provide a credible investigation of the 17-month old murder, but then had prevented release of the report. Other evidence along the same lines came out until in early November, the Scotland Yard investigators themselves testified that Biwott was their prime suspect.

### The Corruption Angle

During the same period multiple allegations of corruption arose from international donors and other figures, many also implicating Biwott, and by implication Moi himself.<sup>286</sup> Denmark, Sweden, Britain, and the World Bank all canceled or withheld various forms of aid, while Citibank, Barclays, and Lonrho chief executive Roland "Tiny" Rowland all went public with disputes with Biwott over the extortion of bribes or the failure to repay huge loans and revealed in the process that Biwott had millions in a Swiss bank account. The IMF estimated that wealthy Kenyans were holding some \$2.62 billion in Swiss accounts, much of it attained through corruption and skimming from aid programs. These revelations came less than two weeks before the scheduled Paris meeting of donors. On top of this, police broke up an opposition rally with at least one death and arrested 25 international journalists and a dozen prominent opposition figures. Opposition figure subsequently issued renewed pleas for donors to halt aid.

### The November 25-26 Consultative Group Meeting

The cascade of events, the continuing intransigence of the Moi regime and the fact that several major donors had already frozen aid might appear to have made the outcome of the Paris

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<sup>286</sup> Jane Perlez, "Citing Corruption by Kenya Officials, Western Nations are Canceling Aid", *New York Times*, Oct.21, 1991.

donors' meeting almost a forgone conclusion and to make their decision on aid even appear somewhat mild under the circumstances. However, such an interpretation would ignore some key factors in the politics of the Consultative Group and the tenuous donor coalition it would come to represent.

First of all, the main international financial institutions - the World Bank and the IMF - as well as other IFIs represented such as the African Development Bank, all have non-political mandates according to their charters and are therefore presumably restricted from taking actions on the basis of reasons other than those falling within their technical economic mandate. These institutions could not publicly endorse an aid freeze purely in response to human rights abuses, concerns for democratization or even, at the time, corruption viewed as a criminal matter rather than a technical accounting problem.<sup>287</sup> Kenya's structural adjustment compliance issues and the new emphasis on good governance provided an alternative basis for taking some kind of disciplinary action towards the Moi regime, but such actions were not common ones for IFI policy which typically tended toward prolonged negotiations rather than public confrontation or airing of complaints. An aid freeze in particular was not the tool of first choice for the IFIs because a suspension of quick-disbursing program aid in Kenya's case would clearly exacerbate in the short-term several of the problems the IFIs sought to address through structural adjustment and program aid such as accounts deficits, and, given the aid's importance for debt service, would also likely result in a default and the accumulation of debt arrears.

Second, while all donors might be said to have an interest in political stability and normalization in Kenya in the face of the political conflict that had increasingly disrupted business as usual over the course of the year, the interests of different bilateral donors in democratization and human rights per se varied considerably from those with an apparently strong interest such as the United States and the Nordic countries to those with little interest at the time such as Japan. The U.K. had made policy pronouncements about the importance of democratization and human rights

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<sup>287</sup> The IFIs' position on the nature and problem of corruption has evolved since 1991 as will become evident below in discussing policies towards Kenya in the run-up to the 1997 elections.

and promising a broad policy of allocational conditionality, but in the case of Kenya had considerable investments and consequently a strong interest in stability as well. France is noteworthy in that its espoused commitment to democratization in Africa dating from the 1990 La Baule Franco-African Summit was to be very selectively implemented in francophone Africa and appeared to carry little import for relations with anglophone countries such as Kenya. France's policy towards Kenya in 1991 was centered on economic interests and particularly the considerable loans (1.68 billion francs) it had provided to Kenya to fund the use of French companies as contractors for the Turkwell Gorge hydroelectric project, a contract that energy minister Nicholas Biwott had been central in awarding without any documented proper tender process.<sup>288</sup> However, even those donors that had not made public commitments to the importance of democracy for their aid policies, and therefore to some version of conditionality, faced a level of normative constraint in not wanting to appear to somehow oppose or completely ignore these norms: none could advocate or be seen as tacitly supporting repression as a solution to instability, nor was it very credible to advocate the continuation of a business as usual approach to structural adjustment under the current conditions in Kenya.

While the Consultative Group Meetings are not public nor are their records in the public domain, many aspects of the meeting have been disclosed to the media and in interviews. The Nordic countries joined in making a proposal for essentially punitive aid conditionality involving the suspension (or, technically, the failure to make the commitment that existing aid policies had till then always supported) of a significant proportion of total aid for the coming year, but general support or acquiescence from bigger and more powerful players - the U.S., the U.K., the E.C. and the World Bank/IBRD had been secured in advance. As noted above, the latter three parties were seen as historically the most hesitant to engage in this type of action either in general (E.C., IBRD) or in the case of Kenya in particular (U.K.).

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<sup>288</sup> See Kivutha Kibwana, et al., eds., *The Anatomy of Corruption in Kenya* (Nairobi: CLARION/Claripress, 1996): pp. 104-5.

The outcome of the meeting was not predetermined, however, in that specific donor actions on the commitment or withholding of aid presumably depended in part on the Kenyan government's statements and positions presented to the meeting: KANU can only have been well aware of the growing tide of bilateral aid cuts and conditional suspensions, the public calls on the part of several donors for improved human rights, for an end to repression and corruption, for political dialogue and reform and for improved compliance on structural adjustment. Furthermore, the World Bank as chair of the Consultative Group meetings usually undertakes an advance consultation process with all the parties to try to insure a smooth and productive meeting, and works directly with the aid recipient country government and the IMF to compile the economic report which typically opens the meeting and sets the parameters for aid need forecasts and for subsequent donor commitments.<sup>289</sup> It is therefore highly implausible that the government of Kenya, despite its past ability to avoid full Structural Adjustment Program (SAP) compliance and otherwise set its own terms with donors, was unaware of the high likelihood of some form of strict conditionality proposal, even one entailing some type of aid freeze.

Certain problems in the politics of the donor coalition did have to be overcome first, however, before any consensus on a conditionality policy could be achieved. The French were represented at the Paris meeting primarily by officials from the Treasury department who appeared to be essentially 'unbriefed' on ideas for an aid freeze and who opposed it as contrary to their interest in Kenya's servicing its loan debt to France. This opposition posed a special challenge due to the apparent commitment of the members of the European Community present to having a common policy under which French opposition could have constituted an effective veto. This threat was circumvented, however, by adroit bureaucratic maneuver that used that same commitment against the representatives of the Treasury: they were informed that a common policy in favor of conditionality had already been cleared through established consultative procedures in Brussels and

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<sup>289</sup> See World Bank Operational "Manual" section on CG meetings: Operational Directive (OD) 14.30: formerly available online at <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nsf/>. See also John Eriksson & Caroline McEuen, eds., *The drive to partnership, aid coordination, and the World Bank* (Washington: World Bank, 2001.)

thus already agreed to by the French government. Whether the opening for such a maneuver was due to a deliberate effort to exploit divisions within the French foreign policy establishment and to thus outflank the Treasury's opposition (presumably with the collusion of more supportive elements of the French delegation to the EU in Brussels) or was simply a product of miscommunication within that establishment on an issue that was not particularly high-profile is not clear, but the effective result was the same. France was later identified by some analysts as not being party to the CG meeting agreement on conditionality, but in any case it did not publicly oppose or otherwise advertise its opposition. Other donors uninterested in democratization such as Japan appear to have acquiesced to a conditionality policy both out of deference to the donors for whom it was a public priority and so as not to appear publicly as isolated supporters of a controversial and repressive authoritarian regime.

The final decision of the Consultative Group meeting "suspended" some \$350 million in quick-disbursing program aid to the Government of Kenya pending "the early implementation of political reform," including "greater pluralism, the importance of the rule of law and respect for human rights, notably basic freedoms of expression and assembly, and ... firm action to deal with issues of corruption."<sup>290</sup> The \$350 million represented over a third of the approximately \$900 million in commitments that the donors envisioned with the unaffected remainder consisting of development and other project aid. The program aid was clearly the portion of aid that the government benefited from most directly in terms of its ongoing operations because it was essentially cash to cover various government account deficits. It was arguably also the portion of aid the suspension of which least affected donor aid agencies and their ongoing projects. The parties announced that they would reconsider their decision in six months based on Kenya's progress on meeting the specified conditions.

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<sup>290</sup> World Bank, Press Release of the Meeting of the Consultative Group for Kenya (Paris, November 26, 1991.)

## The Kenyan Response to Conditionality

On November 25th, the day the Paris conference began, President Daniel Arap Moi was quoted as insisting he would reject international pressure for democratic reforms even if it meant a loss of foreign aid, while his finance minister in Paris offered the possibility of change within a few years.<sup>291</sup> The next day at the Paris conference, after the 12 governments and 6 international financial agencies present agreed to forego the normal commitments of program aid to Kenya for six months to await "clear progress in implementing economic and social reforms", George Saitoti, the Vice-President and Finance Minister, claimed that he was satisfied that Western donors "are not walking away from Kenya" and that the government "was not opposed to transformation to a multi-party system."<sup>292</sup> On December 2nd, barely a week after the new aid freeze, Moi announced a proposal to lift the ban on political parties other than KANU by repealing section 2a of the Kenyan Constitution, the section Moi had added in 1982 making Kenya a de jure one-party state, and this move was duly ratified by a KANU conference the next day and by the Parliament a week later, thus appearing to yield to the international pressure Moi had vowed to resist.<sup>293</sup> The course was then set for multi-party elections by early 1993 at the latest according to the existing parliamentary time-table.

## Analysis

While December, 1991, immediately after the legalization of opposition parties, is obviously too early to offer any full assessment of the impact of the donors' conditionality policy, the fact that

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<sup>291</sup> "Kenyan President Indicates Rejection of Call for Reform," *New York Times*, Nov. 26, 1991: p.6. See also "Kenya's Reforms, Policies, Plans and Outcomes", document presented to the November 25-26 Consultative Group Meeting by the Government of Kenya (GOK), especially the section "Constitutional and Political Developments Since Independence," pp. 39-42: the GOK presented an interpretation of Kenyan history and an argument to the effect that it had always been constitutional, democratic, pluralistic, and committed to good governance and human rights. It stated, "Kenya ... is not opposed to multi-partyism. Just as we have reviewed policies from time to time in accordance with the people's wishes, so Kenya will adopt multi-partyism when the people wish. The introduction of multi-partyism has to be done carefully and managed in a manner which will not undermine the peace and stability which Kenya has enjoyed and which has enabled Kenya to make progress in all fields. This is a matter which is under constant review." (p. 42) It seems fair to say that the donors did not find this argument to be credible.

<sup>292</sup> "Moi Orders Arrest of Right-hand Man in Murder Probe", *Financial Times*, Nov. 27, p.4; "Aid Donors Insist on Kenya Reforms," *New York Times*, Nov. 27, p.1.

<sup>293</sup> "Kenyan Yielding on Multiparty Politics," *New York Times*, December 3, 1991, p.3.

it appeared to have an immediate and potentially profound success in liberalizing the Kenyan political arena with respect to parties is surely worthy of analysis. Taking the donors motivations at face value for the moment despite the division between the "non-political" multilateral donors, the more political bilateral donors and those less political bilaterals who were essentially taken along for the ride, a number of important questions arise regarding the response of the KANU regime: first, were they taken by surprise by the donors' actions? and second, if not, why did they resist donor demands up until the CG meeting only to capitulate immediately afterwards? More specifically, it is reasonable to imagine if they did anticipate likely donor actions that by embracing multipartyism before the CG meeting and adopting a generally conciliatory attitude to donor concerns expressed at the meeting, the KANU regime could probably have headed off the imposition of aid sanctions.

Regarding the first question, as argued above, it is implausible to assume that the Kenyan government was taken by surprise by the proposal for punitive conditionality at the CG meeting, although it is perhaps plausible that they held out some hope of being able to deflect it through their own diplomatic efforts or that a lack of donor consensus would limit or prevent the relatively strong form of multilateral conditionality that emerged. Therefore, regarding the second question, one could infer that KANU chose to gamble that it could prevent conditionality at the CG meeting at a lower cost politically rather than capitulate in advance in a different, more costly, but perhaps more probable gamble to prevent conditionality before the meeting.

Given the actual rhetoric of President Moi vowing resistance to international interference up until the day of the meeting, however, a stronger hypothesis is that Moi and KANU were attempting to garner a degree of nationalist backlash against the imposition of conditionality and therefore of nationalist legitimacy for themselves as defenders of Kenya's sovereignty and to portray their capitulation to pressures for multipartyism as being solely to external pressure rather than to any real, independent and home-grown opposition. This view is supported by KANU's general rhetorical strategy of painting the Kenyan opposition as "agents of foreign paymasters and neo-colonialists" seeking to impose alien and inappropriate ideologies on a KANU-led country that has remained faithful to the one-party tradition of Kenyatta and the original nationalist movement (a

distinctly inaccurate reading of the ideological struggles that surrounded Kenyan independence and the conflict between Kenyatta's KANU and Moi's party at the time, KADU, but one which nevertheless had become the official mythology.) In this view, KANU actually preferred to have conditionality imposed as a clear external pressure that it could blame for its reluctant and unavoidable change of heart. By capitulating immediately on multi-partyism, with a speed that in fact surprised many analysts and possibly many of the donors, given the fact that the official demands of the CG meeting were not completely explicit on the issue of multipartyism and instead referred to 'political reform', 'greater pluralism' and rights of expression and assembly, KANU may have still held out the hope that swift and seemingly robust compliance with these political demands could result in a reversal of the aid freeze. If this was in fact KANU's calculation or interest maximizing gamble, it proved to be wrong as program aid was not to be restored for a full two years. That quick restoration was unlikely was apparently made clear at the CG meeting by the U.K. delegate who explicitly raised the issue that legalization of parties and holding multiparty elections would not automatically be sufficient to restore aid.<sup>294</sup>

Turning to a more theoretical consideration of the donor conditionality policy and its immediate result in the legalization of opposition parties, the policy should clearly be considered a reactive and punitive form of conditionality in that its announcement and the imposition of aid sanctions were simultaneous: while individual bilateral donors and even the group of Nordic countries had declared conditionality policies for Kenya and the previous 1990 CG meeting had issued very general statements regarding the donors collective desire to see good governance and "early implementation of political reform to reinforce the benefits of economic structural change"<sup>295</sup>, no explicit collective conditionality policy had been previously articulated. Kenya was

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<sup>294</sup> See David Gillies, "Human Rights, Democracy and Good Governance: Stretching the World Bank's Policy Frontiers", pp. 101-141 in *The World Bank: Lending on a Global Scale*, Jo Marie Griesgraber and Bernhard G. Gunter, eds. (London/Chicago: Pluto Press/Center of Concern, 1996): p. 140, fn. 74.

<sup>295</sup> World Bank, Press Release of the Meeting of the Consultative Group for Kenya (Paris, November 26, 1990) cited in Gillies, *op.cit.*, p. 125.

in fact the first test case for a multilateral conditionality policy aimed at pressuring an authoritarian regime toward democratization.

It is clear given the quick response of the KANU regime that the mechanism for conditionality's impact was in the form of a signalling effect that changed the regime's calculations of interest and strategy, rather than an immediate and direct economic effect: the response was simply too quick to be attributable to a mechanism other than the regime's perceptions. The potential economic effect was probably quite clear to the regime and likely to emerge fairly quickly, however, thus arguably blurring the conceptual distinction. Furthermore, while the policy produced an immediate positive effect in the form of partial compliance, it also stayed in effect more than long enough for its economic impact to be felt and any compliance or other effect of that impact should be assessed at a later point in the timeline.

In terms of factors affecting the success of the policy, and starting with the independent variable or the policy itself, the sanctioning coalition was obviously almost as broad as possible in officially encompassing the entire set of current aid donors (the partial French exception having been noted) and given that no obvious alternative sources of external aid existed. The cohesiveness of the coalition and its conditionality policy is open to some questions that have already been addressed in terms of the diversity of orientations of different donors to the objective of democratization: a key factor here not explicitly anticipated in the theory is that other foreign policy objectives, rather than competing and undermining the cohesion of a conditionality policy, can actually converge and support a broader policy coalition than would otherwise be possible. In this case, structural adjustment, corruption and stabilization concerns all arguably supported a conditionality policy, and, as will become apparent, were in fact just as integral to the intent of the coalition. The supportive role of international organizations in the form of the Consultative Group itself and of the European Community and of norms on human rights, democracy and economic governance in constraining individual donors and promoting coalition cohesion are also in evidence, but are not entirely unambiguous (i.e. EC norms could have assisted a French veto, and France was not fully constrained by the broader norms.) The immediacy of the Kenyan response indicates a

basic level of policy credibility (which is arguably also enhanced by the novelty or precedent setting-nature of the policy), but further degrees of credibility, intensity of commitment and consistency as seen in policy implementation require the test of time and will be assessed below.

Factors in evidence promoting policy success that are related to the target regime include the increasing dependence of the regime on aid for recurrent expenses and covering fiscal deficits, the related dependence of the economy as a whole on external flows including aid, and the serious pressures on the KANU state both in terms of patrimonial distribution and population pressures, all noted above. It has also been argued that the Moi regime's strategy vis a vis the timing of partial compliance with donor demands may relate to an objective of enhancing its nationalist legitimacy vs. that of the domestic opposition it faces rather than in order to resist the multiparty element of donor demands: whether this will prove successful will be addressed later in the timeline.

Characteristics of the democratic opposition had an arguably ambiguous effect at this point in the attempted democratic transition: the relative unity and significant mobilization of the opposition clearly put real pressure on the KANU regime, provoked a repressive reaction and put democratization in Kenya on the international agenda as more than a normative ideal, but had the opposition been more divided (as it soon would be) KANU might have been even more likely to comply with donor demands (which, it should be remembered, were also domestic opposition demands.)

Theoretical questions derived from the exporting democracy debate are generally related to cumulative assessments of policy impact and are thus premature at this point. One issue can be noted, however, regarding the possible naivete of the prodemocratic conditionality policy and the adequacy of local knowledge regarding the Kenyan case: the CG's conditionality policy as reflected in the official press release was quite vague and non-specific or generic in its reform demands and thus did not reflect any real tailoring to the specifics of the targeted political situation. While more specific conceptions of demands and the requirements for compliance were said to have been conveyed through conventional diplomatic channels, it is unlikely they carried the full credibility of

a consensus position among the donors and may arguably have resulted in mixed signals and a lack of cohesiveness in the policy, especially given the World Bank's ongoing role as both a major interpreter of the CG position but also a "non-political" donor. Whether this lack of specificity would result in lack of policy success or in perverse effects will be examined below. That the partial compliance in legalizing opposition parties constituted a meaningful albeit limited step in political liberalization is difficult to dispute.

The 1990-1 period displays the consequences of the changes in the basis of the KANU regime and in the domestic and international context it confronted that started in the 1988-89 period and were noted above. KANU's domestic base continued to confront economic challenges and increasingly powerful political challenges from a more mobilized domestic opposition. Furthermore the changes in the international context and in donor attitudes had now matured into a policy of intervention in the internal politics of Kenya via aid conditionality, a policy which tipped the balance of power at least enough to buy the domestic opposition an acknowledgement from KANU of its right to exist. Conditionality thus clearly advanced the process of political liberalization. The question remains whether that process may well have occurred eventually without outside intervention: many analysts concluded that continued repression would not be a viable policy for much longer, but given KANU's subsequent repressive behavior from 1992 to 1998 that conclusion is not strongly supported.

The apparent success of the conditionality policy also illustrates its potential effectiveness in targeting democratization bottlenecks, i.e. simple, one-time reforms such the legalization of other parties by a straightforward amendment to the constitution by parliament, but gives no indication of its effect in provoking more thorough-going institutional reform, actual changes in government or changes in political culture. Given the lack of movement by KANU on other political reforms and its continuing power, however, one can conclude that, regarding Kenya's potential transition to democracy, as of December, 1991, the real test was clearly still to come in the form of the elections the Constitution stipulated as needing to be held by March of 1993. The elections were now promised to include opposition parties and presumably to be free and fair, but beyond these

promises, little was definite. The run-up to the elections would determine whether Kenya was on a path to real democratization or on one to a managed or coopted "transition" to "democracy" at best, with KANU firmly in control of both the political process and outcome, or whether the electoral process would break down into repression, an aborted transition, and possibly even civil war.

### *5. The Run-up to the December, 1992 Elections*

The second period - the one year run-up to the elections of December 26th, 1992 - was marked by the continued use of the still quite authoritarian state by KANU to obstruct the efforts of the now legalized opposition, by the instigation of ethnic violence and ethnic cleansing by KANU hardliners in the Rift Valley with the obvious collusion of the state in order to both fulfill Moi's prophecy that multipartyism would lead to ethnic conflict and instability and to eliminate any electoral threat to KANU's power base in that region, and by the splintering of the previously united opposition coalition, in part along ethnic lines, into three main opposition parties that would ultimately hand the election to Moi despite his unpopularity with the majority of the electorate. The donor community, having already exercised its most obvious leverage, was in many respects now reduced to keeping that pressure on - the six-month reconsideration of the aid freeze was stretched on to some point after the election-, to offering some assistance in conducting the election, to funding the participation of Kenyan civil society in monitoring the vote, and to providing relief for those displaced by the ethnic killings and violence in the Rift Valley.

Moi's playing of the instability and ethnic violence card, coming at a time when neighboring Somalia had descended into anarchy, proved quite effective in provoking hesitation and division in the donor community, and while it evoked strong condemnation, it did not lead to any substantive escalation of sanctions or pressure on the KANU government presumably out of fear that pressure would in turn cause further escalation of violence. The economy continued to suffer from no growth, serious foreign exchange shortages and high inflation as the government inflated the money

supply tremendously presumably to make up for lost aid, but in what the opposition viewed as an obvious move to dispense pre-election largesse and engage in large-scale vote-buying. The donor community thus watched a key macroeconomic element of its adjustment agenda - and a previously successful one - fall victim to what was arguably a predictable response to its democratization agenda.

Moi did attempt a seemingly conciliatory yet unilateral effort at constitutional reform, apparently involving term limits for the President and a veto and override provision for the legislature plus some gestures in the direction of the 1963 constitution, but this was rejected by the opposition because of its unilateral lack of consultation. The opposition for its part attempted to call a meeting of all political parties including KANU on May 11 to address the increasing crisis, but only the opposition parties attended.

#### The Election

Despite its divisions the opposition did manage to maintain some consensus in condemning the key obstacles that the KANU regime put in the way of a free and fair electoral contest. This led to a joint position of boycotting voter registration and threatening to boycott the elections unless the Electoral Commission was reconstituted from a KANU bastion into a body representing all parties, and unless key pieces of authoritarian legislation - such as the Public Order Act, political party and organizational registration laws, access to the largely state-controlled broadcast media - laws that the regime was still using to harass and limit the opposition, were repealed. However, the donor diplomatic community and the Kenyan churches worked to diffuse the crisis this posed for the elections and convinced the opposition to end its boycott in July 1992.

While Moi and KANU used the bureaucratic, legal and police apparatus of the state to harass and obstruct the opposition throughout 1992 and to limit voter registration, they were either smart enough or confident enough not to engage in wholesale fraud at the polls on election day in December. While many problems with the electoral process existed, it was difficult to conclude definitively that they were the result of systematic fraud on election day rather than incompetence

and poor organization. International monitoring and observer missions, conscious also of the risk of conflict and violence over the election results, therefore judged the elections to be relatively free and fair. But few argued that the political and electoral playing field was "level". Moi won with only 36.4% of the Presidential vote versus 26.2% for Kenneth Matiba, his nearest rival, and KANU took 100 of the 188 parliamentary seats. If any two of the three major opposition candidates/parties had united and pooled their votes, they would have won. Immediately after the election, the candidates of the three parties held a joint press conference to reject the results and call for the elections to be re-run. The donor diplomatic community in Nairobi and the Kenyan churches, which had earlier urged (or pressured) the opposition to go through with the election and not to boycott even though most of the constitutional reforms they had been demanding from the outset as prerequisites to fair elections and real democratic reform of the state had not been enacted, now urged them to accept the election results and take their seats in the new parliament. U.S. Ambassador Smith Hempstone was quoted as saying, "I can only sympathize with them as it is too late to unite."<sup>296</sup>

### Analysis

Whereas the previous period of 1988-91 and especially the latter part of it from 1990-91 presented a picture of change that enabled the donors to adopt a policy of political conditionality and aid suspension that was followed by immediate partial compliance by Kenya's KANU regime, the 1992 run-up to the country's first multiparty elections since independence was marked by KANU intransigence and repression, by divisions in the opposition, by some changes in the international context and by donor patience and deployment of some companion policies, but also hesitation in the face of the government's resistance to further liberalization and democratic reform. The result was fairly ambiguous or mixed in terms of compliance and democratization: the KANU regime was arguably minimally compliant in following through with elections that were minimally

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<sup>296</sup> Quoted in *The Standard*, Jan.2.

or marginally compliant as well in terms of free and fair procedure on the day of the elections, but the regime declined to pursue any real institutional, legal or cultural reform. Despite all this resistance, Moi might still have lost the elections if only the opposition had not fragmented into three major parties, any two of which could have won the election if united. This highlights the inescapable importance of the domestic opposition variable which is outside the purview of a punitive conditionality policy narrowly defined and raises the question whether donors in fact had adequate local knowledge and whether their efforts were properly focused on the key variables or those variables were beyond the scope of donor policies.<sup>297</sup>

KANU resistance took several forms. Continued repression and harassment of the now legal opposition begged the question of how meaningful such legalization was given the absence of the rule of law under the Moi regime. The ethnic cleansing campaign, while actually begun in the fall of 1991 before conditionality was imposed, nevertheless grew and represented a counter-escalation or new form of counter-leverage the regime deployed against the ethnic base of the domestic opposition and therefore indirectly against donor interests as well. The inflation of the money supply represented a temporarily successful form of internal adaptation to aid sanctions in which the alternative resource of internal extraction was increased through the "inflation tax" which spread the cost of the aid freeze in part from the state to society as a whole, but which could not address the foreign exchange shortage caused by the freeze. These moves appear to have succeeded in halting the erosion of the KANU power base during this period, while the fragmentation of the opposition parties and the ethnic cleansing campaign both undermined the power base of the opposition.

The donors exhibited patience and commitment in continuing the aid freeze beyond the six month review period initially specified. Several bilateral donors also exhibited concern for policy coherence and began to deploy companion policies to provide political aid to civil society organizations and efforts to support the upcoming elections through voter education, developing

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<sup>297</sup> If the donors and the churches had enough clout with the opposition to convince them first not to boycott the election and then to accept the results, couldn't they have used that influence to convince them to stay united?

independent election monitoring capacity and to build non-partisan elements of the democratic opposition, all of which were already fairly standard prodemocratic practices for which specialized donor country and international NGOs existed to whom implementation could be delegated.<sup>298</sup>

On the other hand, donors failed to tailor a strategy to the specific circumstances and obstacles to democratization in Kenya in 1992: specifically they failed to devise an adequate response to the KANU escalation of ethnic cleansing, and, despite their ability to convince the opposition parties to first forego a boycott of the election and then to accept their loss in a significantly flawed electoral process, they failed to convince the opposition party leadership to maintain the basic unity needed to defeat Moi at the polls. Response to the ethnic cleansing violence suffered from the fact that unlike the Saba Saba repression that occurred in Nairobi where donor presence and general transnational penetration was high, the violence in the Rift Valley was more remote, less accessible and involved rural people less tied into networks of transnational links. (This arguably colored the response of the domestic opposition as well.)

In retrospect, the pressure on the opposition to go through with the election despite the lack of legal and constitutional reform and in the face of severe harassment by the KANU state was arguably a mistake: if donors had a more specific and explicit set of demands that included full legal and constitutional reform from the outset, if they had stood with the opposition on the basis of those conditions (and thus perhaps both gained better influence among the leadership and kept it better focused on the reform agenda), and if they had been willing and able to escalate sanctions and pressure on Moi in some in response to the ethnic cleansing campaign, they could have denied Moi the option of winning the election and gaining the legitimation it unavoidably conferred while hardly advancing the democratization process much beyond its state of pre-election liberalization. Without reforms that would have mandated a run-off and a majority victory, Moi won an election with an extremely small plurality: almost two thirds of the voters voted against him.

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<sup>298</sup> U.S.-based NGOs that were examples of such organizations that could be delegated implementation include: the National Democratic Institute, the International Republican Institute, and the International Foundation for Electoral Systems, among others.

In the donors' defense, there are quite a few 'ifs' in the argument above, and it is relatively easy to blame the entire lack of progress on the opposition's lack of unity. Hempstone's comments are apt in this respect:

The opposition leaders failed particularly at the level of personal ambition for the Presidency. If they had been united, backing one candidate, one of them would be in the State House today.... This was a terribly high price the country had to pay for the lack of consensus and concessions among the opposition leaders.<sup>299</sup>

At first glance, most of the supportive variables identified in the previous analytic section remained relatively constant through 1992, but the leaked memos on U.K. and E.C. expectations revealed both grave doubts about the Kenyan opposition and, in the words of a proverb oft cited with respect to donor politics in Africa, a preference for "the devil you know, rather than the devil you don't know" and for an outcome that appeared to maintain stability through the continuity of KANU rule. Finally, a change in the international context in the form of state disintegration and clan warfare in neighboring Somalia both raised sensitivity to the issue of political stability and the danger of civil war in Kenya and also brought a flood of some 750,000 refugees into Kenya. Together with a drought, this gave the KANU regime a legitimate basis for appeals to the donors for increased humanitarian aid and for a certain amount of toleration of conditionality slippage and for a less than perfect electoral competition.

The combined failure of the opposition and the donors to further challenge the KANU power base in 1992 resulted in a coopted or partial transition: Moi was arguably held to his compliance with holding a multi-party election, although once the opposition was divided this served his interest in legitimating another five years of KANU rule. Democratization was nevertheless arguably advanced in a marginal sense in that the opposition parties now sat in Parliament and beyond being legal now had an institutional role in the state. But given the ongoing harassment of the opposition, the lack of much movement toward a democratic political culture and their relative powerlessness in Parliament, this was a marginal gain. Considerable liberalization of

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<sup>299</sup> *Sunday Nation*, February 28, 1993, p. 10, cited in B.A. Ogot "Transition From Single-Party to Multi-party System, 1989-1994" , ch. 9 in *Decolonization and Independence in Kenya, 1940-1993*, B.A. Ogot and W.R. Ochieng', eds. (Athens, OH: Ohio University Press, 1995)

the media and of public discourse and some aspects of political culture did occur over the 1991-92 period, but these would be challenged by KANU in the post-election period. Fortunately for the cause of democratization, the underlying economic problems of the Kenyan state would ultimately further undermine the KANU power base and provide new openings for international intervention in the medium term, but only after they first seemed to displace the democratization agenda in the short-term, post-election period.

#### ***6. The Aftermath of the Elections: 1993-1994***

The third period from the 1992 elections through at least 1994 constitutes the triumph and partial redemption of Moi in terms of the donor community as he was able to essentially re-divide the dual agenda of the donors and to buy himself considerable leeway in terms of political pressures and conditionality by recommitting the regime (after some major protest in March 1993 that appeared to test the conditions for post-election bargaining with the donors or may have been simply for domestic symbolic consumption) to more extensive structural adjustment than he had been willing to accept in the 1980s. Moi appointed a new Finance minister, Musalia Mudavadi, and a new Chairman of the Central Bank, Micah Cheserem, who proceeded to implement serious liberalization of foreign exchange transactions, abolition of import licensing and a much abused export incentive compensation scheme and to exert monetary control that began to effectively bring down the severe inflation that had resulted from the regime's monetary indiscretions in the run-up to the election. They later moved on to decontrol maize markets (something the IFIs had been pressuring for over a long period), and perhaps most importantly for the IFIs, to begin to follow through on plans for civil service retrenchment.

Despite the ongoing process of formal and informal Consultative Group meetings and local coordination efforts among embassies and missions in Nairobi, the cohesion of the donor coalition essentially frayed as some renewed aid (notably the World Bank and Japan announced the release of previously frozen aid tranches in April and July respectively totaling some \$160 million in

quick-disbursing aid) before a collective decision to do so in November, 1993, and as different parties assigned differing weights to the elements of the dual liberalization agenda. The November Consultative Group meeting, the first since the partial aid suspension of 1991, did produce new aid commitments of up to \$850 million including some \$170 million in quick-disbursing/balance of payments aid, but with caveats attached over continuing progress on economic reform, governance, human rights and corruption. The "ethnic clashes" were highlighted as a special concern, but it is not clear that any specific conditions were attached because none were subsequently enforced. The Moi regime did subsequently appear to promise cooperation with the UNDP on assistance to the internally displaced and to tacitly admit in the process that the agency's estimates of 1,000 killed and 250,000 displaced were more accurate than its own claims of only 365 killed and 7,113 displaced. The CG meeting commitments were followed in the next two months by a new IMF Extended Structural Adjustment Facility (ESAF) loan of \$63 million and by a quite favorable Paris Club rescheduling (Kenya's first) of the debt arrears that had been accumulating to \$700m since the 1991 aid freeze. The new economic policies, favorable external conditions and the resumption of aid succeeded in restoring GDP growth of 3% in 1994 after three years of stagnation, followed by growth of 4.9% in 1995.

Among the bilateral donors, in March, 1994, Norway re-established diplomatic relations that had been severed in 1990. Sweden and Germany stood out as public critics of the Moi regime with the latter's ambassador, Bernd Mutzelburg, taking the place for many observers of the U.S.'s Smith Hempstone, who departed at the beginning of 1993, as leading critic in the diplomatic community. The country director of the Friedrich Naumann Foundation, one of the German political party foundations which had been quite active in funding opposition and civil society groups, was expelled by the Kenyan government in June in what many viewed as a warning or retaliation for Mutzelburg's outspokenness.

Donors met with the Government of Kenya again on July 20th, 1994, a mere eight months after the last formal CG meeting for what was described as a mid-term review, and presented a mixed set of assessments on the country's progress. On the economic agenda, donors

acknowledged real progress but also expressed concern over the slow pace of parastatal reform and privatization and over corruption and the independence of the auditor-general. On the political agenda, some bilateral donors made strong statements on the continuing ethnic violence and harassment of the opposition. A formal CG meeting in December continued these trends, emphasizing civil service and parastatal reform but taking no action in relation to the continued ethnic violence: \$800 million was pledged for the coming year including \$220 million in quick-disbursing aid.

In August of 1993, 18 opposition MPs called for UN intervention in the form of peacekeepers to end the violence and ethnic cleansing in the Rift Valley (the irony here is that Kenya has been a contributor of troops to such peacekeeping efforts in the past). KANU hawks in the Kalenjin, Maasai and Kamba communities continued their anti-Kikuyu and other ethnic rhetoric that fed the continuing ethnic violence and reflected the ongoing nature of the majimbo coalition. Following the Rift Valley pattern, ethnic violence incited by local KANU politicians against ethnic immigrants from other provinces over the issue of land appeared in the Coast Province for the first time in May of 1994: more such violence would erupt there and prove to be a key element in the crisis context of the run-up to the elections in 1997.

In its relations with the newly elected opposition, KANU behaved much as before, as if its prerogatives under the one-party state had not been affected and the opposition was still an illegitimate annoyance. The new parliamentary opposition seemed to lack strong leadership or much of a notion of how to use their new, but minority position effectively. Harking back to the demise of multi-party politics after independence, KANU succeeded in wooing several opposition MPs to defect and cross the aisle to join (or rejoin, in many cases) KANU, but under the current constitution this now precipitated by-elections in which the opposition was often successful in holding its seats. KANU ministers repeatedly stated that opposition MPs' districts would get no development funding, no piece of the "national cake", unless they defected to KANU.

The first defections of opposition MPs meant that opposition leadership in parliament passed from Matiba and Ford-Asili to Odinga and Ford-Kenya in June, and Odinga adopted a

more conciliatory approach towards KANU than many opposition MPs, many of whom still publicly maintained that the '92 elections were illegitimate, thought warranted. Odinga's vice-chair in Ford-Kenya, Paul Muite resigned his party leadership position and advocated an extra-parliamentary strategy of civil disobedience to oppose KANU and force a constitutional convention. Ford-Kenya and the entire opposition were then thrown into further confusion by the death of Odinga in January of 1994, but the rise of Kijana Wamalwa, a Luhya, to replace him as the chairman of Ford-Kenya was viewed as a sign of inter-ethnic cooperation and potential within the opposition. The opposition did announce the formation of a United National Democratic Alliance in June, but by November it appeared to have come to naught. As an indication of the degree of harassment the opposition still faced, 25 opposition MPs were arrested between January and May on a variety of charges, most of which were later dismissed.<sup>300</sup>

The divisions among the opposition political parties not only persisted, but deepened as two out of three split again into internal factions that would ultimately produce nine opposition parties and five major opposition candidates to contest the 1997 elections. As early as July, 1994, observers such as *The Economist* were already expressing doubt that the opposition could pose much of a threat to Moi in 1997, and by November, *The Economist* posed the challenge for the opposition as being preventing KANU from getting the two-thirds majority in parliament needed to amend the constitution. But this period also saw the growth of a non-party opposition, based in the human rights movement and other elements of civil society and funded to a significant degree by some of the donor community, that focused on the issue of constitutional reform as still being fundamental to true democratization and as needed prior to any valid elections. The Citizens Coalition for Constitutional Change ("the 4Cs") was founded in mid-1994, and a model constitution entitled Kenya Tuitakayo ("The Kenya We Want") was proposed in November, 1994.

In a New Year's address for 1995, Moi appeared to concede in part to opposition demands for constitutional reform (demands which were supported by most donors as well) by announcing that a constitutional review commission (albeit one likely to be dominated by KANU) would be

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<sup>300</sup> *The Weekly Review* and EIU *Kenya Country Report* 1994, no.3: p.7.

launched to revise the constitution before the 1997 elections. Also in January, Moi hinted at the possibility that he might call elections much earlier than the December, 1997 deadline. This set the stage for the next major period - the run-up to the 97 elections.

#### Analysis: the Aftermath of the 1992 election - 1993-94

As noted above, having in a sense successfully dealt with the democratic half of the donor agenda through minimal concessions and an election, one which the donors felt little choice but to accept given the alternatives of political instability and possibly civil war and the example of neighboring Somalia, the Moi regime now turned to the issue of economic reform. It did so both out of necessity given the problems of the Kenyan economy and in response to the donors' maintenance of conditionality in this area before any unfreezing of program aid.<sup>301</sup> The donors, having been generally disappointed in the results of democratization and in the opposition (although for some donors such as the U.K., the result of partial democratization and a slow transition with continuity of KANU rule was arguably the result they had hoped for), and still wary of possibly expanding ethnic conflict, now moved to adjust to the prospect of five more years of KANU rule and to rebuild a more constructive modus vivendi with Moi that could at least salvage or even advance the other portion of their agenda. The Kenyan opposition, with its various leaders' naive hopes that each could somehow pull-off an electoral miracle now dashed, faced the continuing problems of internal division and the fact that they had now spent a considerable portion of their political credibility with both the donors and the Kenyan electorate and had less to show for it than everyone but KANU and its supporters had hoped. The partial exception to both the donor change of focus toward the economic agenda, and to the problems of the Kenyan opposition, was the growth of the non-party, civil society segment of the opposition that was greatly facilitated and fueled by the political aid programs of the most prodemocratic donors.

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<sup>301</sup> That quick-disbursing donor funds did NOT return immediately after the 1992 election was due to severe concerns over the adjustment agenda, but also probably to the fact that ethnic violence continued in the Rift Valley.

Without an election to focus political attention, democratization issues moved to the back burner for donors and economic issues moved to the fore. The linkage between the two elements of the donor agenda thus weakened and the cohesion of the donor coalition weakened with it: political and human rights issues were still raised within the CG meeting process, were the subject of joint donor demarches and still determined the contours of aid policy for some bilateral donors, but they ceased to be a major determinant of collective donor policy at least for the time being. Whereas the presence of multiple donor objectives had been convergent in the 1990-92 period, the electoral cycle now made them divergent and neither the character of international institutions involved nor the international norms in question prevented that divergence. The overall credibility of political conditionality as collective donor policy in the eyes of both KANU and the Kenyan opposition and public thus suffered with the renewal of aid (but arguably no more than it had already suffered with the acceptance by the donors of the election.) While collective donor policy could thus be said to lack intensity of commitment, consistency of implementation, a skillful use of the threat of escalation or of the use of companion policies, extensive monitoring or efforts at crafting or tailoring a policy to address Kenya's obstacles to democratization, individual donors did exhibit greater commitment, provided political aid for innovative programs in civil society and reoriented their entire aid programs away from the state to significant degrees (a form of allocative conditionality) and toward NGO channels. The ability of the like-minded donors to consider any escalation of pressure was totally constrained by the lack of consensus in the wider donor group, and in fact the reorientation of aid away from the Kenyan state arguably left these donors with less direct leverage than they possessed back in 1991.

While the democratizing thrust of both the donors and the domestic opposition was dissipated after Moi's election victory, the vulnerability of the KANU regime economically also went through some changes at least in the short term that reduced the economic pressure on the regime at least somewhat. The creation of an internal public debt market through high-interest Treasury bills provided an alternative source of funding for the government, while the adaptation or natural adjustment of the internal market and the government to the shortage of foreign exchange

caused by the aid freeze actually brought several government and economy-wide accounts into balance or even surplus for the first time in years. The Moi regime also benefited from its election victory not so much in terms of real nationalist or democratic legitimacy, but more in terms of having shown its resilience in fighting off the challenge to its rule and in a sense demonstrating the apparent futility of pushing for democratic change whether internally or externally.

The international media, which had engaged in an almost frenzied coverage of Kenya during the demonstrations and repression of 1990-91 and then during the run-up to the election in 1992, largely fell back toward the status quo ante of occasional and more sensational coverage. International NGOs became more active in Kenya in administering and implementing some of the new donor political aid projects.

From a broader evaluative perspective inspired by the exporting democracy debate, a case could conceivably be made that donor intervention had backfired: that it had ended up legitimating Moi to some degree, had discredited the idea of democratization and had produced real trade-offs or perverse consequences in terms of provoking ethnic strife and setting-back the economic agenda of structural adjustment, fiscal discipline and donor-government cooperation on both Kenyan and regional issues such as Somalia. Furthermore, this could be attributed to donor naivete and a lack of sufficient local knowledge regarding the seeming inevitability of the opposition dividing along ethnic lines and falling into a "big-man" pattern of party leadership, and the nature of the transformation of Kenyan political culture needed to achieve a democratic transition. On the opposing side of the debate, perhaps the best that could be said at this point was that some real progress had been made in liberalizing Kenyan political culture and establishing the desirability of democratic norms, that the opposition had now been channeled from focusing on mounting demonstrations to figuring out how to be an effective parliamentary opposition, that despite the Rift Valley ethnic cleansing, civil war had been avoided and that the stage was set for another multiparty election in 1997 that could potentially improve upon the 1992 polls.

In terms of specifying the nature of the transition, it should be noted that political liberalization was partial and incomplete in that very different norms applied in Nairobi versus in

rural areas, especially KANU strongholds. Given the absence of any meaningful agreement between regime and opposition, there was certainly no "pact" on democratization in effect: the transition from authoritarianism to semi-democracy was clearly managed by KANU for the most part in that the regime was forced to concede very little beyond the legalization of the opposition, the liberalization of the print media (but not the more important broadcast media) and of public discourse more generally in urban and opposition areas, and the holding of elections. But, on the other hand, KANU's resistance did come with a real price tag economically, and despite the divergence of the structural adjustment agenda for the democratization agenda in the period after the election, the underlying economic problems of the patrimonial state were not to be solved or their political aspects easily avoided in that period or the next.

#### ***7. 1995-1997: Round 2 - the Run-up to the 1997 Elections.***

Throughout the post-1992 elections period KANU was able to exploit the fact that both donors and the domestic opposition parties had ultimately accepted the elections as run as being free and fair enough to be legitimate.<sup>302</sup> Pragmatically as well as legally and institutionally, this put KANU in a relatively strong position at the outset to simply refuse to consider major constitutional and electoral reforms (and to even implement changes such as the creation of additional parliamentary constituencies that actually increased its existing advantages): what had been sufficient for KANU's reelection in 1992 might be sufficient for a repeat performance in 1997.

KANU's overall strategy, not surprisingly, was to concede as little as possible politically to internal or external pressure, while for the most part implementing economic reforms that placated the donors and that even helped restore economic growth in the short-run, but at the potential cost of undermining the party's patrimonial power base over the longer term. By mid-year, Moi had clearly changed his mind on constitutional reform and stated that Parliament was fully capable of revising the Constitution if it saw fit. His KANU apostles from the Rift Valley, who came to be

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<sup>302</sup> - with the exception of Ford-Asili leader Kenneth Matiba.

known as the "KANU B" or the hawk or hardliner faction, continued to call for a "*majimbo*" or federalist constitution and to make inflammatory statements that at times did not even try to veil their support for the ongoing campaign of ethnic cleansing that was driving Kikuyu and other ethnic groups aligned to varying degrees with the opposition off of land they typically had bought and held legal title to.<sup>303</sup> In February 1995, KANU began to issue warnings about an armed movement - the February 18th Resistance Army - allegedly supported by elements of the opposition and by the government of Yoweri Museveni in neighboring Uganda: these claims, which Uganda quickly denied, were reminiscent of the alleged threat posed by the Mwakenya movement in 1986-7, but indicated both the level of rhetorical animosity and stakes between government and opposition that continued to escalate, including ominous threats of civil war, and the creation of new rationales for repression of the opposition.

The opposition to KANU continued to be divided and to divide further. The opposition political parties generally failed to exhibit cohesion, clear direction or any new tendency towards unification despite another announcement of a National Alliance in January, 1996: in fact, as noted above, they each seemed to decay into internal leadership struggles and (except for Kibaki's Democratic party) a process of splintering into two as well as being plagued by defections of MPs back to KANU. One potentially important new development was the launch in May of 1995 of a new party - Safina - led by Richard Leakey, a prominent white Kenyan conservationist who until March of that year had been director of the Kenya Wildlife Services, and by Paul Muite, the former vice-chair of Ford-Kenya, who advocated a non-ethnically based approach to opposition. The KANU government appeared to find this development threatening enough that it spent much effort in attacking Leakey as a racist and neo-colonialist and refused to register the party, even going to the lengths of putting forward legislation banning parties with names having religious connotations (Safina is the word for Noah's Ark in Swahili.)

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<sup>303</sup> By contrast to the KANU B or hardliner faction, the KANU A faction was in some respects less well defined, but generally considered to include more moderate, less "tribal", more reformist/conciliatory, technocratic and donor-/IFI-friendly or approved elements in KANU. The polarization is somewhat clearer in the 1998-2001 period, but these terms began to be used in the post-1992 period.

The populace at large seemed increasingly disillusioned with both KANU and the opposition parties and thus with the political class as a whole. Both of these factors led the non-partisan and civil society elements of the opposition to attempt to lead an alternative prodemocratic strategy that ultimately was more radical and purist than the opposition parties would support given that the latter were apparently now invested in the system that put them in Parliament. The 4Cs movement essentially attempted to follow a "national conference" approach in convening the National Constitutional Convention (NCC) in August 1995 and declaring it a sovereign representative body embracing all the political elements of Kenyan society (parties, civil society organizations, the churches) and therefore capable of making decisions about Constitutional reform. The NCC's immediate political platform was that the KANU government should resign and be replaced by an interim government of national unity which would oversee the drafting of a full revision and then a referendum vote on a new constitution before new elections would be held. The existing elections timetable as mandated under the existing constitution would therefore be scrapped. Among the key provisions proposed for a new constitution was that the President be elected with at least 50% of the popular vote (Moi had been elected in 1992 with a plurality of only 36%.) The churches made their own independent appeals for constitutional reform, most notably the mainline Protestant National Council of Churches of Kenya (NCCCK) and the Catholic Church in August, 1996, but received no more of a response from the government than the political opposition did.

Opposition parties supported this campaign initially, but as the leadership of the NCC constituted itself into an executive committee (the NCEC) with a non-partisan membership (i.e., no party leaders were included) on April 3-6, 1997, the established parties, already in their own internal leadership disputes, came to question this usurpation of their self-perceived role in leading the opposition movement for democracy, and their support became intermittent.

The opposition as a whole nevertheless managed enough cohesion to organize some major protest actions starting on May 3rd, when some 100,000 demonstrators in Nairobi ended up clashing with police resulting in at least one death. The temperature of politics in Kenya then began

to rise rapidly, and what many observers had predicted as being a being an apathetic decline shaped by opposition disarray and KANU intransigence into an inevitable Moi victory quickly became much more uncertain. The opposition parties all threatened to boycott elections unless some essential legal and constitutional reforms were enacted to repeal provisions often held over from the authoritarian colonial state that the KANU regime consistently used to harass and limit the ability of the opposition to campaign.

The principle bilateral donors, acting through the coordination among embassies and missions in Nairobi in the Donor Democratic Development Group and the higher level heads of missions monthly meetings, also supported most of these demands in joint demarches to the government and a direct meeting with Moi, Saitoti and other ministers on July 1st. The government's response was primarily one of intransigence, but this was to change only a few weeks later.

Protest and pressure hit a new peak with demonstrations on Saba Saba (7/7) again, followed by actions on August 8th (8/8) and announced plans for escalating general strikes to shut down the country and force the issue of constitutional reform before any new elections. The Saba Saba rally, which was met with severe government repression resulting in at least 10 deaths, received major international media coverage, particularly with television footage of security forces breaking up an opposition prayer meeting All Saints' Cathedral with tear gas and truncheons.

In practice, however, these protests were only sizable in Nairobi and a few other opposition strongholds (Kikuyu areas of Central Province) and only when they were backed by prominent and wealthy politicians like Kenneth Matiba who could mobilize ethnic and clientelist networks (possibly through the dispensation of cash): when Matiba became disenchanted with the NCEC approach and the latter were left to their own resources (i.e. on August 8th), the protest mobilizations were relatively weak and despite heavy media attention, cannot have posed a real threat to the government.<sup>304</sup>

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<sup>304</sup> Matiba, the second largest vote-getter in the 1992 elections, seemed increasingly erratic and ineffectual as a leader: of all the party leaders, he alone had refused to recognize the 1992 results and refused to take his seat in Parliament (never attended), and in the run-up to the next elections, he refused to register to vote in protest over the

Nevertheless, despite a lack of cohesion among the elements of the opposition, the protests, the other efforts of the NCC to push the constitutional issue, support from the churches and the calls of the opposition parties for electoral and constitutional reform all produced an environment of political crisis by July, 1997. The KANU government then responded with some initial gestures towards reform in mid-July including announcing that licenses for public meetings would henceforth be granted except under exceptional circumstances that would be explained, and that a KANU constitutional commission to reevaluate the laws the opposition found objectionable would be formed. The government also began the process of drawing some elements of the opposition into dialogue by inviting Michael Kijana Wamalwa, the chair of Ford-Kenya, to a meeting with President Moi. This was immediately condemned and Wamalwa censured by 32 opposition MPs, but was an initial indication of the imminent division of the opposition into two broad camps along already established tendencies: those willing to negotiate and compromise with KANU versus those unwilling to do so. (A July 6th NCEC rally in Mombassa was allowed to proceed by the KANU government.)

The August 8th demonstration in Nairobi called by the NCEC was much smaller than expected and, despite a lack of repression by the security forces, was marred by several deaths including the killing of two undercover policemen by elements of the crowd: even though this violence was not organized, this tarnished the NCEC's moral reputation and contributed to divisions within the opposition.

Two additional but already familiar elements were then added to this volatile mix: aid suspensions with an implicit, yet obvious element of political conditionality by some major donors starting with the IMF decision to suspend its ESAF program on July 30th, and renewed ethnic violence instigated by KANU leaders at the local if not national level, this time in the Coast Province

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registration and electoral system, thus disqualifying himself from running for office in 1997. (He essentially abandoned his party, Ford-Asili, in terms of leadership, which then fell to his more pragmatic vice-chairman Martin Shikuku, and then when Matiba eventually chose to reassert his role, the split into two factions led by himself and Shikuku.)

in and around Mombasa, the heart of Kenya's coastal tourism industry, starting on August 13th and continuing into September.

#### The Structural Adjustment Agenda, 1995-1997

This run-up period from 1995 through the 1997 elections was characterized by a reversal in the Moi regime's positive relations with the donors over structural adjustment from the preceding period. The government had once again enacted those reform elements it was most comfortable with (involving controlling budget deficits and liberalizing the exchange rate, foreign currency and many import regulations), but continued to drag its feet on issues of civil service reform and reduction and of prosecution of government corruption. Given the embrace of structural adjustment by Kenya's East African neighbors, Uganda and Tanzania, the Moi regime no longer enjoyed the same privileged status as the only performing economy in the region. The IFIs and other donors were less tolerant of slippage: while patient at first during the return to reform starting in 1993 as long as the regime was making real progress on some parts of the adjustment agenda, once the "easy" parts were completed, the "hard" parts remained and moved center stage. This was evident beginning with the IMF's start of negotiations on a new ESAF in February, 1995. The World Bank began a new \$21 million credit for civil service reform in January, 1995. On the privatization of parastatals, donors and the opposition voiced concern that of the 43 out of 207 projected divestitures that had been accomplished by January, 1995, only 11 had been executed by either competitive bidding or via the Nairobi Stock Exchange.<sup>305</sup>

The change in donor attitude was represented by the call for an early, but ultimately informal CG meeting on July 24 of 1995, only eight months after the previous meeting. This appeared to be in deference to those donors most concerned about the slow pace of political reform (constitutional) and the continuing ethnic violence. The meeting reportedly indicated that "some traditional donors have lost their patience" over the political situation and over the government's slow pace of parastatal

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<sup>305</sup> EIU, *Kenya Country Report* 1995, no.1: p.15

reform.<sup>306</sup> The communiqué from the meeting stressed donors' concern for freedom of the press, independence of the judiciary and constitutional and legal reform. Four days after the CG meeting, UK minister for overseas development, Baroness Lynda Chalker (reportedly a good friend of Safina's Richard Leakey), visited Nairobi to meet with President Moi and signaled an apparent change in Britain's policy of quiet diplomacy to influence KANU by stating that she would "not make any further announcement on aid until I am satisfied not only by political reform but also economic reform and human rights." British aid to Kenya was and is a relatively small portion of total Official Development Assistance (ODA), but Britain remains the largest foreign investor and trading partner for Kenya and, being the former colonial power, is considered to be influential among donors and in Kenya beyond its relative share of aid.

Having started negotiations for a new ESAF in February 1995, the IMF noted towards year-end that the talks had failed to progress and would not until the Kenyan government made progress in prosecuting those involved in major financial scandals, notably the Goldenberg gold exporting compensation scheme which allegedly drained some 18 billion Kenyan Shillings from the treasury and implicated both the former governor of the central bank and Vice-President George Saitoti. The delay in agreement on an ESAF then led to a postponement of the CG meeting scheduled for November due to the fact that most quick-disbursing and structural adjustment aid to be pledged at the meeting was conditional upon an IMF agreement. The impasse was finally broken in January, 1996, when the government made pledges to a joint IMF/World Bank mission to pursue corruption prosecutions and the recovery of stolen funds as well as to increased budgetary control. A delayed CG meeting in late March (21-22) pledged some \$730m in aid. This meeting apparently did not involve significant pressure by donors on political issues: observers such as *Africa Confidential* and *The Economist* concluded that since no concrete steps had been taken on corruption and on the Goldenberg prosecutions in particular, donors were capitulating to the strong probability that Moi was on track to win another term and to a perceived need to support reformers within KANU, notably Finance minister Mudavadi and Central Bank head Cheserem, against KANU "B"

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<sup>306</sup> *ibid.*, 1995, no. 3: p.11 and p. 18

conservatives intent on blocking reform. The ESAF credit of \$216m was finally approved in April, but IMF head Michel Camdessus, who visited Nairobi at the time, warned that the Fund would be monitoring public expenditure in Kenya on a monthly basis.<sup>307</sup> The World Bank approved its \$127m SAL in mid-June targeted for civil service and public sector reform.

A World Bank/IMF mission returned in August and noted that several previously agreed-upon targets had not been met. This led the IMF to subsequently delay the second tranche of the new ESAF until it was satisfied the conditions had been met. An IMF mission then returned in December, but still found progress insufficient in the areas of privatization and corruption. Moi reshuffled his cabinet in January of 1997 in a move favoring the hardliners of the KANU "B" faction which included the political resurrection of Nicholas Biwott, dropped from the cabinet in 1991 after being implicated in both the Ouko murder and several serious instances of corruption. His rehabilitation was seen as a defiant reassertion of Kenyan sovereignty and presidential prerogative in the face of obvious donor displeasure. The main frontmen representing KANU's commitment to structural adjustment to the donor community, Finance Minister Mudavadi and Central Bank Governor Cheserem, were left untouched and are not directly identified with either the A or B factions in KANU.

Yet another IMF mission arrived in April, and for a period it appeared as if the government had taken enough last minute actions on parastatal reform to win an endorsement. However, political pressures within the donor community and subsequent KANU backsliding on corruption issues were to later prove decisive. Several donors (Dutch, Germans) implemented a unilateral and often tacit form of conditionality by putting new aid commitments on hold or into severe slowdown in 1997 pending the outcome of the election.

Conflict came to a head on July 31, 1997, when the IMF suspended its ESAF program in Kenya over issues of corruption and the status of supposedly independent authorities within the

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<sup>307</sup> The Bank had been criticizing the Moi regime for several high-profile but "off-budget" expenditures, including the Eldoret international airport, a presidential jet, and the Eldoret bullet factory. Eldoret is the provincial capital of Moi's Rift Valley Kalenjin homeland which was purportedly being prepared for a possible secession from the rest of the country or for a civil war.

government charged with combating it. The growing political instability since June and the fact that at least one major bilateral donor - the U.S. - was lobbying the IMF to suspend aid were undoubtedly factors in the Fund's decision, especially since the last mission to Kenya had announced relative satisfaction with the Government's progress at that time. The IMF suspension then triggered the suspension of various co-financing arrangements with the World Bank and bilateral donors, and also postponed any donors CG meeting for 1997 until after the elections. Coming at a crucial point in the political struggles (/campaigns by the Kenyan opposition) over constitutional reform and the electoral process, this constituted a second, less formal round of political conditionality which signaled that Moi could not take aid for granted and which added significantly to the mounting pressure - internal and external - for concessions and compromise on the part of the government. The second round of conditionality clearly contributed to this progress: if the IMF had given the Moi regime a vote of confidence during the summer of 1997 and before any political compromise, as some donors advocated, it would have been taken as a signal that there was no remaining linkage between the political and economic liberalization agendas. Just as the 1991 Consultative Group imposition of political conditionality represented a precedent as the first instance of explicit multilateral political conditionality within the modern aid regime, so the IMF decision of July, 1997 represented the first time corruption was explicitly invoked by an IFI as a reason for suspension of assistance, thus expanding the definition of "good governance" somewhat from the narrower administrative issues highlighted up until then.<sup>308</sup>

### Compromise Clears The Way For Elections

In late August, as violence continued in Mombasa, and the possibility that a continued political impasse could lead to the spread of political violence was evident, various moves were launched to mediate the political conflict in Kenya. The NCEC maintained that a constitutional

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<sup>308</sup> See "IMF Adopts Guidelines Regarding Governance Issues", IMF News Brief, August 4, 1997 which represents a new level of articulation of Fund policy on governance issues by its Executive Board and which stresses issues of corruption and "a much broader range of institutional reforms ... needed if countries are to establish and maintain private sector confidence and thereby lay the basis for sustained growth."

conference should be convened under its auspices, but KANU categorically rejected negotiating with the NCEC as the latter was not an elected or constitutionally legitimate body in the government's view. Various opposition leaders in parliament distanced themselves from the NCEC and what they viewed as its shrill and uncompromising position and potentially conflict-provoking tactics. An effort was launched to have church leaders mediate talks between government and opposition but this seemed to stall over the fact that many church leaders were seen as already politicized rather than as neutral parties. This effort was then quickly supplanted by one coming out of parliament: KANU and moderate opposition MPs formed the Inter-Party Parliamentary Group (IPPG) with 38 members from KANU and 36 from opposition parties and with a self-proclaimed mandate to make recommendations for reforms to be introduced before the elections. A significant minority of opposition MPs opposed the IPPG with some supporting the NCEC and others still loyal to Kenneth Matiba, who like the NCEC opposed compromise, but still claimed for himself the mantle of true leader of the opposition. The IPPG proposed a broad series of reforms including the expansion of the Electoral Commission to finally include representation of the opposition (10 out of 21 members), the registration of all political parties making applications, the processing of outstanding applications for television and radio licenses, the appointment of nominated MPs proportionately from all parties rather than the top vote-getter alone, and the suspension of various laws that had been used to hamper opposition campaigning. The IPPG package essentially contained most of the opposition demands with three key exceptions: it did not postpone elections pending full constitutional reform, but rather mandated a constitutional review process after the elections; it did not provide a constitutional amendment allowing coalition governments but rather one to the effect that the elected president could appoint ministers from any party (the NCEC criticized this a recipe for promoting defections rather than governments of national unity); and most importantly, it did not address the demand that the president be elected with at least 50% of the vote - the key issue for Moi and KANU in virtually ensuring a repeat of his 1992 victory over a divided opposition- recommending instead that it be considered along with other constitutional changes after the election.

The IPPG reforms were passed by Parliament on September 17th, after which the NCEC became increasingly isolated as the opposition parties and the donor community (whose minimum demands as advanced by heads of mission in Nairobi were basically met by the IPPG package) all focused on the elections which were now presumed to proceed on schedule. The government subsequently refused to register Safina in October and again disrupted meetings of the NCEC, but ultimately relented and registered Safina in November, only six weeks before the election.

The actual election of December 29th-30th was a logistical mess and in many ways worse run than the 1992 elections: in a theatrical gesture, even Moi threatened to sue the Electoral Commission for incompetence and for rigging against KANU. El Nino related heavy rains complicated access to some remote rural areas and a shortage of ballots in many areas that was blamed on the English company that printed and packaged them caused voting to be extended an extra day in the affected areas. The impression given to both domestic and international media audiences was that Kenyan democracy still was far from institutionalized, but the ultimate results in terms of the representativeness of the election were no worse than in 1992, and the pre-election climate for opposition campaigning was clearly much improved.

Moi was reelected with 40% of the vote (compared to 36% in 1992), but contrary to earlier expectations, KANU received its smallest majority ever in Parliament, 113 out of 222 seats in the now expanded chamber.

#### Analysis : 1995-1997

The KANU regime had managed to stop or at least slow down much of the political erosion of its power-base starting in 1992, and had clearly gotten a boost from the elections at the end of that year. However, despite some success at encouraging the defection of opposition MPs and the many problems of division within the opposition ranks, KANU was not able to totally undermine the opposition or to achieve the two-thirds parliamentary majority needed to amend the constitution.

It had also managed to get the economy somewhat back on track by 1994, after almost four years of stagnation, but had done so both by developing a short-term solution of a high-interest internal market for government debt and by partially returning to a dependence on structural adjustment program aid. As with most developing country economies in the new global economy, its medium-to-long term prospects depend in large part on its ability to attract foreign investment both in terms of the capital and of the technology and linkage to global markets it represents, and this positive investor opinion or confidence depends in part on the certification of the IFIs and most notably the IMF that macroeconomic stability will be maintained within reasonable limits.

Starting in 1995, Kenya returned to the problem of current accounts and budget deficits that it relied on program aid to cover, and, having implemented the easier components of the structural adjustment agenda, it began to have renewed difficulties with the IFIs over the more problematic conditions regarding civil service reform, parastatal privatization and corruption. Having passed the watershed of the 1991-93 program aid freeze, the IFIs and most donors in general were no longer inclined to return to the patterns of the 1980s when slippage on adjustment compliance was generally tolerated and the adjustment process therefore reduced to an at times dubious ritual. The inability of the KANU regime to satisfy the IFIs starting in 1995 eventually meant that the political and economic elements of the donor reform agenda would come to be relinked if for no other reason than the timing of the electoral cycle. But beyond the issue of timing and the return of political concerns to center-stage by 1997, the issue of corruption itself linked the political and economic agendas and was the focus of evolving and increasing concern by the IFIs by that same year. Corruption as an adjustment issue was also arguably the one part of the economic reform agenda that touched the inner circle of the KANU regime most deeply in that several of Moi's closest associates (Saitoti, Biwott) were implicated in some of the most high-visibility scandals. KANU also suffered from internal factionalism both between ethnic groups and between hardliners and more moderate members, and these divisions put its long term political cohesion and the credibility of its commitment to reform into question.

The political equation started to change in 1997 as the prospect of new elections loomed and as the opposition transcended its divisions long enough to mount a major protest mobilization which in many ways returned Kenya to the situation of 1991-92. Once again the basic rules of the political game were called into question: the same agenda of legal and constitutional reform that the opposition had demanded in 91-92 was again advanced as a prerequisite to opposition participation in the election. The combination of opposition mobilization, international media attention to the government's repressive reactions and conventional diplomatic pressure by the donor governments produced the first new, but minor concessions from KANU in mid-July.

The IMF decision to suspend its ESAF program over issues of corruption at the end of July had an immediate impact on the Kenyan economy causing a depreciation of the Kenyan shilling and a flight of capital and foreign portfolio investment. Despite the lack of clear political conditionality, given the full context of events, the suspension had the same effect for it constituted a vote of no confidence in the Moi regime from a key donor that coincided with the opposition's expression of no confidence in the electoral system. The lobbying of the IMF by the U.S. clearly reflected a tactical sense that the ESAF suspension could be a form of political conditionality and would be understood as such in the Kenyan domestic context. Moi's ability to maintain either internal or external regime legitimacy was put into question, and the strategy of no concessions in order to try to repeat the formula of the 1992 elections became non-viable. The ethnic cleansing in the Mombasa region not only put a major chill on Kenya's important tourist industry, but also raised the specter once again of civil war which in turn put pressure on all parties including KANU to come to some resolution that could restore a sufficient degree of normalcy to prevent wider violence and allow a legitimate election to proceed. The resulting compromise was just that: KANU conceded all but the most essential points, and the moderate opposition agreed to a pact that granted most of its demands but did not provide an electoral solution to the problem of opposition divisions (i.e. a requirement for a majority-elected president through a run-off vote if needed.) The IPPG pact also satisfied the demands of the donors for a basic minimum of reforms in advance of the elections. The more purist opposition represented by the NCEC was essentially sidelined.

From a theoretical point of view, the second round of Kenyan multi-party elections and of aid conditionality and suspension poses a number of challenging questions: this time the donors arguably did not have a coherent coalition or policy focused on conditionality, but rather indirectly relied on the central role of IMF structural adjustment certification and the web of cross-conditionalities and co-financing arrangements it controlled to provide the key economic leverage which tipped the balance of pressure and power at a key time in Kenya's internal political struggle. The bilateral donors did maintain an extensive and relatively cohesive coalition in Nairobi as represented through the Donors Democratic Development Group and the heads of mission meetings which resulted in joint demarches to the KANU regime on democratization, human rights and political reform issues, but there was little attempt to impose any coordination on aid policies to accompany this diplomatic effort: bilateral donors pursued forms of conditionality independently and as they saw fit, often doing so quietly or engaging in forms of allocational conditionality that shifted aid into non-governmental channels and away from the regime. In this sense, the international institutions that shaped donor efforts to promote democratization had shifted focus from the Consultative Groups, although political issues were still raised there, to the specialized fora created in-country since 1991 that reflected the ongoing concerns of the donors with the transition process.

While the donors had begun to focus on the question of norms and "best practices" at a more general and abstract level through the creation of a working group on aid and democratic development within the Development Assistance Committee of the OECD<sup>309</sup>, the major normative evolution and effect regarding conditionality and Kenya in 1997 was the movement of the IMF to consider corruption as a governance issue in a more robust and less technical way, and to therefore ultimately suspend its ESAF program based on the status of prosecutions of corruption in the Kenyan courts and on the apparently political transfer by the regime of officials who seemed serious about uncovering corruption out of their watch-dog posts, neither of which depends on any

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<sup>309</sup> *Final Report of the DAC Ad Hoc Working Group on Participatory Development and Good Governance, Part I* (Paris: OECD/DAC, 1997)..

strictly technical economic rationale, but both of which were very much part of the public discourse and perceptions that affected the new standard of private sector confidence. The issue of credible conditionality was still central in that an IMF vote of confidence in the KANU regime in July or August of 1997 would arguably have tipped the balance in the other direction and produced a much less conciliatory stance by KANU towards the donors' diplomatic and economic demands and towards the opposition.

One aspect of bilateral donor policy that had a clear effect on Kenyan politics in the 1996-97 period was the companion policies of political aid to the civil-society elements of the Kenyan opposition that formed the basis for the NCC movement which in turn represented an important position within the Kenyan political struggle. Even though the NCC and its leadership body the NCEC were ultimately sidelined in the IPPG negotiations that paved the way to the elections going forward, they arguably produced a "radical flank effect"<sup>310</sup> by articulating in a clear, principled and uncompromising fashion the case for thorough-going democratic reforms and by thus moving the center of the debate and creating a better bargaining position for the more moderate opposition within the IPPG. Also despite their problematic relationship with much of the opposition party leadership and their own organizational weakness, the NCEC clearly was important to maintaining the pressure on the Moi regime in late July and August through protest mobilization, threats of continuing campaigns and a degree of media attention when the opposition parties lacked any comparable strategy. From a donor perspective, this exhibited the somewhat contradictory policy that the groups that received USAID and other donors' funding were pushing a much more radical position than the U.S. embassy in terms of demands for reform on the KANU regime, but the "radical flank" hypothesis argues that this contradiction or tension was politically productive. A relative lack of opposition cohesion with respect to pressing for reform may thus have had some advantage even if a lack of unity in the electoral arena was a clear disadvantage for the democracy movement.

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<sup>310</sup> The concept of the "radical flank" effect has been developed within the scholarly literature on social movements.

While some of the agreements in the IPPG package were arguably not fully implemented and a process of constitutional reform clearly awaited the completion of the election, the legal reforms represented in the package and the promises they represented that opposition parties would be free to campaign without harassment represented more hard-won steps towards a fully competitive democratic political system. Furthermore, the fact that these concessions on the part of KANU were not contrived so as to be blamed solely on outside pressure as in 1992, but rather were achieved in a negotiated, "pact"-like process with elements of the official opposition represented a significant step forward for Kenyan political culture, even if there was a degree of KANU success in splitting the opposition. Cooperation between KANU MPs and the opposition had been sorely lacking throughout most of the first multi-party Parliament. The fact remains that a more radical approach by the opposition as a whole would probably have evoked a more hard-line response from the regime and produced an unstable stalemate that could easily have degenerated into increasing violence. It also would have presupposed a degree of opposition unity that would in fact have made such a strategy unnecessary because this unity could have translated directly into a single opposition candidacy as the strongest strategy to not only produce reforms but to defeat Moi as the way to do so. Even the most pro-democratic donors did not support such a more radical approach given the risks involved, and it appeared that the majority of the Kenyan electorate had no desire to revolt under the leadership of the existing opposition. (A stronger and more cohesive policy on the part of the donors, one that froze more aid earlier and explicitly pushed the full range of opposition demands, might have made a difference and might even have helped promote opposition unity, but this still carried greater risk of civil war and was not done in 1996-97 for largely the same reasons it wasn't done in 1991-92.)

## **8. *The Aftermath of Moi's Second Victory and His Final Term, 1998-2001***

The next period of Kenyan political history is best measured from after Moi's second multiparty election victory in December 1997 until the beginning of the intense run-up period in 2002 to the elections at the end of that year. This period was marked by important developments and factional maneuvering both within KANU and within the opposition that would set the stage for a major transformation of Kenyan politics and the defeat of KANU in the 2002 elections. On the other hand, and from the perspective of democratization, one ongoing major symptom of inertia was that the Constitutional Review process (agreed upon in the IPPG package of September '97) dragged on all five years through many fits and starts but still failed to produce a new and thoroughly democratic constitution before the 2002 elections as intended. Donor policy through this period can be characterized as largely one of ongoing pressure and conditionality in that the IFIs and particularly the IMF continued to lead the donor community in suspending concessional finance and most program aid, and refusing to normalize relations with the Moi regime until issues of corruption, structural adjustment, and perhaps democratization (in roughly that order of priority) were forthrightly addressed. This pressure continued despite various events that garnered Kenya and to a lesser extent the regime, some international sympathy and even emergency humanitarian aid: torrential and damaging El Nino related rain and floods (in late '97 and then again in late '98) followed by serious drought (1999-2001) and resulting famine, and most dramatically, the bombing by Al Qaeda of the U.S. embassy in downtown Nairobi on August 8, 1998, that killed some 250 people and injured approximately five thousand, mostly Kenyans. All these events deserve some extended consideration and will be addressed in terms of the principle actors (KANU, opposition, donors) and the respective issues of the Moi succession, the Constitutional Review process, and corruption.

*KANU and the Moi Succession*

Following the 1997 elections, Moi entered his next and last term as a constitutionally mandated lame duck: KANU had amended the constitution to restrict Presidents to two terms in 1992 in a moment of trying to demonstrate its democratic credentials. The party clearly failed to achieve the two-thirds parliamentary majority in the '97 elections that would allow it to rescind this amendment, although this did not prevent ample speculation on possible strategies and calls from within KANU for its repeal so Moi could run again, including repeal of the term limit as a KANU quid pro quo for other constitutional changes sought by the opposition in the Constitutional Review process. The question of the Moi succession would be one of the major political themes dominating the entire period from 1997 until 2002: factional competition within KANU and the final miscalculations of Moi, (up until then the apparent master of manipulation of Kenyan politics) would ultimately produce major splits in 2002 and defections of long-time KANU stalwarts to a more unified opposition. Leading up to the eventual splits in 2002, the period from 1998 through 2001 was one of repeated dissension and factional jockeying, all in a context of economic decline, donor and opposition pressure, that weakened KANU from within.

Moi moved to minimize the effect his lame duck status might have on his power by declining to name a Vice-President after the election and leaving the post and its unofficial status as heir-apparent open for future competition and bargaining. Another ploy was the suggestion or deliberate rumor as early as May 2000 that he might call an early "snap" election to confuse the constitutional time-table: in a typical KANU manipulation, the Electoral Commission began a voter registration drive in May when that process had always traditionally been done in the months just before an election. The drive was then ended some months later and the rolls declared closed despite protests that tens or hundreds of thousands had not been registered and that the elections might still be over a year away. Another call for extending Moi's rule took advantage of the delay in the Constitutional Review process (almost entirely due to KANU stonewalling) and of the traditional opposition call for thorough constitutional reform before elections to say that the term of the current Parliament and President should be extended by a year or two or even five until the

review process was completed. Moi complained that he had trouble choosing an appropriate successor and appeared to encourage calls for amending the term limit up until October of 2001 when he finally declared publicly that he was definitely retiring, but even then he also declared he'd stay on as head of KANU after stepping down as President in order to continue to shepherd the nation along the Nyayo path.

Tensions within KANU appeared to escalate on a number of fronts starting in early 1998: ethnic violence between Pokot and Marakwet, both traditionally pastoralist peoples aligned with KANU in the Northwest of Kenya, seemed to spin out of control and produce calls for government action from within the KANU coalition similar to the vain calls by the opposition for a stop to ethnic violence in the 1991-95 period. These early tensions within KANU reached a sort of peak in late May 1998 with the dismissal of a junior minister (Kipruta arap Kirwa) from a Kalenjin group other than Moi's who then denounced elements in KANU for being anti-reform. The jostling for position that had produced the KANU A and B factions continued. The KANU A faction took on greater coherence after the election with the promotion of Simeon Nyachae from a minor ministry to the key position of Finance Minister, the government point person for much of its dealings with the IFIs. He quickly clashed with President Moi over his "unauthorized" attendance (along with some 80 KANU MPs) and his candid comments at a World Bank sponsored seminar on Kenya's economic crisis. He went on to quickly establish a constructive working relationship with the IFIs and donors and a public image as a reformer and opponent of corruption and mismanagement. This led to speculation as to his presidential ambitions or potential to succeed Moi. It also led to a backlash from the KANU B faction that not only sought to have one of its members be the KANU candidate in 2002, but also stood to lose from financial reform and a crackdown on corruption. In February, 1999, after little more than a year on the job, Nyachae was dropped from the Finance Minister post and offered a lesser ministry, which he refused in favor of joining an emerging bloc of dissident back-bencher MPs within KANU. His presidential ambitions were undiminished, however, and in the summer of 2000, amidst the rumors of a possible snap election, Nyachae declared himself a future candidate for the presidency, although for which party was still unclear.

In December of 2001, he and five of his backbencher allies (some of whom were at one point referred to as the KANU C faction) were officially suspended from KANU. Nyachae would go on to be one of two major opposition presidential candidates in 2002 running against Moi's handpicked KANU successor.

The KANU B faction led by Nicholas Biwott and other "hardliners" not only prevailed upon Moi to demote Nyachae in February '99, but also appears to have finally prevailed in influencing him to reappoint George Saitoti as Vice President in May '99 after some 17 months with the position vacant. Saitoti's reappointment might at first simply appear as the reaffirmation of the status quo pre-1998 and as meaning that Moi had abandoned his efforts to take a more cunning and manipulative approach to his succession, but this would prove not to be the case. In retrospect, the re-elevation of Saitoti was not his definitive crowning as heir apparent, but rather a place-holding interim measure in response to criticism from many sectors of Moi's hurting the national interest and violating the constitution by continuing to play politics by leaving the post vacant. Assuming the VP post is a logical place to groom an heir apparent and successor, then Moi and in theory KANU as a whole were faced with a contradictory set of ideal qualifications for the post: these included, on the one hand and most importantly, extreme loyalty and even a longterm personal stake in preventing corruption or worse investigations (i.e. the Ouko murder investigation, the ethnic clashes/ethnic cleansing inquiries) from reaching the KANU inner circle and Moi himself, and likewise dedication to preserving the patrimonial state power base of the KANU regime in the face of not only domestic opposition, but also donor pressure for structural adjustment. On the other hand, the ideal candidate would also appear "clean" and sincere enough to achieve a minimum necessary level of credibility with the IFIs and donors and with other important international constituencies including investors and the media. This credibility was needed to successfully navigate conditionality and the economic agenda in order to extract renewed aid of the magnitude that had fueled the KANU formula for growth and patronage in the 70s and 80s and that was clearly needed or certainly desirable to help get Kenya out of the ongoing economic crisis it faced. The ideal candidate would also be able to represent and manage KANU's coalition of smaller

tribal/ethnic groups (really the original KADU coalition) and to keep the opposition divided in order to continue to win with a mere plurality of the electorate (i.e. Moi's 40% vote in '97).

Alternately, for KANU to continue to prevail electorally from a more secure base and to do so in a context of possibly mounting scrutiny over its electoral practices (i.e. to win parliamentary majorities without relying on fraud), the KADU groups would need to not simply divide the opposition but to forge an alliance with (or coopt) one of the larger ethnic groups that would bring the ethnic arithmetic of the KANU base to a total of more than 50% of the population.

From early 1998 through to the 2002 elections, Moi in fact explored new alliances with elite elements of both the Kikuyu and most obviously the Luo groups. Varying degrees of parliamentary cooperation with the National Development Party headed by Luo leader Raila Odinga began shortly after the '97 elections: the NDP was the third largest party in the 222 seat Parliament controlling 22 seats compared to KANU's 113 (which later grew to 118 due to by-election victories) and to 41 for the Kikuyu dominated Democratic Party led by Mwai Kibaki. This cooperation progressed to the point first where Raila (usually referred to by his first name in Kenya, perhaps to distinguish him from his famous father) was given leadership of the key Parliamentary committee for the Constitutional review in late 1999. Then he and 3 other NDP MPs were invited into the cabinet in June 2001 to form Kenya's first ever "coalition government," followed finally by full-fledged merger negotiations starting that summer that would culminate in a short-lived merger during the tumultuous 2002 run-up. Before the key point in 2001 when the NDP actually joined the government (i.e. entered the cabinet), the NDP still maintained some independence from KANU in the Parliament on some important votes, and their cooperation did not therefore mean that KANU was to enjoy unquestioned control of parliamentary matters, as we shall see below. Furthermore, there was always some question as to whether Raila could really control the votes of every NDP MP, some of whose entire political identity had been built around multipartyism and opposition to KANU and who never supported Raila's opportunistic strategy for advancing his own political fortunes and perhaps those of his party and the Luo community. Likewise on the KANU side of the proposed merger, there were firm opponents who saw the

addition of the ambitious Raila and the large Luo community as a destabilizing and threatening element in the KANU coalition: if the price of Raila's support was too high, it would cut into the portion of the KANU pie other factions received.

There appeared to be a difference of opinion within KANU or Moi simply permitted multiple strategies to be explored, for while the Luo/NDP element of the opposition was being courted via Raila Odinga, KANU also reached out and apparently attempted negotiations with elements of the Kikuyu community. Saitoti's reappointment figures into this strategy, for while the Vice President was nominally Maasai and had been raised in Maasailand, it was an open secret that his parents were in fact Kikuyu. It was hoped that he would therefore provide some appeal in reaching out to that community that had become so estranged from KANU since Moi succeeded Kenyatta. Saitoti did not fit the ideal heir to Moi description in that he had been strongly linked to the Goldenberg corruption case that was a major focus of donor/IFI pressure. He had also already failed in the role of point person with the donors back in 1991 when the most explicit and broad-ranging conditionality had been imposed and major aid frozen for the first time. Saitoti's potential appeal to the Kikuyu was initially said to be one of his strong suits, and was supposedly demonstrated when he received the backing of most opposition Democratic Party MPs (mostly Kikuyu) during a vote of no-confidence that was brought up by other opposition MPs when he was reappointed claiming he was too tainted to serve as VP. Moi and KANU also engaged in other outreach to elements of the Kikuyu elite early in the second multi-party term by rehabilitating Charles Njonjo, an elderly and long quiet Kikuyu leader, a one-time close advisor to Kenyatta who had allied with Moi in 1978, but whom Moi and KANU had gone out of their way to publicly humiliate and banish from politics back in 1983. In 1998, Njonjo was first appointed chairman of the Kenya Wildlife Fund and then head of the U.S. embassy bombing disaster fund. It was widely assumed that these high-profile gestures also indicated a role for Njonjo in attempting to mediate between Moi and the KANU B inner circle, on the one hand, and elements of the Kikuyu elite including even leading opposition figures like Mwai Kibaki and Paul Muite. However, beyond the Democratic Party vote for Saitoti on the Parliamentary motion of no confidence, the Vice president

apparently did not prove successful in wooing leading Kikuyu figures back to the KANU fold, and his star began to fade by early 2000. His fortunes waxed and waned a bit after that, but by early 2001 other members of the KANU B faction were criticizing him publicly, and President Moi was bemoaning his inability to find a proper successor.

While Saitoti appeared to fail as the KANU link to the Kikuyu, another name began to get increased public mention starting in 2000, perhaps thanks to the efforts of Charles Njonjo: Uhuru Kenyatta, the son of first President Jomo Kenyatta, had not initially been much of a political figure, but was raised into the limelight by Moi, first as an appointed MP (<sup>311</sup>), then as head of the high-profile Kenya Tourism Board. Most observers of Kenyan politics thought this was another KANU strategy to reach out to elements of the Kikuyu community, and Uhuru would figure prominently in Moi's plans in the run-up to the 2002 elections. Other KANU figures continued to be mentioned as possible contenders to succeed Moi, including in particular Musalia Mudavadi, a leader in the Luhya community and former Finance Minister who had enjoyed the favor of the IFIs as a sincere reformer before being switched (or arguably demoted) to the still-important Agriculture Minister post (the very pattern Nyachae would later reject.) He was sometimes seen as a member of the KANU A faction, but tried to maintain his independence and neutrality as part of his "technocrat" image. By late 2001, the Economist Intelligence Unit report for Kenya speculated (wrongly it would turn out) that he had replaced Saitoti as the likely heir and standard bearer for KANU in the upcoming elections.

The factional divisions within KANU were most strikingly highlighted by the repeated problems Moi and his lieutenants had in the 1998-2001 period in maintaining Parliamentary discipline among KANU MPs and in winning all the important votes in the Parliament given their majority status. Early in the term in October 1998, the regime turned back an opposition vote of no confidence motion by a 2 to 1 margin thanks to the support of the NDP, but after that initial highpoint discipline and cohesion declined. The decision of Simeon Nyachae to join a dissident

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<sup>311</sup> 12 MPs in each Parliament are appointed: this was originally done by the President as an obvious part of the spoils of election victory, but following the IPPG agreements of 1997 they were appointed by the various elected parties in proportion to their elected seats.

back-bencher group has already been noted. In September 1999, 13 KANU MPs joined in a letter signed by a total of 84 MPs calling on Moi to resign after the release of the so-called “Ali letter” in the course of the Goldenberg scandal trial, a letter that was seen as clearly implicating Moi by showing that Mr. Ali, a key figure in the diversion of what by some estimates totaled as much as \$1 billion in government funds in the run-up to the 1992 elections, was closely connected to Moi and claimed to be representing him in a semi-official capacity. Two months later in November, 24 KANU MPs threatened to vote in favor of an opposition motion to clarify the separation of powers between the Parliament and the Presidency by removing the latter’s power to control Parliament by setting its calendar, convoking and dissolving the body, controlling its administration, etc. Their adamancy despite threats of expulsion led KANU to change course and join in supporting the motion. Moi also announced in 1999 that long-delayed internal KANU party elections would be held in 2000, but then delayed them repeatedly due to their potential to further divide the party and to strengthen factions other than KANU B. Ultimately, he attempted a piece-meal strategy of staggered local chapter elections that were more susceptible to control from Nairobi, but this provoked much dissent leading up to the chaotic period in early 2002 when the question of the KANU/NDP merger would displace the party elections as the center of KANU attention.

Despite the continued movement in stages of the NDP closer to KANU and ultimately to a merger of the two parties, Raila Odinga was not simply capitulating in some naïve cooptation: he continued to express his independence both as part of driving a hard bargain and so as not to lose all continuity with his previous anti-KANU/pro-democracy opposition stance. His first prize for moving into a cooperative relationship with Moi and KANU was the chairmanship of the Parliamentary Select Committee for Constitutional Review (PSCCR), essentially a KANU-NDP 15 member committee that Moi engineered in 1999 as the new venue for the Constitutional Review Process when he disavowed the 1997 IPPG agreements and the post-election 1998 Constitutional Review Act (the latter had called for a 25 member extra-parliamentary review Commission including civil society members - more details on the Constitutional Review process in the next section). It was widely believed that the Raila-led PSCCR would propose a new constitution with a position for

a Prime Minister for none other than Mr. Odinga to occupy. By May 2001, however, after several more rounds of maneuvering that essentially returned to a 27 member Commission model thanks to the leadership of Professor Yash Pal Ghai, the new Commission chairman, KANU hardliners once again tried to manipulate the process with a series of amendments to Ghai's carefully crafted legislation that would finally allow the Review process to begin. At this point, even though his PSCCR would essentially be folded into the re-expanded Commission under Ghai, Raila publicly opposed the KANU amendments that would weaken Ghai's authority just as he also rejected the proposals from KANU MPs that the Constitution be amended quickly to allow President Moi to run for another term. Despite or perhaps because of this defiance of the wishes of KANU B and Moi, Raila and his NDP were invited into the government the very next month.

The biggest defeat for Moi and KANU in Parliament came in August of 2001 (after the NDP had joined the government), and it had a direct connection to donor conditionality. Opposition MPs were joined by KANU and NDP rebels to block passage of a constitutional amendment and package of anti-corruption bills sponsored by KANU in response to very specific IMF conditionality (which was also supported by the World Bank and bilateral donors and is addressed in greater detail in the section below.) The bills failed twice to reach the required two thirds supermajority and under Parliamentary rules therefore had to be withdrawn for six months. Since passage was a strict requirement for the restoration of IMF funding and considerable additional cross-conditioned donor support that the KANU regime was desperate for, opponents of the bill were able to use existing constitutional and legal requirements plus donor conditionality to land a major body blow to the regime's economic hopes and its power and competence. This was a very ironic pure power play, since the opposition had generally crusaded against KANU government corruption. However, rather than applaud Moi's capitulation to the IFI demands, here they saw both an opportunity to humiliate the government and to deny it a political success and the economic benefits and resources it would yield and a chance to cast a more principled vote of no confidence in what were seen as KANU's insincere and purely opportunistic or symbolic gestures of supporting the donors' anti-corruption agenda. The opposition essentially said to the donors

that they should not be fooled by KANU's support for the legislation and new watchdog agencies it would create - reforms that the donors had requested – not fooled into thinking the KANU elite had undergone some conversion or change of heart or even a reluctant change that deserved the reward of renewed aid flows.

After the defeat of the anti-corruption bills dashed any hope that renewed aid would lift the sagging economy, Moi and KANU's search for a formula to guarantee a win in the 2002 elections seemed to accelerate in the direction of consummating the KANU/NDP merger, and for Moi individually, toward his hand-picking a successor from among the several ambitious and competing KANU barons. As a prelude to the merger, a means to sorting out the new emerging hierarchy within KANU and a way to avoid uncontrollable internal party elections, the KANU National Executive Council, chaired by Moi, announced in late August that the party would revamp its leadership into an expanded 9 post structure: in addition to a national chairman (Moi) and a secretary-general, the position of vice-chairman would be multiplied from one post to four to accommodate the growing number of ambitious party VIPs with an interest in succeeding the President. Simeon Nyachae was to finally be suspended from KANU by the end of the year after already announcing both his interest in running in 2002 and his willingness to support a unified opposition candidate against KANU. The question of how many supporters from the KANU A and/or C factions he might take with him was still unclear. Saitoti appeared to be on his way to obsolescence (but did he still have any following?) and likely to be replaced as heir apparent from a list that included Raila Odinga (although as an interloper from outside KANU he still had many opponents), Musalia Mudavadi (Could he bring not only Luhya support, but retain KANU A moderates?), Uhuru Kenyatta (Could he draw Kikuyu support? Did he now have the support of KANU B?), plus a few other lesser contenders each representing a particular ethnic group to add or retain in the KANU voting base and who typically believed their turn had come to rise higher in the party if not to lead it outright. Among these possible contenders, Uhuru Kenyatta was promoted from his Tourism board post to become Minister for Local Government in December 2001, replacing old KANU stalwart Joseph Kamotho, who for a long time had been the token Kikuyu in

the inner Moi circle, was repeatedly made a nominated MP due to his inability to win an election in Kikuyuland, and was also seen as a close ally of Saitoti. Moi hoped to accommodate all these ambitions within the new party structure, to finalize the merger and to anoint a successor at a joint KANU/NDP delegates convention in early 2002. While he was attempting to marshal his KANU coalition, the usually fractured opposition was trying once again to achieve a new unity that would allow them to compete effectively against KANU rather than repeat the divisions of 1992 and 1997.

### *The Opposition and the Constitutional Review Process*

In terms of the opposition, the 1998 to 2001 period was in many ways an unremarkable continuation of the previous trends: some new levels of KANU/opposition comity in the Parliament seemed to carry over from the IPPG effort, particularly as the more dissident back-bencher and the moderate elements within KANU expressed a common concern with the growing economic crisis. On the other hand, elements of the same animosity and rejection of the opposition's right to exist by some KANU hardliners and related levels of violence, intimidation and harassment also continued.

As head of the Democratic Party, the largest of the nine opposition parties represented in Parliament, Mwai Kibaki was the official leader of the Opposition, but he restricted his shadow cabinet to members of his own party rather than use it as a vehicle for building opposition cooperation and unity. He also spent considerable energy in 1998-1999 in trying to pursue a series of court challenges to the results of the 1997 elections focusing on those districts in which KANU appeared to have secured its parliamentary majority through fraud. Given the lack of impartiality in the Kenyan judicial system, this was a vain effort. The opposition as a whole was also gripped with a sense of betrayal and despair initially over the cooperation between the NDP and KANU which was to be partially offset over time by the emergence of "rebel factions" within the MPs of both those parties. Michael Wamalwa, leader of Ford-Kenya, the remainder of the original opposition party from 1991 and now the third biggest opposition party with 18 seats, was also rumored to be considering making a deal with KANU, but this never materialized. Safina, the promising

“insurgent” party that claimed to represent an non-ethnic approach and that KANU only allowed to be registered some weeks before the 1997 elections, had managed to gain 6 seats to make it the fifth largest party in Parliament, including one of the nominated MP seats which they gave to one of their co-founders, the controversial white Kenyan conservationist Richard Leakey. Despite having been denounced by Moi as a racist and a neo-colonialist back when Safina was first launched, Leakey would go on to play a surprising role in the KANU regime as a crusading reformist Head of the Civil Service appointed by Moi in August 1999 in response to donor pressure to take radical action against corruption and to begin the reform and retrenchment of a bloated civil service. Moi then ousted him in April 2001 before too much damage to the KANU patronage system was accomplished and once it became clear that new aid would still not be forthcoming.

The Constitutional Review and revision that the opposition had been demanding since at least 1991 was a major focus of Kenyan politics after the 1997 elections, up to the 2002 elections and until the present (Summer 2004 as of this writing). The IPPG agreements of September 1997 had deferred the Review process until after the election, but also deferred the same basic political conflicts. Efforts were then made to reincorporate the NCEC coalition civil society groups into the Review process after they had been excluded in the pre-election negotiations and, in response, threatened to reject and undermine the legitimacy of any process that did not include them. On the other hand, KANU only wanted to deal with the opposition both party and civic on its own terms and with clear KANU control of the ultimate outcome, and this led to repeated stalemates that threatened to derail the entire process. The negotiations over the process of the Review dragged on through several fitful rounds known as the Safari Park meetings (after the location where they were held) and finally produced an apparent agreement in late 1998 that involved a three-tier structure -- the 25 member Constitutional Review Commission, a large National Constitutional Consultative Forum and the District Consultative Forums at the grassroots level, - and a process that would move down to the grassroots via a large-scale civic education campaign and then back up again. There was also apparent agreement by KANU that a chairman could be selected from outside Parliament. Unfortunately, once these broad contours were agreed upon, the parties once again reached an

impasse on how the key 25 seats on the Commission were to be allocated, and given the fact that few potential candidates were without a political history that marked them in one camp or the other, this issue tended to be viewed as fundamentally a zero-sum game and as the crux of ultimate power in deciding Kenya's future political architecture.

As this impasse approached the six month mark in May 1999, Moi announced that the current Review process was a waste of time and money, and he further declared that the process would be returned to Parliament as the correct body to address constitutional issues (and where KANU usually enjoyed a clear majority.) He thus essentially put the regime on record as rejecting both the IPPG agreements and the Constitution of Kenya Review Act passed in late 1998 after the fourth round of Safari Park talks. KANU and the NDP then engineered the creation of the Parliamentary Select Committee for Constitutional Review (PSCCR), essentially as a KANU- NDP committee on which the NDP was supposedly representing the non-KANU opposition after the other parties boycotted. Starting at that point, but pausing for another round of talks in December 1999 and not culminating in actual legislation to amend the Review Act until almost a full year later in May 2000, KANU along with their new allies the NDP proceeded through a simple majority vote to create a 15 member Constitutional Review Commission within Parliament and to essentially gut the three-tiered participatory review scheme produced at Safari Park. Mwai Kibaki led a walk-out of opposition legislators to protest this reversal of the earlier process, and it was passed with fewer than 100 MPs of the 220 member Parliament voting. Not surprisingly, this produced a united backlash by those excluded - the remaining opposition parties, the progressive churches and the other NCEC member groups, who formed a new coalition based in and named after Ufungamano House (a church-owned building in downtown Nairobi) that announced plans to pursue a grassroots, "people-driven" process of constitution-making, essentially reverting to the NCEC approach of 1995-1997. These groups totaled 52 out of the 54 "stakeholders" represented at the earlier Safari Park talks (i.e. all but KANU and the NDP!) Many of them called for a mass-action strategy to oppose the KANU-NDP hijacking of the process, although the National Council of Churches of Kenya (NCCCK) opposed this tactic at least initially and similar calls had not produced

large demonstrations in August 1997. During approximately the same period, a similar set of opposition actors formed the Stakeholders Support Group and called on the IFIs and other donors to maintain conditionality and not restore major aid to the KANU regime given the lack of progress on both economic and constitutional reforms. Starting in August 2000, yet another new opposition alliance, the Movement for Democratic Change (MDC), began a series of rallies and calls for peaceful mass action that called for an end to the KANU regime, a new constitution, but also for the avoidance of civil conflict or civil war as in neighboring Somalia or nearby Rwanda. The MDC reportedly even drew some support from within KANU. However, KANU cabinet members condemned the new organization as illegal, treasonous and scheming to overthrow the government by force.

The Constitutional Review process appeared to have broken down and reverted to square one until a surprising development in November 2000 got it back on track: choosing from a list of commissioners vetted by the Raila committee, Moi appointed an eminently qualified Kenyan constitutional scholar as the Review Commission chairman, Dr. Yash Pal Ghai. Chairman Ghai was not only a Kenyan citizen of Asian descent, but a world class scholar who took leave from his position as a Professor of public law at the University of Hong Kong to take charge of the review process.<sup>312</sup> Both his strong background and the resulting very favorable reception his nomination enjoyed in numerous important circles (donors, business, opposition, media) gave Prof. Ghai significant authority, and he began using it immediately by refusing to take the oath of office for his new position until he succeeded in negotiating a reconvergence of the PSCCR and the Ufangamuno review processes. This occurred in late January 2001 with an agreement to expand the Constitutional Review Commission back up to 27 members with the 12 new members appointed by

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<sup>312</sup> Professor Ghai has degrees from Oxford and Harvard and in addition to teaching in Hong Kong has been a visiting professor at Harvard, Yale, in Australia, India and many places in Europe. He is the author of a major early work on Kenya, *Public Law and Political Change in Kenya – A Study of the Legal Framework of Government from Colonial Times to the Present* (London/Nairobi/NY: Oxford University Press, 1970), co-authored with J.P.W.B. McAuslan. An example of his recent scholarly work (which only makes a few passing references to Kenya) can be found in Ghai, “Constitutional Asymmetries: Communal Representation, Federalism and Cultural Autonomy,” pp. 141-170 in Andrew Reynolds, ed. *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy* (Oxford: Oxford University Press, 2002) which also includes references to his other work.

the Ufungamano coalition. This agreement then awaited Parliamentary approval as a Constitutional amendment to underscore its sincerity and binding commitment, but KANU hardliners wasted little time in rejecting aspects of the legislation and offering amendments to the already negotiated provisions while President Moi denounced the 12 commissioners chosen by Ufungamano as unfit for the position. Although it looked like this opposition could once again stop the process in its tracks, it was overcome by a combination of Ghai's leadership and pressure on and even within KANU: the new legislation and amendments were approved in May 2001, and the Commission began its work in July organizing a civic education campaign and collecting public input and opinion at the local level across the country.

The next challenges for the Constitutional Review process involved funding and time: the KANU regime and KANU/NDP-dominated Parliament appeared unwilling to fund the Commission adequately, and its original timetable for a two year review process would not produce a constitution before the elections constitutionally mandated to be held by January 2003. Chairman Ghai expressed confidence that the process could be completed in just 15 months by October 2002 and thus in time for the elections, but that optimistic scenario required optimal funding among other facilitating factors such as a lack of further obstructions or major disagreements on the substance of the new Constitution. One major uncertainty was whether and when a national referendum on the new constitution would be held: the agreement negotiated by Ghai in January had supported the original proposal of a referendum before a final vote by Parliament (an odd compromise already since it is unclear why both should be necessary) and KANU had then proposed an amendment to reverse the sequence which was subsequently withdrawn. Disputes and proposals to redraw Kenya's electoral boundaries further complicated the picture and timetable. It seemed clear to many that despite Ghai's optimism the September or at the latest October 2002 deadline for completing the process would not be met. This set up the possibilities of extending the current Parliament and postponing the elections, or once again passing a set of minimal reforms to enable the elections to proceed or otherwise modifying the Constitutional Review plan such as dropping the referendum if there was sufficient Parliamentary consensus on the new document.

While the Constitutional Review appeared to be moving forward through 2001 despite these challenges, the broader political context in which it operated was becoming more heated as the Moi succession struggle intensified, the KANU/NDP merger progressed and the government's relations with international donors deteriorated further over issues of conditionality on economic reform and addressing corruption. The re-suspension of key IMF assistance in December 2001 led in part to the ouster of Safina's Richard Leakey and his "dream team" of reformers in May 2002. The bringing of the NDP into the Cabinet in June was followed by the defeat of the regime's attempt to pass donor-mandated anti-corruption legislation in mid-August, a major victory for the opposition. The KANU response to this defeat was to move more clearly toward full merger with their now official coalition partner, and observers discerned a clear strategy to not only add the Luo vote to the KANU base, but also potentially the Luhya vote by abandoning the problematic Vice President Saitoti (without alienating Maasai or Kikuyu voters) in favor of former Finance and now Transport Minister Musalia Mudavadi as Moi's hand-picked successor. Coming of their surprising Parliamentary success in August and in the face of the obvious KANU efforts to assemble a broader coalition, Opposition party leaders once again discussed unity and alliances for the 2002 elections and tried to overcome their by now legendary inability to do so going back to the splits of 1992. Nonetheless (or predictably), two different possible alliances appeared to be emerging: Simeon Nyachae was in discussions only with Safina's Paul Muite despite having earlier announced his support for unity behind a single opposition candidate, while Mwai Kibaki of the Democratic Party formed the Opposition Alliance with FORD-Kenya's Michael Wamalwa and the renamed National Party of Kenya's (formerly the Social Democratic Party's) Charity Ngilu, all three of whom had been Presidential candidates in 1997. Commentators expressed the usual skepticism that these alliances would last beyond the theoretical stage to actually agree on getting behind a single candidate. Given the momentum of the KANU/NDP merger talks and of the apparent Moi strategy for broader coalition-building, they expressed a sense of *déjà vu* in anticipating another KANU election victory over a weak and divided opposition,

*The Donors, the IFIs and Continued Conditionality*

In some respects donor relations with the KANU government in the 1998-2001 period seemed to repeat the post-election pattern of the 1993-1996 period: the donor agenda refocused on structural adjustment and away from explicitly political and democratization concerns, and an extended and difficult negotiation eventually led to renewal of full IFI funding only to have that new agreement suspended in short order for KANU noncompliance and particularly for issues relating to government corruption. In this round, however, donor patience and their willingness to tolerate slippage or non-performance by KANU seemed even shorter if not non-existent, and any return to “normalcy” in the aid relationship could only be said to have lasted for four brief months from August to December, 2000. The corruption, governance and economic conditionalities for resumption of IMF ESAF funding (renamed PRGF – Poverty Reduction and Growth Facility - in 1999) were more explicit and more public than at any time in the past. Thus at the same time that donors were contributing entirely new allocations of humanitarian aid to deal with floods, drought and the aftermath bombing of the American embassy, they continued to hold back most of the traditional quick-disbursing aid (cash) that the government could use to cover a variety of fiscal and balance of payment deficits, and the unrelenting focus on corruption issues was tantamount to political conditionality in terms of its pressure on the patrimonial nature of the KANU regime.

The apparent seriousness of donor policy was something of a surprise to many observers: the Economist Intelligence Unit’s regular reports on Kenya are emblematic of this reflecting (and addressed to an audience of) foreign investor and business opinion concerned primarily with the economic prospects for Kenya as a market and with the “political risk” analysis of doing business there. The EIU has consistently argued for the crucial importance of Kenya’s returning to the good graces of the IFIs if its economy is to return to solid growth. In February 1998, the EIU predicted a resumption of IFI aid “by mid-year”, in June “by the end of the year,” in September “by June 1999 at the earliest.”<sup>313</sup> In September 1999, when their earlier predictions had still not been

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<sup>313</sup> The EIU general perspective is also revealed in the following quotes: February 1998 – “The end of disruptive electoral processes for another five years will give a boost to corporate and individual investor confidence, particularly if an accord with the IMF can be sealed in midyear”; June 1998 – “Experience shows that Kenya gets

fulfilled, the EIU predicted that funding would not resume “until mid-2000 at the earliest”, and by March 2000 had abandoned prediction and was reduced to simply reporting IMF statements that there was no clear timetable for resumption. In July 2000, only a few weeks before funding was resumed, the EIU predicted that “the IMF is not expected to commit itself to new funds until early 2001.” In February 2001, after the suspension of the IMF’s new agreement in December, the EIU argued that resumption of aid was so crucial to KANU and the economy that compliance would restore aid by July 2001: this prediction would also prove false as the aid freeze would in fact last through the 2002 elections and into the next Kenyan administration.

The initial IMF demands for resumption of aid in 1998 related to four major issues: reform of the corrupt energy sector; creation of a functioning Anti-Corruption authority within the government; reinstating reformist officials who had been fired for pursuing corruption investigations; and prosecuting major corruption cases like the Goldenberg scandal. The fired officials, particularly Samuel Chebii head of the Customs and Excise Authority, were in fact reinstated, but many of them were immediately targeted in a debacle over the new Kenya Anti-Corruption Authority (KACA) that was to illustrate the Moi regime’s inability to seriously address corruption and/or satisfy donors in that regard. . Moi appointed John Mwau, a wealthy businessman with ties to KANU, as head of KACA, and his first major action was to target not well-known corrupt officials, but the very reformers such as Mr. Chebii, whose arrest Mwau called for, and associates of Simeon Nyachae in the Finance Ministry and Treasury that were spearheading a crackdown on corrupt activities. This transparent ploy by the KANU B hardliners to deflect the anti-corruption campaign onto their enemies was so outrageous and provoked such an outcry that Moi was forced to suspend Mwau in July 1998 and initiate an investigation into his competence. In the meantime, the KACA stumbled into a state of suspended animation, all investigations ground to a halt, and in that sense the hardliners achieved a temporary victory or reprieve.

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bailed out after promising just enough. And in all probability the IFIs and donors don’t have the stomach for a protracted battle.” (all quotations from EIU Country Report or Country Profile for months indicated.)

Later in 1998 and into 1999, the failure or near-failure of several smaller Kenyan banks, and the subsequent intervention by the Finance Ministry led the latter to publish the names of major outstanding debtors to the banks. The list of recipients of unpaid loans read like a roster of the KANU B inner circle and included several cabinet ministers including Mr. Biwott and one of President Moi's sons, and many of the loans dated from the 1990-92 period when KANU used a variety of means to dole out patronage to secure its base in the face of challenge poised by the democratic opposition. This move by Simeon Nyachae was a major factor in his dismissal from the Finance post in February 1999.

The period from 1998 to 1999 was also marked by another major corruption scandal involving "land grabbing" – the doling out of choice pieces of government-owned land as a form of KANU patronage that had the advantage for the regime of not involving cash and thus being in a sense "off the books" as far as IFI oversight of government expenditures were concerned. Given the pressures on the KANU patronage system that economic crisis, aid conditionality and a new focus on traditional financial forms of corruption all imposed, the regime turned to a new emphasis on land distribution, a form of patronage with a long history in Kenya, and pursued distributions at such a pace and new level of brazenness that local communities arose in spontaneous protest, the civic opposition mobilized around the issue, and Moi belatedly suspended all allocation of government land in mid-1999 after most of the prime real estate was already "grabbed."<sup>314</sup>

By May 1999, there were some indications the KANU regime may have satisfied the IMF with the appointment of a new director to KACA, a new report on the Goldenberg scandal even though the actual trials were still suspended, reforms in the power sector and the Kenya Revenue Authority and a new policy framework paper as the basis for renewed funding. By July, however, after another IMF delegation visit, new issues were raised about outstanding bills to the government from private contractors and suppliers totaling 14 billion Ksh that according to one estimate were 90% fraudulent, expanding the mandate of KACA (whose new chairman complained he did not

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<sup>314</sup> See Jacqueline M Klopp, "Pilfering the public: The problem of land grabbing in contemporary Kenya," *Africa Today* Vol.47, no.1 (Winter 2000), pp. 7-26 and *Electoral Despotism in Kenya: Land, Patronage and Resistance in the Multi-Party Context*, Ph.D. Dissertation, McGill University, 2003.

have sufficient funding for fulfilling even his existing mandate), and most importantly a demand that government expenditure be cut some 25 to 30% after the KANU regime had simply assumed that donor funding would be restored in its current budget. Later in July, Moi made his surprising appointment of Richard Leakey as head of the Civil Service and essentially point person on reform and anti-corruption: this decision reportedly stemmed directly from meetings between Moi and World Bank President James Wolfensohn in which Moi was told the only way forward with the donors was the appointment of a credible reform team. In September, also in response to donor pressure, Moi reorganized his cabinet from 27 ministries down to 15 ministries, but he kept all 27 former ministers and some 45 deputy ministers on the payroll and simply retitled jobs so that the efficiency promoting reform pushed by the donors actually produced no obvious streamlining at the top and kept the KANU patronage and coalition structure intact. In October, the Parliamentary Public Accounts Committee issued a report that estimated losses to the Kenyan government in fiscal year 1995-96 through either corruption or uncollected potential revenue at \$7.7 billion or the rough equivalent of a year's GDP. On the bilateral donor front, the Dutch government, a longtime stalwart among the "like-minded" progressive donors, announced they would stop all bilateral aid to Kenya over the next three years due to poor governance, and the Australians stated that most of their development projects had been cancelled or suspended due to issues of corruption.

The next major IMF delegation to Nairobi in late January found no major progress and left without any clear timetable for negotiations or aid resumption. Upon their departure, Moi told a press conference that the donors were constantly moving the goal posts for Kenya, presumably because the IMF had raised questions about a new cellular phone network license that the government had not awarded according to competitive bidding, and because (according to the EIU) the IMF had even raised issues of human rights and the stalled constitutional reform process. At this point, the Kenyan opposition organized the Stakeholders Support Group that called on donors to maintain strict conditionality and not to be fooled by cosmetic reforms.

In late July 2000, a new IMF delegation negotiated a new agreement with Kenya which was then ratified by the IMF executive board in early August, releasing a mere \$18 million immediately

but promising a total credit of \$198 million as part of a three-year PRGF package. According to the EIU, “The loan has some of the most detailed conditions agreed by a national government and the Fund, setting out a wide range of targets that have to met by the government on an almost monthly basis.” The willingness of the KANU regime to accept these conditions was taken to be a symptom of its desperation and of the IFIs’ unwillingness to accept slippage or noncompliance. Explicit and public conditions included reforms of the banking industry, the civil service and the judiciary, progress on privatization, and a series of anti-corruption initiatives including a code of conduct for public employees, new anti-corruption and economic crimes legislation and increased powers for the KACA. The package also contained stringent macroeconomic, budgetary and revenue targets, and was expected to enable release of some \$285 million in funding from the World Bank, the African Development Bank, the EU, the UK and Japan. The new spirit of strict conditionality and oversight was even extended by the doors to the NGO sector: new demands for accountability and budgetary standards resulted in temporary aid freezes to some of the NGOs most active in the NCEC/Ufungamano movements such as the Kenyan Human Rights Commission and People Against Torture.

The IMF eased many of its economic targets only a month after the agreement to acknowledge the seriousness of the emerging drought in Kenya which not only compromised the agricultural sector but also, given Kenya’s reliance on hydropower, resulted in severe power shortages and rationing. This unusual step in which the IFIs actually encouraged the government to spend more money than their original targets in response to the crisis was seen as a sign of a definite warming in relations with the donor community. However, the new agreement appeared to unravel when the IMF decided to delay the second tranche of its loans in December due to a lack of KANU progress on the key anticorruption conditions, on civil service reform and on privatization. Furthermore, in late December, the Kenyan High Court ruled that the Anti-Corruption Authority (KACA) was unconstitutional in its current form, thus setting back the fight against corruption even further. Despite a meeting between President Moi and both World Bank president James Wolfensohn and the IMF managing director Host Kohler on February 25th in Nairobi in which

Moi reportedly took personal charge of both negotiations and Kenyan compliance, further progress was slow until the KANU government could maneuver its new legislative package through Parliament. In the meantime, Moi fired Richard Leakey and his reform team in March in what could be interpreted as a fit of pique that swallowing the initial appointment at the insistence of the donors had not produced renewed aid. In July, KANU added an amendment to its Anti-Corruption and Economic Crimes bill that provided an amnesty for all crimes committed before 1997 except those already under prosecution (e.g. the Goldenberg affair.)

Because of the ruling on the KACA, the new package required a constitutional amendment (an approach to reconstituting KACA that the IFIs apparently insisted on to provide the strongest mandate) which in turn required a two-thirds vote. This set the stage for the Kenyan opposition's defeat of the government package on two separate attempts at passage in August, a most ironic twist on the conditionality story. The amnesty provision that would have protected a retired Moi and many of his associates was one major factor in the rejection by the opposition, but seizing the opportunity to deny the government an economic rescue package from the donors in advance of the 2002 elections was certainly another. Both the government's attempts at compliance and the prospects for renewed donor funding in the near future were now in ruins, but the overall political context still appeared to be one of increasing momentum for a KANU electoral victory thanks to the planned NDP merger and other coalition building schemes.

### *Analysis 1998-2001*

The key new element in affecting the balance of power in Kenyan politics in the period after the 1997 elections was the maintenance of a hard line on economic and governance conditionality by the donors led by the IMF. Rather than return to business as usual as they did in many respects following the first multiparty elections in 1992, IFI conditionality became increasingly more explicit, specific and more public, and it crossed over increasingly from the realm of technically economic issues into judicial and legislative matters while still stopping short of explicitly or purely political

matters such as partisan competition, the details of constitutional reform or the process of achieving it, explicit human rights conditionality, etc. The corner had in fact been turned back in July 1997 when, thanks in part to lobbying by the U.S. and other bilateral donors, the IMF essentially rejected the recommendations of some staff who were advocating resumption of support based on technical criteria, and instead placed issues of corruption front and center in its demands on the KANU government. This shift proved not to be simply a part of an electoral cycle of increased international attention during the run-up to the 1997 elections, but continued into the new term and counterbalanced any institutional incentives to restore lending volume even if it meant softening conditions or accepting slippage and noncompliance. Conditionality interacted with the underlying factors of the Kenyan economic crisis (crony capitalism and corruption, aid and financial dependency, debt and deficits, population pressure) to keep tremendous pressure on the KANU patrimonial state and to essentially deny it both resources and legitimacy as an honest democratic government despite two consecutive electoral victories.

The balance of power and even the political culture had also shifted domestically thanks to the IPPG agreements of September 1997 and the December election results in which KANU's parliamentary majority was reduced to only a few votes despite the regime's continued use of electoral fraud. The opposition was now granted greater legitimacy by KANU (albeit still not full legitimacy), and this opened doors both to dissident and even moderate KANU MPs collaborating with the opposition in Parliament and to the NDP embarking on a strategy of collaboration, coalition and eventually even merger with KANU. The fact that the opposition was able to thwart the government in Parliament on several key occasions is certainly not an indicator of continued authoritarian rule in the classic sense, even if it is not yet a sufficient indicator of consolidated democratization. The IPPG negotiations can be viewed as the first real exercise in what democratic transition theory would call pact-making, and it exhibited the classic characteristic of moderates from regime and opposition coming together to form an agreement in the face of opposition from hardliners on both sides. The Constitutional Review process, despite its problems relating to

KANU hardliners' obstructionism, continued the pact-making process but still without any certainty of a fully democratic process or a moderate consensus emerging.

The instrumentalism of the NDP in abandoning its opposition stance (and therefore its prodemocratic credentials to a large degree) was certainly a major blow to the opposition power base, but the merger prospect and the Luo expectation that Raila would soon be heir apparent and then President also unsettled the dynamics of the KANU coalition to a significant degree. Overall, the opposition maintained some degree of coherence around the Constitutional Review process (with the NDP not always supporting the KANU or at least the "KANU B" position), but otherwise largely treaded water and made no progress toward greater unity and therefore power. Its ability to thwart the government (and thwart the donors as well in many ways) on the key anti-corruption votes of August 2001 was actually a fine illustration of the balance of power in this period in that it was a confluence of the constraints of conditionality, the desperation of the government, the new legitimacy of the Parliamentary process and the opposition within it, and the common interests that bound the opposition even if they did not produce stronger unity.

Beyond conditionality, the other key dynamic for the domestic balance of power was the Moi succession within KANU. Factional rivalry and jockeying were a major issue throughout this period: the big questions were whether the "political ego disease" and factional splitting that had totally undermined the opposition as whole and most of the opposition parties individually from 1992 through 1997 would now spread to KANU as well and whether it would prove to be beyond President Moi's ability to manage given his probable lame duck status. The answers to these questions at the end of 2001 seemed clearly to be in Moi and KANU's favor: Moi was reported to have said that an expanded KANU coalition including the NDP/Luo vote and hopefully the Luhya vote as well could "rule Kenya for a hundred years." The ouster of Simeon Nyachae and other dissidents and reformers from the party was viewed as unlikely to decisively affect the ethnic and electoral arithmetic of Kenya's political balance, and the electoral opposition still seemed as divided as ever despite new talk of coalition efforts.

### *9. 2002 – The Run-up to the December Elections and the End of the Moi Era*

While KANU entered 2002 apparently headed for a certain victory in the December elections, by June Moi's strategy for continued KANU supremacy began to look shaky as factional conflict within the party over the succession heated up. By October the strategy was in tatters as major KANU figures defected to the opposition. By the fall, the opposition appeared to finally learn the lessons of unity sufficiently to make the previous year's moves towards effective coalition a reality and to thus be in a position to take advantage of KANU's splits: Mwai Kibaki emerged as the consensus candidate of the renamed National Alliance leaving only Simeon Nyachae (who had been with KANU in the previous election in 1997) as a major opposition candidate outside this coalition. The National Alliance then negotiated a pact to absorb the KANU defectors when they broke with Moi in October.

The donor role at this key phase was largely secondary and in the background. However, despite some calls after the September 11, 2001 Al-Qaeda attacks to cut the Moi regime new slack in return for its increased cooperation in the U.S.-led War on Terrorism, continued conditionality maintained the economic and financial pressure on the regime and highlighted the bankruptcy of both its overall economic performance and its attempts to address corruption. These two issues plus the perception that the KANU monolith had cracked under the pressures of the Moi succession, all weighed heavily on the electorate in December. The failure of the Constitutional Review Commission to complete the process of approving a new Constitution in time for the December 2002 elections, a process that had been promised and deferred in the compromise that enabled the previous elections five years earlier, only underlined the impasse of Kenyan politics and the political failure of KANU to move the country forward

KANU's troubles actually began in March when President and Party Chairman Moi convened the KANU/NDP unity convention to formalize the merger of the two parties into a new

party under the banner New KANU. As part of his emerging strategy of grooming a new generation of KANU leaders and a revamped party structure to ensure his legacy, longtime KANU stalwarts Vice Chairman George Saitoti and General Secretary Joseph Kamotho were declared relieved of their leadership positions in a process that was far from the democratic and transparent voting of the delegates promised in the party constitution. However, these changes and the new KANU structure with its multiple vice-chairmen did not in and of itself resolve the succession struggle: Raila replaced Kamotho as General-Secretary, and Musalia Mudavadi, Kalonzo Musyoka, Katana Ngala and Uhuru Kenyatta were now all vice-chairs replacing Saitoti. The appointment of Uhuru Kenyatta, son of first KANU President Jomo Kenyatta, drew the most comment at the time given the rapidity of his rise to prominence over the past two years and the fact that this was clearly due to Moi's patronage. The problem for Moi and the new line-up was that Saitoti and Kamotho did not go willingly and both continued to show strength among KANU activists in their respective regions of origin in local KANU chapter elections before and after the convention.

Moi's problems compounded when he unveiled the next step of his strategy and announced in June that Uhuru Kenyatta was his choice for successor as KANU's next presidential candidate. His choice was quickly and publicly opposed by the other three new vice-chairmen of the party, by the new General Secretary Raila Odinga, and by the former Vice-Chairman and still Kenyan Vice-President, George Saitoti, all of whom announced their intention to run for the party's nomination. Also, 32 KANU MPs signed a letter opposing the Uhuru nomination. The new party constitution ratified at the March merger convention promised that the party's candidate would be chosen at a party conference in September or October by a secret ballot of 4,500 delegates plus the party's MPs and officers. However, similar procedures had been ignored at the merger convention in favor of the new party officers being approved "unopposed" and by acclamation. Of the new Vice-Chairmen, first Ngala and then Mudavadi soon backtracked and announced their support for Moi's choice of Kenyatta, but the other three declared candidates refused to comply, announced the formation of a "Rainbow Alliance" caucus within KANU and pressed for adherence to the democratic procedures of the party constitution to determine the new KANU standard-bearer.

The crisis within KANU accelerated in August as Moi began retaliation against former KANU stalwarts who had failed to loyally back his choice for successor. In mid-August, the President dismissed Saitoti loyalist Joseph Kamotho and Mudavadi supporter Fred Gumo from the cabinet, and at the very end of the month, Vice President Saitoti, perceived as on the way out since the March convention, was also finally relieved of his portfolio. The recently merged NDP supporters of Raila were left untouched, however, in a bid to preserve that key element of the Moi strategy. Moi and the loyal elements of the KANU machinery conducted a serious nationwide campaign to support the “Uhuru project” as the Kenyatta candidacy was called. This label underlined the relatively public and transparent nature of Moi’s faith in his ability to manipulate and control his protégé and yet still get Kikuyu votes that had gone against KANU in ’92 and ’97. Through September, the Rainbow Alliance of KANU dissidents continued to press publicly for assurances that their candidate or candidates would have a fair chance at the KANU party conference scheduled for mid-October, while behind the scenes a wide variety of political maneuvering and negotiating occurred both within and outside KANU. The National Alliance of Kenya (NAK) opposition coalition finally settled on Kibaki as their joint candidate in late September, thus making two of the major presidential contenders from the Kikuyu. Moi and the pro-Uhuru faction of KANU maintained strict control of the KANU party conference in mid-October, and while ratifying the Kenyatta candidacy, failed to satisfy the Rainbow Alliance dissidents, the bulk of whom promptly quit the party. Under the leadership of Raila Odinga, they quickly regrouped as the Liberal Democratic Party (LDP). With this departure from KANU of Odinga, Musyoka, Saitoti and Kamotho and presumably many of their followers in their respective ethnic and geographic bases, the Moi strategy for continued KANU domination began to look very uncertain unless the opposition once again fragmented as they had in 1992 and 1997. One telling indicator of the depth of the split is that it extended into the ranks of the KANU B faction (i.e. Saitoti and Kamotho) that had always been seen as the hardcore of support for Moi.

As the newest opposition party in Kenyan politics, the LDP wasted no time in announcing a coalition commitment first with Simeon Nyachae’s Kenya People’s Coalition (KPC), then a grand

opposition coalition deal with the NAK as well to all join forces for the election as the National Alliance Rainbow Coalition (NARC.) This new and almost all encompassing opposition unity did not last long: as soon as the LDP and NAK announced agreement that Mwai Kibaki should continue as the opposition consensus candidate, Nyachae withdrew his KPC grouping and claimed the decision had been undemocratic. Another opposition leader, James Orengo, also quit over the presence of the recent KANU members, who were suddenly being granted status in the opposition movement. However, these splits would prove to be of minor significance, and even Nyachae's move provoked a split within a split as the Safina party that had formed the KPC with the FORD-People party opted to stay with the new NARC alliance. Even before the addition of the Rainbow Alliance/LDP refugees from KANU, the NAK grouping led by Kibaki, Michael Kijana Wamalwa and Charity Ngilu already combined the 2<sup>nd</sup>, 4<sup>th</sup> and 5<sup>th</sup> top vote-getters among the 1997 presidential candidates for a theoretical total of close to 47% of that year's vote (vs. 40% for Moi). With the addition of Raila, who came in third in 1997 with almost 11%, the NARC appeared set to represent some 58% of the Kenyan electorate if the 1997 patterns were repeated.

Three factors posed challenges that made such a repetition in voting uncertain. Nyachae was clearly a formidable political personality and had assembled significant monetary and other resources for his campaign, but his own underlying ethnic base of support was relatively small and he appeared to have failed to assemble a broad multiethnic coalition behind him. Uhuru Kenyatta threatened to split the Kikuyu vote that had been Kibaki's strongest base in 1997: the Kikuyu vote had been split back in 1992 when fellow Kikuyu Kenneth Matiba outpolled Kibaki and came in second to Moi. Finally, and perhaps most importantly, Moi and the remainder of KANU still had control of the resources of the Kenyan state to use to their advantage in the campaign: many in the opposition and in Kenya in general braced for a repeat of the ethnic violence that preceded the earlier multiparty elections, for efforts to prevent opposition campaigning or for fraud and manipulation of voter lists and ballots.

Against this backdrop of political maneuvering, the Constitutional Review process ultimately sputtered to halt short of its goal. The timetable for completion of the review process (including full

drafting and the approval of a new constitution) became a contentious issue through August, especially as it became intertwined with that of extending the existing Parliament and therefore Moi's and KANU's rule in order to give the Constitutional process the time it required for resolution before new elections. In March, Chairman Yash Pal Ghai requested an eight month extension for the Review Commission to finish its work by mid-2003, and by June KANU seemed to favor the idea and to be preparing to table the requisite amendments in Parliament. However, the idea of an extension and the postponement of elections that it entailed was strongly opposed both by donors led by the U.S. and the U.K. and by the Kenyan opposition, both the parties and the civil society groups, and KANU quickly retreated while Ghai advanced options for accelerating the process to meet an October or December deadline. Some commentators (i.e. EIU) speculated that donor pressure and conditionality was key here in that the KANU regime was made to understand that there would be no normalization and renewal of aid as long as elections were postponed. This opposition to an extension may seem ironic given that many elements in the Kenyan opposition, especially many civil society groups in the CCCC movement (which were largely funded by external donors), had vigorously called for such a postponement in 1992 and 1997 – for “no elections without constitutional reform.” They now seemed to have changed their mind for two related reasons. The first is once again the Moi succession, and from the opposition point of view this simply meant doing everything possible to insure that this “Big Man” who had ruled Kenya for 24 years did in fact retire at least from the official role of President as soon as possible. The second was that five years of the Constitutional Review process itself had shown that under the existing system KANU was capable of finding many ways of stonewalling and manipulating the process. Even though the Commission might approach its initial goal of producing a draft Constitution by the Fall or the end of 2002, the subsequent stages of debate, possible amendment and then ratification through a process of Parliamentary approval, or national referendum or both (an undetermined likely point for further conflict) could all conceivably provide ample opportunities for delay or breakdown of the process and for continued extension of Moi/KANU rule once the door to that option had been opened.

Professor Ghai released the Constitution of Kenya Review Commission's (CKRC) draft constitution on September 27<sup>th</sup>. At this point, given that the electoral timetable was unlikely to be changed in any major way, the Constitutional Review process was already under threat of being overshadowed by the drama within KANU, the new unity within the opposition and the run-up to the elections in general. The draft constitution proposed a number of major changes including: making the President a largely symbolic post with important but limited powers while shifting most executive power to a new Prime Minister largely beholden to Parliament, creating a second upper house for the Parliament, and reform of the judiciary including the creation of a Supreme Court. Moi's response was to severely criticize the draft and call for a new commission led by a "Kenyan" (Ghai being a Kenyan citizen, but of Asian rather than African heritage and therefore not a "true" Kenyan in Moi's view.) Moi dissolved Parliament on October 25<sup>th</sup>, the very day that Parliamentary debate on the new draft was set to begin and one week before the CKRC's scheduled Constitutional Review Conference. He then claimed the CKRC lost its legal status with the end of Parliament and deployed police to ensure that no Conference transpired, despite the fact that his own Attorney General publicly and surprisingly differed with him on the legal standing of the Commission and the Conference. By this time, the electoral lines of competition had been drawn with the coalescence of the National Rainbow Coalition behind Kibaki's candidacy, and the fate of the draft Constitution became part of the election's issues with NARC candidates pledging to support its ratification if elected. The NARC campaign generally focused on three themes or promises: completing Constitutional reform, ending widespread corruption as a key strategy to reinvigorate the economy, and instituting free primary education (i.e. abolishing the school fees that kept many families from being able to afford schooling for their children.) Civil society groups vowed to collect one million signatures in favor of the new constitution and to launch a campaign of demonstrations if politicians failed to act on it, but this possibility likewise awaited the outcome of the election.

*The December 27<sup>th</sup>, 2002 Election*

Despite apprehension that the violence, intimidation, fraud and simple mismanagement that had characterized the 1992 and 1997 multi-party elections could recur in 2002, the elections surprised most Kenyans and foreign observers both in terms of the relative absence of these blemishes and the lopsided outcome. While some had considered the mathematical exercise noted above of adding the 1997 vote shares represented by NARC versus that of KANU (58% vs. 40%), and some opinion polling likewise suggested that Kibaki clearly led Kenyatta in early December, few predicted the margin of victory for Kibaki would be 2 to 1. As late as three weeks before the election, the Economist Intelligence Unit was still predicting the KANU would remain the largest party in Parliament, which would also tend to imply a successful plurality for Uhuru Kenyatta.<sup>315</sup> Kibaki received 62.2% of the presidential vote to Kenyatta's 31.3%. He lost to the KANU candidate only in the traditional Moi stronghold of the Rift Valley and in the Somali dominated Northeastern Province: in the Kikuyu heartland of Central Province, he beat his fellow tribesman, the son of Jomo Kenyatta, 71% to 28%. Kibaki also easily met the Constitutional requirement of at least 25% of the vote in 5 of the eight provinces by winning 6 outright and polling a surprising 45% in the Rift Valley as well as 33% in Northeastern. The NARC victory was replicated at the Parliamentary level where the party won 125 of the 210 elected seats compared to KANU's mere 64. One-time "front-runner", then possible opposition spoiler Simeon Nyachae and his Ford-People's party came in a distant third with 6% of the presidential vote and 14 seats (both largely from part of his home province of Nyanza) while an assortment of four other minor parties split the remaining 7 seats. NARC thus fell only 15 seats shy of the two thirds needed to control the process of constitutional amendment.<sup>316</sup>

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<sup>315</sup> EIU, *Kenya Country Report*, December Update, December 6, 2002. The EIU can perhaps be forgiven in that the independent status of the parties that had joined together to form NARC was somewhat uncertain, but none ran independent Parliamentary candidates under their own banner except Safina (which won only 2 seats). The EIU did argue that NARC was held together primarily by a common opposition to Moi and to KANU which might not translate into continued post-election unity.

<sup>316</sup> Following the election of 210 Parliamentary seats, the 14 appointed seats were then to be allocated via a roughly proportional formula to the elected parties, but only 12 were appointed as of February, 2003: 7 to NARC, 4 to KANU and 1 to Ford-People. NARC should get at least one more appointed seat, while the allocation of the 14<sup>th</sup>

*Analysis, 2002*

The primary reasons for the Kibaki/NARC landslide are in retrospect fairly obvious and interrelated. First and foremost, the opposition to KANU finally succeeded in presenting a mostly unified front, in supporting a single Presidential candidate and in not competing amongst themselves at the Parliamentary level. Second, KANU was divided and weakened by the struggle over the succession to President Moi, and this succession crisis in fact propelled even greater opposition unity as the defectors from KANU joined the existing opposition. The combination of these two factors propelled Kibaki and NARC beyond even the prediction based on 1997 voting patterns to an overwhelming victory that exceeded most observers' expectations.

Why did the opposition finally create an effective and unified coalition (or at least one unified long enough to be effective in the election)? The first and most obvious answer here is simple learning: it was clear that after two failed attempts to defeat KANU without being unified, that such a strategy didn't work and that whatever interests it might have served in terms of bolstering the status of political leaders as champions of their ethnic groups, this short-term benefit declined in the absence of the participation in state power that only comes from being on the winning side of an election. Opposition politicians risked further losses to their legitimacy if they continued to put self-interest blatantly ahead of a collective interest in change by subverting opposition unity: an additional factor here may have been a greater collective perception of economic crisis (addressed further below) that had essentially been cumulating since approximately 1991 and thus of both a moral imperative and a more desperate need for change. A further fact that facilitated unity and the submergence of individual ambition within a coalition effort was Kibaki's place by this time as a senior statesman of the opposition: at age 71, he was only seven years younger than the retiring Moi and seen as unlikely to seek a second term in 2007, and this presumably agreed with younger leaders like Raila who could bide their time a bit longer before

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seat is mathematically unclear. The February seat total was thus NARC 132, KANU 68, Ford-People 15, minor parties 7.

staking their claim to the presidency. NARC's own succession competition would probably not be deferred for more than a few years. As to the complimentary factor of why KANU split and why the defectors moved to join the opposition, Moi's miscalculation has already been addressed to some extent above. It can perhaps be summarized as a combination of broken promises as perceived by his various lieutenants who defected, plus an all too transparent attempt to stay in control by promoting the inexperienced Uhuru over more experienced but apparently "untrustworthy" alternatives. Given a likelihood that Kibaki and his NAK coalition might already be on track for a plurality victory, the defecting Rainbow Alliance/LDP presumably wanted to ensure a continuing share of state power and perhaps (at least in Saitoti's case) even a chance at being shielded from future corruption prosecutions.

What happened to the KANU electoral machine that had managed to manipulate Parliamentary results in the previous two elections to plausibly, yet fraudulently translate overall pluralities against a divided opposition into solid Parliamentary majorities? The two major factors already noted apply here. First, the unity of the opposition and the sheer magnitude of the NARC victory made such a tactic ineffective: the results simply weren't close enough for that sort of manipulation. A second factor was the weakening of KANU due to the succession struggle and splits and to a lack of enthusiasm for the Uhuru candidacy. An important third factor appears to have been the professionalism and impartiality of the Kenyan Electoral Commission in rebounding from the management debacle of 1997. Civil society and the donors also responded in training and funding some 28,000 domestic election monitors.

Why didn't KANU hardliners again resort to ethnic violence to intimidate voters in the run-up to the polls? One possible explanation is that while such crimes had gone unpunished, they had nevertheless been relentlessly exposed by both domestic and foreign human rights advocates, by parliamentary commissions and the more independent institutions of the Kenyan media as politically orchestrated by KANU leaders. Whatever thin veneer of KANU deniability for such tactics there had been in the past had now disintegrated. Also to some extent the prime areas for actual ethnic cleansing (e.g. areas of the Rift Valley) had already suffered that fate. Third, the

prospect of impunity under continued Moi rule had been rendered uncertain by his imminent retirement: even if Kenyatta were to have succeeded him, it seemed unlikely the new Kikuyu KANU President would have condoned the kind of anti-Kikuyu violence that had transpired in 1992-3.

Another major factor affecting the 2002 election was the ongoing economic crisis that Kenya faced from 1997 onwards. Whereas Moi's first term after the opening to multipartyism had been marked by economic stabilization in 1994 and a return to modest growth and a "business as usual" relationship with the IFIs and donors by 1995 and most of 1996, the period from 1997 through 2002 was one of continuing economic crisis exacerbated by the repeated freezes of donor program aid to the Moi government. Aggregate GDP growth averaged an anemic 1.17% over this six year period, well below the corresponding Sub-Saharan (2.91%), LDC (4.66%) or World (2.61%) averages, and GDP per capita growth was negative in all six years.<sup>317</sup> Taking a longer and more cumulative view, GDP per capita growth was negative in 9 of the 12 years from 1991 to 2002. Together with the repeated expressions of a lack of confidence by the donors in the economic management of the KANU government, ongoing and new corruption scandals, and the usual condemnations by the opposition, this meant the Moi regime had nothing in the way of economic success, competence or legitimacy to campaign on.

An important factor in answering both the questions above about KANU's relatively easy and peaceful defeat is the spread or penetration and strengthening of democratic norms. This is hard to measure independently without extensive polling data and particularly elite opinion surveys that somehow circumvent incentives to dissemble in claiming to support such increasingly universal norms. However, some important evidence of their spread in Kenyan politics can be inferred from the behavior of key actors. First, a lack of adherence to internal party democracy was the formal reason that the Rainbow Alliance faction split from KANU at the October party conference. This was clearly a departure from what could be called standard authoritarian "one-party democracy" operating procedure in which the will of the leader (Moi) was given some pro-forma democratic window dressing, and in which no one of significance protested when votes were taken by

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<sup>317</sup> Data on which these averages were based is found in Ch. 6, Table 6.1.

acclamation and found to be unanimous. While the Rainbow Alliance leaders were clearly not principled democrats (or they would not have been in KANU in the first place), even given purely self-interested and instrumental motives, they found the option of defecting to the opposition and contesting the election against KANU to be viable and attractive. Even if it was still a gamble in some respects, it outweighed the alternative of being bought off to remain loyal within KANU and to redirect their ambitions in accordance with Moi's wishes. While political ambition and ego are undoubtedly major motives, the fact that KANU stalwarts such as Saitoti and Kamotho now accepted multiparty competition as the vehicle for their quest for power indicates a significant historical change, even if is arguably not simply normative in nature but also represents a shift in the balance of political and institutional power.

The other important and perhaps clearer dimension to the penetration of democratic norms involves the achievement of an impartial Electoral Commission. Apparent factors behind the strengthening of democratic norms include the ongoing efforts of the civic opposition, the independent media and to some degree the party opposition, the high-profile Constitutional Review process, the sporadic emergence of reformist or conciliatory elements within the ranks of KANU MPs, and the relentless pressure of the donors on corruption and governance issues. Arguably the continued emphasis on financial and administrative accountability spilled over to support democratic and political accountability as well.

So amid these arguments about the extension or slow growth of democratic norms, the central question is whether the 2002 election marks a clear threshold in the transition to "democracy." Given the definitions outlined above in Chapter 2 (pp.7-9), the answer is yes: the peaceful transfer of government power through a generally free and fair election is one important hallmark of electoral democracy. The specifics of the "expanded procedural minimum definition" in fact do not hinge on such a transfer of power, but are in several important respects implied by it: an incumbent government would be unlikely to surrender power easily and peacefully were it not faced with an electoral defeat the legitimacy of which was widely accepted and could not be effectively challenged. The first element of the definition – "fully contested elections with full

suffrage and the absence of massive fraud”, which was modified to substitute “decisive fraud or incompetence” for its last element – was achieved in 2002, and the turning point did not involve the rationality or unity of the opposition or the split in KANU. A key difference between the 2002 elections and the previous elections in 1992 and 1997 were the absence of the focused electoral fraud and manipulation in key districts that had ensured KANU’s parliamentary majority in those previous elections. A second key difference was a greater freedom to campaign and contest the elections, which, while far from total (campaign violence did occur, some rallies and meetings were disrupted), appears to have been sufficient to warrant judging the election free and fair, especially given that the incumbent regime did not win. Decisive or massive fraud had not been a factor in Moi’s victories in the Presidential vote in ’92 and ’97, and the fact that some fraud and incompetence probably occurred in 2002 at various levels is not relevant because it was neither decisive nor massive.

Kenya also fulfilled the third element of the “expanded” definition – the element which in fact makes it expanded – in that there are no undemocratic constitutional or institutional preserves of authority outside the sovereignty of the elected government – no “democratic birth defects” to borrow a phrase used by Latin Americanists. It arguably did so even before the 2002 elections, and the new government appears to exert recognized control over and responsibility for the military and other institutions of coercion, for all institutions of government and all of Kenyan territory, and as much “effective power to govern” as the previous government.

Where Kenya was still weakest, in terms of the procedural minimum definition of democracy (and of desirable “augmented” definitions such as “liberal” democracy) at the time of the 2002 elections, is in regard to the second element of the minimum definition – “effective guarantees of civil liberties”. This includes the rule of law through an impartial and effective judicial system, but some of the ongoing human rights concerns with issues such as personal security, police brutality, women’s rights and due process are not directly political with respect to procedural and electoral democracy and continue to be concerns under many different types of political systems. While chronicling numerous human rights problems, Amnesty International

noted that “There were fewer human rights abuses in the context of the elections than had been feared.”<sup>318</sup> Freedom House increased its ratings of Kenya for 2002 from 6 to 4 in political rights and 5 to 4 in civil liberties, and consequently its rating of the country as a whole from “Not Free” to “Partly Free”, and it did so “due to increased pluralism reflected by the 2002 national election campaign and the resulting rotation in power, and to the greater ability of civil society to affect public policy processes.”<sup>319</sup> While Kenya as measured at the end of 2002 for that entire year may thus still fall somewhat short of a fully liberalized electoral democracy, the election of December 27<sup>th</sup> can certainly be judged procedurally democratic despite its flaws. Whether it succeeded in producing a properly democratic government in 2003 is a different question that will be considered below.

What was the donor role in Kenyan politics in 2002 and the success of the opposition in defeating KANU in the December election? By maintaining aid conditionality focused primarily on issues of corruption and economic adjustment, the donors continued to cast a public vote of no confidence in the Moi regime and to keep it in an economic straightjacket given its continued aid dependency in the face of the ongoing pressures of weak growth, poverty and population growth. By sharpening their demands over issues of corruption in terms of prosecution of abuses and improved governance to prevent more, the donors essentially took aim at a key pillar of KANU’s patrimonial and clientelistic base of power. By continuing to fund civil society groups working for constitutional and other reforms, the donors supported additional domestic pressure on the regime. Finally, a less apparent form of conditionality and pressure was the mostly implicit threat that more extensive aid and financial sanctions were possible if the KANU regime were to engage in new and egregious anti-democratic behavior: the donors, in other words, maintained an “anti-backsliding” form of conditionality. Also, while the U.S. in particular moved to enlist the Moi government in new anti-terrorist efforts and to increase military and anti-terrorism aid after September 11<sup>th</sup>, 2001,

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<sup>318</sup> Amnesty International, 2003 Kenya summary (covering events of 2002) accessed at <[web.amnesty.org/web/web.nsf/print/2003-ken-summary-eng](http://web.amnesty.org/web/web.nsf/print/2003-ken-summary-eng)> 5/13/04.

<sup>319</sup> Adrian Karatnycky, Aili Piano and Arch Puddington, eds., *Freedom in the World 2003*, (New York: Freedom House/ Rowman & Littlefield, 2003), p.299.

and especially after new Al-Qaeda attacks in Kenya on Israeli tourists and an El Al airliner in Mombassa in November, 2002, there appeared to be little linkage in terms of Kenyan cooperation on terrorism buying a slackening of pressure on governance issues, corruption, etc.

#### ***10. 2003 - A new era in Kenyan Politics: Democracy achieved?***

The defeat of KANU by a finally united opposition in an apparently free and fair election is an undeniably important threshold in Kenya's democratic development and a culmination of many aspects of the political struggle begun in 1990. The January 2003 inauguration of Mwai Kibaki was a very celebratory event, a "new independence" to some Kenyan commentators. Outgoing 78 year-old President Moi even tried to be gracious in defeat by praising Kibaki, who had after all once been in KANU and served as his Vice President from 1979 until 1988, but this courtesy was not reciprocated. The victory was to some degree overshadowed by concern for Kibaki's health: the 71 year-old had suffered two broken bones and assorted other injuries in a car accident during the campaign (foul play was not suspected), and he was still wheel-chair bound at his inauguration. The new NARC cabinet announced later that month was an interesting feat of coalition balancing in ranging from strong opposition figures with long anti-KANU histories to the recent defectors from KANU. Those in the former category included figures like Kiraitu Murungi, longtime human rights lawyer and now the new minister for Justice and Constitutional Affairs, and Peter Anyang' N'yongo, Minister of Planning and National Development. The most prominent in the latter category were Raila Odinga at the big budget Roads, Public Works and Housing Ministry, George Saitoti at Education, and Kalonzo Musyoka returning to the Foreign Affairs Ministry that he had barely left since the October split from Moi. Kibaki even decided to retain Amos Wako as Attorney General from the Moi regime despite the fact that Wako never 'split' from Moi and KANU, although his post now fell under Murungi's newly expanded ministry. The Vice Presidency went to Kijana Wamalwa, the old Luhya and FORD-Kenya leader who then became one of the NAK triumvirate with Kibaki and Ngilu.

The broad and unified opposition under Kibaki had produced a decisive victory. Now it saw its collective mandate as one of preserving that unity and translating the common objective of displacing KANU into a positive program that accommodated the interests of all the factions in NARC and of all their respective leaders while getting Kenya as a whole back on the road to economic and political development. Nevertheless, most Kenyans and outside analysts saw the challenge confronting Kibaki in maintaining the NARC coalition as a difficult one from the outset. In response to the cabinet announcement, backers of Raila's LDP repeatedly complained that Kibaki and the National Alliance faction had violated the terms of the October 2002 Memorandum of Understanding that brought NAK and the LDP together as NARC: They claimed the agreement had been for a 50/50 split of cabinet positions, not the roughly 2 NAK for every one LDP member that Kibaki announced. The implicit threat was that they might leave the government and join KANU in opposition, but Raila intervened to at least delay this battle. It resurfaced repeatedly as Kibaki made further appointments below the level of the cabinet. The LDP "rebels" in Parliament did threaten to try to block key anti-corruption legislation even by voting with KANU, but this protest was overcome with some concessions to expand the NARC executive body. The new Vice President Wamalwa was already seriously ill during the campaign with a kidney problem that had him flying to London repeatedly for treatment and hospitalization. He died in August of 2003 setting in motion another "succession crisis" over his replacement, with Raila's supporters once again pushing for him to be given the #2 spot. Other prominent contenders included Raila's LDP colleagues former Vice-President Saitoti (although he was rumored to be switching over to NAK for better protection from prosecution) and Foreign Affairs Minister Musyoka, whom opinion polls favored. After over a month's deliberation, Kibaki instead chose to promote the Minister for Home Affairs, Moody Awori, a Luhya like his predecessor and an ally of Kibaki who was also, like the President, in his 70s. Not only was Awori from the LDP faction, but his age was seen as a consolation to the overlooked candidates because he was assumed to be too old to contend for the Presidency in 2007. However, the grumbling over mistreatment of the LDP and spoils-style

patronage by the Democratic Party (DP) circle around Kibaki continued.<sup>320</sup> Having overcome this challenge to NARC unity, Kibaki still confronted major disagreements over how to rationalize NARC's political structure which was still an alliance of some 15 smaller parties – 14 of which were part of NAK plus the LDP. Some NAK leaders proposed a merger into a single party, but the LDP and Raila strongly opposed this. They were joined in this position when FORD-Kenya went through a full convention-style process of electing a new leader to replace Wamalwa and rejected the idea that their party would dissolve to merge into a larger unity.

Throughout 2003, KANU struck a low profile under the leadership of Uhuru Kenyatta: Moi was expected to relinquish his post as party chairman and to thus fully retire from politics at the annual party conference. Kenyatta was very slow to name a shadow cabinet, and this illustrated the awkward adjustment process to the party's new role in opposition. Erstwhile moderate party

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<sup>320</sup> The Memorandum of Understanding continued to be at the heart of the dispute and highlights the problem that NARC was essentially a coalition government based on an expedient political agreement rather than a legal and constitutional process of coalition government formation through a parliamentary process. (For the public text of the memorandum, see <http://www.kenyaelections2002.org/info/002.asp>) It seems clear that Kibaki and to some degree NAK (not really a coherent entity) did renege on promises to the LDP faction, which hardly bodes well for the democratic norms hopefully developing in Kenya. On the other hand, a 50/50 split of cabinet and other posts does not exactly correspond to the actual parliamentary and electoral strength of the two factions: one meticulous donor-sponsored analysis concluded that the LDP was the biggest single party in NARC with 47% of the NARC MPs (59 out of 125 elected MPs) coming from that party, and that if both the Ministerial and Assistant-Minister appointments are considered, then the LDP received 47% of the appointments (23 out of 49): see "NARC Parliamentary Seats and Government Appointments" at <http://www.kenyaelections2002.org/info/001.asp>. (A pattern of favoritism by Kibaki towards appointees from the Kikuyu, Embu and Meru ethnic groups (the latter two being groups traditionally and geographically related to the Kikuyu) is clear at the level of ministerial Permanent Secretaries. (*ibid.*)) However, party loyalties have proven to be fairly fluid in Kenya when power is at stake, and other analysts like the Economist Intelligence Unit appear to dispute this analysis strongly by repeatedly arguing that if the LDP were to leave the government, NARC/NAK's majority would not be jeopardized: this implies (probably incorrectly) that the departing LDP faction would be no larger than some 20 MPs (see any EIU Kenya Country Main Report from 2003.) The LDP is nevertheless clearly treated as the junior partner to NAK as a whole plus it brought lots of undesirable KANU baggage to the new government. Also the alleged promise that Raila would get the Prime Minister's post under the new constitution assumed the Sept. 2002 draft constitution would remain unchanged. NAK supporters of Kibaki clearly changed their opinion on the issue of checking and devolving executive power once they were themselves in power. A typical example is the following comment: *The Nation*, Sept. 15, 2003 "NARC rivals call for arbitration" – "However, Transport and Communications Minister John Michuki said the circumstances that led to the inclusion of the executive prime minister's post in the Draft Constitution had been subjective and were meant to curtail the powers of then ruling Kanu government which was viewed as authoritarian. "Since KANU was ousted from power last year, the executive post of a prime minister is not necessary. Time has come for Kenyans to produce an objective constitution for the prosperity of the nation," Mr Michuki said at Kangema Stadium during an exhibition of traditional medicines and products organised by women's groups." The Kibaki NAK/DP faction had thus apparently failed what Shadrack Wanjala Nasong'o has aptly termed "the shoe-on-the-other-foot test" of principled democratic commitment ("The Paucity of Personalized Democratic Crusades: Kenya and Zambia from an Institutional Perspective", paper presented to the African Studies Annual Conference, Boston Mass. October 6, 2003)

leader Musalia Mudavadi announced his retirement from politics. Nicholas Biwott, President Moi's right hand "total" man, adjusted to being a simple MP. The NARC government moved to repossess the Kenyatta Conference Center skyscraper that dominated downtown Nairobi and served as KANU headquarters: it argued that the original free transfer or 'gift' of the building from the Kenyan government to KANU had been illegal.

Despite some optimistic rhetoric about fulfilling the NARC campaign promises within the first 100 days of the new administration, the reality was inevitably slower. Free primary education moved ahead immediately under Saitoti's oversight as the new government found the initial money necessary to cover the elimination of fees and managed to avoid a teachers strike over promised pay raises dating back to 1997. Despite an IFI record of pushing user fees and austerity as part of structural adjustment, the World Bank stepped in with a \$54 million loan in June that was largely devoted to textbooks, and primary enrollment rose by some 1.3 million students to a total of 7.2 million nationwide thus vindicating the critics of fees. The campaign against corruption began early with many of the new ministers eager and even competing to expose corruption in their ministries and the sectors they oversaw. As an early high point of symbolism, Kibaki appointed John Githingo, the director of the Kenyan chapter of the anti-corruption organization Transparency International, to be the Permanent Secretary of a new Governance and Ethics Department within the Office of the President. Another early focus on the judiciary was led by the new Justice Minister Murungi, and it quickly bore fruit: facing an obvious threat of prolonged investigation, the Chief Justice Bernard Chunga (a Moi appointee) resigned in late February. By late in 2003, enough sitting judges had been suspended due to investigations that the administration of justice was seriously slowed, and controversy erupted over the process of appointing new replacement judges before the suspended judges faced any tribunal over the charges against them. Kibaki led members of his cabinet in a new mandated disclosure of their wealth, but other members of the political class including many MPs were slow to comply despite multiple extensions of the deadline.

After the LDP-related delay noted above, the Parliament finally passed and the President signed the three pieces of anti-corruption legislation long demanded by the IMF – the Economic

Crimes Bill, the Public Officers Ethics Bill and the Kenya Constitution (Amendment) Bill that enabled the formation of an Anti-Corruption Authority. By August of 2003, the Kibaki government expanded the mandate of the now revived Goldenberg Scandal prosecution to enable both the retrieval of the estimated \$900 million to \$1 billion involved that may have been transferred abroad and the investigation of judicial malfeasance that resulted in the prosecution having been so obstructed and delayed. Several Moi associates were under investigation, and President Moi himself was interviewed by investigators. The Goldenberg affair had long been the ultimate symbol of KANU-era corruption for both the once-opposition parties and for the donor community, and the new NARC government appeared earnest in pursuing it even though George Saitoti, long associated with the scandal but never indicted, now occupied a prominent position in the cabinet. (Ironically, Saitoti had actually topped a favorability poll conducted in April, surpassing Kibaki, when the new Education Minister was viewed as enjoying extensive credit for the progress in free primary education.) New rounds of corruption reports and investigations focusing on Ministries, parastatals and even sitting MPs were rumored to be in the works once the judicial system was sorted out and able to deal with the anticipated volume of cases.

The Constitutional Review and reform process was the slowest of the three NARC campaign themes to make progress. The National Constitutional Conference (NCC) that had been scheduled for October 2002 finally convened in May 2003 still under the leadership of Prof. Yash Pal Ghai and set itself a November deadline for completion and ratification. The 629 member Conference included the entire Parliament plus additional representatives from geographic districts and civil society groups, and its schedule was severely constrained by the fact that it could only meet during a Parliamentary recess. The NCC recessed in June, and Kibaki took the opportunity to hammer out a consensus with the LDP and within NARC as a whole (the Nanyuki Accord) that the envisaged position of a Prime Minister under the new Constitution would not have more executive powers than the President, thus apparently resolving a major issue that threatened to divide the Conference. However, when the Conference reconvened in August for what was hoped to be a final month of work, divisions reemerged on a range of issues that seemed to doom prospects for a quick

consensus. Then the process took a very ugly turn: on September 14<sup>th</sup>, Professor Chrispine Odhiambo Mbai, chairman of the Political Science Department at the University of Nairobi and more importantly of the Devolution Technical Committee of the NCC (one of the delegate working groups), was shot and killed in his home by gunmen who then escaped. Called a botched robbery by some, others noted nothing was taken and immediately denounced the killing as a political assassination. Accusations then began to fly with some LDP figures implying that the NAK/Democratic Party faction of President Kibaki was behind the killing while others accused KANU. The Devolution Committee was addressing proposals to decentralize power through elected rather than appointed local, district and provincial governments and thus it clearly impacted Presidential power as well as coming as close as the new constitution was appearing to get to the “majimbo” or federalism debate given that a fully federal arrangement was not on the table. By the time the Conference session concluded on September 26<sup>th</sup>, some committees had made progress while others appeared locked in conflict. At this point, residual discontent over the appointment of Moody Awori as Vice-President rather than Raila plus the ongoing issue of the Memorandum of Understanding and alleged patronage appointments by Kibaki added to the atmosphere of conflict and tension within the government.

On October 22<sup>nd</sup>, after a joint meeting between the KCRC and key parliamentary committees, the decision was announced to postpone the reconvening of the NCC from November 17<sup>th</sup> to January 12<sup>th</sup>, 2004. The announced rationale for this delay was that the Parliamentary legislative agenda was too extensive and important to be completed or rushed to meet the NCC timetable.<sup>321</sup> While this was certainly plausible, it also covered for the fact that dissension continued between the NARC factions. The mandate for the KCRC was accordingly extended from a November 30<sup>th</sup> 2003 expiration until June 30<sup>th</sup>, 2004 as a presumed new date for completion of the review process. To many Kenyan critics as well as some outside analysts, this second major deferral of the Constitutional reform by a government that had originally promised to pass the

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<sup>321</sup> Statement By The Constitution Of Kenya Review Commission On The Postponement Of The National Constitutional Conference, Wednesday, 22<sup>nd</sup> October, 2003, available at <http://www.kenyaconstitution.org/html/news.htm> (accessed November 3, 2003)

September 2002 draft constitution in its first 100 days meant that both NARC commitment to the reform and NARC unity were seriously in doubt. Added to the charges of favoritism against Kibaki and the DP faction in NARC, the related renegeing on the Memorandum of Understanding with the LDP, a new conservatism on civil rights engendered by Kenya's experience with Al-Qaeda terrorism and US pressure, and the apparent shifts on specific constitutional issues such as the role of the Prime Minister by members of the DP faction to the point where they were said to have adopted the same positions as Moi when he had been in power – all this engendered considerable cynicism as to whether a new democratic politics had been achieved in Kenya instead of a mere rotation in the ethnic segments of the patrimonial political class currently in power. On the other hand, the government could point to some real accomplishments and efforts to address Kenya's many problems despite the apparent but predictable problems within the NARC coalition. Many participants in the Constitutional Conference argued that the process may have been delayed, but was nevertheless on track and moving forward much better than it had under the KANU regime. Meanwhile, the economy grew at lackluster 1.4% for the first half of 2003, slightly ahead of the 1.15% of the previous two years, but still below the population growth rate. The government struggled with fiscal deficits and hoped for increased aid to bridge the gap and perhaps give a green light to increased foreign investment.

The donors generally welcomed the peaceful election of Mwai Kibaki and the Rainbow Coalition, and early forecasts anticipated a rapid renewal and increase of aid to the new government including forms of budgetary support and program aid that had been scarce since 1991 and almost non-existent since the IMF aid freeze of 2000. However, by late 2003, the large-scale return of aid to Kenya still remained to be seen. The IFIs were explicit in maintaining the same conditions they had with the Moi regime rather than easing up on the new regime and granting it benefit of any doubt on its reform commitment. NARC progress on some of these conditions was in turn slow (e.g. privatization of parastatal industries) much like the preceding KANU regime. While new aid

for specific projects and programs like free primary education was announced, many bilateral donors were characterized as still adopting a cautious “wait-and-see” approach and awaiting final IFI funding resumption. Perceived delays in the Constitutional reform process, the reform of the civil service and parastatal privatization, the fight against corruption plus the constant conflicts within the NARC coalition over some of these same issues were all identified as contributing to a possible new threshold in donor conditionality: while most of these factors were not new, explicit concern for the constitutional reform process and the functioning of the NARC coalition were and could be seen as further extending the reach of conditionality.<sup>322</sup> Unfortunately for the donors, concern for progress in constitutional reform and peace within NARC may be divergent goals in that pushing for a resolution of disputed constitutional issues could be what precipitates a further breakdown in the coalition if no consensus on central questions of the architecture of political power is reached.

Donors were reported to have pushed hard for the initial report on corruption in the judiciary to be made public (except for the names of the accused.)<sup>323</sup> The Kibaki administration was said to have complied even though it had not worked out any of the logistics on how to proceed yet (a point which later engendered more political controversy) because it hoped this compliance would help release new aid sooner. The IFIs and specifically the IMF proceeded slowly and methodically (i.e. bureaucratically) towards a resumption of aid with a regular schedule of delegations and meetings with the new NARC government: a letter of intent that would have given a green light to bilateral donors, to debt rescheduling and possibly to investors was expected in September. On October 28<sup>th</sup>, the IMF suddenly postponed the Washington board meeting set for the following day in which a full resumption of a Poverty Reduction and Growth Facility (PRGF) agreement with Kenya was to be approved.<sup>324</sup> The postponement was only for three weeks and was

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<sup>322</sup> “Donors Wary of Kenya Reforms Stalemate” By Juma Kwayera , The East African, 9/22/03, <http://www.nationaudio.com/News/EastAfrican/22092003/Regional/Regional2209200323.html> .

<sup>323</sup> “Donors Pushed for Ringera Report”, The East African , 10/13/03, <http://www.nationaudio.com/News/EastAfrican/13102003/Regional/Regional14.html> .

<sup>324</sup> “IMF postpones talks on aid”, by Jaiindi Kiseru The Nation (Nairobi) 10/29/03, <http://www.nationaudio.com/News/DailyNation/29102003/News/News2910200396.html> .

initially attributed to some technical “glitches” related to Kenya’s international debts and the need to conduct a “debt sustainability study”, but it caused a worried feeling of déjà vu in Nairobi given the record of IMF/Kenyan relations and the repeated deferrals over the previous six years. An official from the World Bank team in Kenya dismissed speculation that the postponement represented “a further shifting of the aid goalposts”, and noted that plans for the Bank to chair the first formal donors’ Consultative Group meeting since 1996 (and the first held in Kenya) were still on track for November 24<sup>th</sup> and 25<sup>th</sup>.<sup>325</sup> The IMF approval did move forward in November releasing a total of \$250 million over three years, and this set the stage for the CG meeting which produced a generous \$4.1 billion in pledges over the same three years, some 60% of which was grants and approximately half of which was program aid that would address government financial deficits as well as support reforms. According to EIU estimates (based on IMF data), this would constitute an increase of aid from 6.5% of GDP in 2003/04 to 9.9% of GDP in 2005/06, and it would coincide with a predicted GDP growth rate of 3.5% in 2004 and 4% in 2005. The 2004 prediction was later reduced to 3%, but that would still translate to the first increase in per capita GNP since 1996. The IMF and CG decisions were followed by a Paris Club meeting of official creditors in January, 2004, that rescheduled some \$350 million of Kenya’s debt repayment for the same three year period and thus completed the donors’ official re-engagement with Kenya and endorsement of the Kibaki government’s economic commitments and policies.

#### *Analysis, 2003-2004*

By May of 2004, the major political challenges facing the new government showed no signs of easy or quick resolution, and the task of trying to consolidate and advance the democratic gains of the recent election and indeed the entire transition attempt since 1990 still seemed difficult and slow despite the defeat of KANU. Putting aside the major economic, demographic and epidemiological challenges facing the country to focus on the more purely “political” issues, the

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<sup>325</sup> “Will IMF’s nod of approval turn aid taps on again?”, by Mwangi Githahu, *The Nation*, 11/2/03,

latter can be seen as falling into three related categories: corruption and the political culture of clientelism, the constitutional and broader institutional system of governance best suited for a democratic Kenya, and the issue of leadership and consensus-building which bridges the first two in important ways. Kenya had clearly made major progress in the areas of electoral democracy, basic political and some civil rights, but in order to secure these gains, the country needs to move beyond purely procedural minimum thresholds of democracy to substantive accomplishment. The institution of free primary education illustrates such an accomplishment that not only garnered immediate support for the Kibaki regime (and even for such a controversial figure as former Moi VP, George Saitoti), but also made a concrete change in the lives of many Kenyans.

The immediate difficulties of the NARC government stem largely from the fact that it is an “informal” coalition government trying to operate without much in the way of constitutional or institutional (i.e. Parliamentary) support for such a configuration. Although a constitutional amendment passed by Parliament as part of the IPPG reforms in 1997 legalized coalition governments and removed some constitutional obstacles that remained from the de-jure one-party state, NARC was created as an ad-hoc “super-party” on the basis of a Memorandum of Understanding that was basically a gentleman’s agreement of uncertain legal or even political status. The NARC factions are essentially still improvising the rules of their arrangement: although the LDP claim (and many observers agree) that Kibaki and the NAK faction violated the Memorandum of Understanding that forms the basis for NARC, the LDP is still in the coalition, and the government still stands and continues to function, but with a very high level of conflict and uncertainty.

This lack of political institutionalization is compounded by the fact that the entire constitutional system has been under review and the almost ten-year process (dated back to the formation of the Citizens’ Coalition for Constitutional Change in 1994) was finally coming to a penultimate state of fruition: the National Constitutional Conference completed its draft of a new

Constitution in March, 2004, and sent it to Parliament for the final steps of ratification. However, the Conference did so only after a combination of civil society delegates and opposition (KANU, Ford-People) and LDP faction MPs outvoted the delegates loyal to Kibaki's NAK faction of NARC on the still divisive issues of a strong Prime Minister and a weakened President sharing power at the top of a new constitutional order and of a recall provision for MPs. Serious conflicts still remained over whether ratification would ultimately come through popular referendum or a vote of Parliament. A second point of conflict was over whether Parliament would try to amend the existing Constitutional Review legislation to allow itself to amend the Conference draft rather than just vote it up or down as previously required. Constitutional issues are rarely debated and decided anywhere at a purely abstract or normative level, but in Kenya the debate has become totally enmeshed with factional maneuvering for political advantage, with the succession question again and with struggles over the political power of specific individual leaders like Kibaki and Raila Odinga. President Kibaki pledged in April that the country would have a new Constitution by the end of June, but that goal still appeared very uncertain.

On the issue of corruption and its drain on the economic progress of the entire country, the NARC government has drawn continued praise for its movement to address the corruption of the KANU years, to revive the Goldenberg investigation, to track stolen funds and to start new investigations that will presumably lead to prosecutions, but it has also begun to come under criticism for instances of "new" corruption under its own administration. Also the press reports on investigations into "old" corruption pre-2003 consistently mention that former KANU figures now in the NARC government are implicated, although they rarely name names. It appears that for Kibaki to be serious about corruption will quite soon require that some of these NARC figures are prosecuted whether for "old" or "new" corruption, and that while crossing this threshold will receive further praise from many quarters (including donors), it will also undoubtedly complicate NARC's coalition difficulties, perhaps severely. The purging of the judiciary of judges and magistrates implicated or suspected of corruption during the KANU years has been a very necessary move towards reform of a crucial institution for any consolidating democracy (although

zeal may outweigh due process in specific cases.) Yet, even in this case, the Kibaki government has faced probably unavoidable complaints both that, on the one hand, it has politicized the process and is essentially replacing KANU judges with NAK judges, and on the other, that a wholesale purge is bringing any semblance of a functioning judiciary to a temporary halt and worsening existing case backlogs. The ultimate test comes not simply from purging tainted judges, but from building a legitimate and effective judicial branch.

Beyond corruption, the larger challenge for the Kibaki government and for Kenya as a whole is to remake the Kenyan state in order to help remake and develop the Kenyan economy: the political culture of clientelism and of the patrimonial state has been under assault since the beginnings of structural adjustment in the debt crisis of the 1980s, but it has hung on in many ways despite being financially unsustainable and developmentally counterproductive (or at least insufficient.) The Kibaki regime appears committed to the IFI and donor mandated path of streamlining the state as well as ending corruption, even though the former will involve politically painful lay-offs of thousands of civil servants, the end of much political patronage, the privatization or abandonment of parastatal enterprises, and considerable economic upheaval and uncertainty. Although renewed aid represents an acknowledgement by the donors of that commitment, many of the key tests are still to come. Kenya needs a new consensus about the developmental role of the state and about the legitimate distribution of state resources and power to replace the patrimonialism and ethnic and client favoritism in which those who lack “membership” in the state or selectively privileged channels of access to the state are excluded from politically (but not transparently) allocated benefits. Kenya needs a state which is transparent, accountable, responsive and accessible to all its citizens, and which distributes development resources and social programs equitably and in accordance with that new consensus on legitimacy. Kenya needs a new politics and political culture which are focused on the consensus building around that legitimacy, around common interests in democratization and development, rather than on winner-take-all politics and the ambitions of individual leaders or factions to dominate select positions of power from which they can control patronage and patrimonial largesse and protect clients from equal justice or fair competition.

Achieving these goals will not be possible without some degree of committed and shared moral leadership. While Kibaki still enjoys considerable support, good will and benefit of the doubt among the donors and probably still among many of the Kenyan voters who supported him, the one-time Vice President of KANU is far from a Kenyan “Mandela” (an admittedly high standard.) Very few members of the political class seem to aspire to this type of leadership.

The donors can and will continue to hold firm on conditionality around economic adjustment and corruption issues, calling for investigation, prosecution, and for the resources, laws and institutions needed to punish and prevent corruption. They will also continue to provide political aid to reform government institutions and to support NGOs and civil society working on democracy and governance issues. But there are still normative and practical limits on what donors can do to help address the three main political issues identified in this analysis. Corruption is perhaps the easiest on which to hold a clear policy, to combat with improved accounting and accountability, to prosecute even if success is not guaranteed and the beneficiaries of corruption are continually seeking new ways to abscond with public resources. The deeper political culture of clientelism which feeds corruption is much more difficult for the donors to address, especially in that one of its other manifestations in the politics of personal ambition is well within the bounds of tolerable democratic behavior. Only by making economic, social and political alternatives to clientelism more established and successful as well as normatively preferred in an evolving democratic system can cultural change be promoted over the longer term. Properly targeted aid can certainly be one important ingredient in economic and political reform and in establishing new alternatives, but it will remain only one factor – facilitating, even necessary at times, but never sufficient – in a mix with the commitment of the Kenyan government and Kenyans more generally, with local ownership of the reform agenda, to use the language of aid programs. This traditional developmental role for aid can be at odds with the use of conditionality to punish and deter corruption. Conditionality will continue to exclude humanitarian aid (broadly defined) and much ongoing project aid and to focus instead on the most fungible sorts of program aid which provide

cash to address deficits in the government budget, current account, debt servicing and other macroeconomic financial accounts.

On the second and crucial issue of the constitutional and institutional system of governance best suited for a democratic Kenya, and the relationship of that system to both moving away from the culture of clientelism and forging a new national consensus on development, democratization, distribution and a reformed state, the donors have less clear influence and formal conditionality is a largely inappropriate tool. The Constitutional Review process and National Constitutional Conference have struggled over a series of partisan political hurdles posed first by KANU and now largely by NAK, and done so in a relatively open and democratic process, to finally produce a draft constitution that would significantly change the architecture of political power in Kenya. It is clear, however, that the process did not produce a consensus, and it is a considerable irony that the minority opinion is now represented by the NAK faction of President Kibaki. A consensus is still possible, but it awaits Kibaki's leadership to make happen. Donors (and foreign investors) have expressed concern at the level of conflict within NARC, over a resulting perception of uncertainty and instability in Kenya and over the delays in the Constitutional process, all of which are deemed to be consuming tremendous amounts of political energy and distracting from the vital agenda of economic and institutional reform. However, for donors to comment publicly on the specifics of the new Constitution (assuming they had constructive opinions to express) would be viewed as crossing the line into intervention in the most sovereign democratic affairs of the country (even though this line has clearly moved considerably since 1990.) Finally, public statements or the overt application of leverage over issues of leadership style, quality, or behavior likewise run the risk of evoking a degree of nationalist backlash that previous aid conditionality never did. Given the "democratic" nature of most of the political conundrums in Kenya, it would expose donors to the charge of trying to undemocratically micro-manage the very democracy they claim to promote. Some key elements of democratic consolidation are beyond donor's control or even influence, and a new democratic consensus must be real and "homegrown" if it is to work, rather than be political theater or ritual primarily for an international audience.

## **Chapter 5.**

### **Malawi - A Case Study of Prodemocratic Aid Conditionality**

#### *1. Summary Introduction*

The transition attempt cases of Kenya and Malawi display very different historical patterns regarding the replacement of the previously authoritarian regime once multiparty elections are held. Whereas in Kenya the former authoritarian party (KANU) was not defeated until the third multiparty election some 11 years after conditionality was imposed, in Malawi President-for-Life Hastings Kamuzu Banda was defeated in the very first election held two years after the imposition of conditionality. The electoral defeat of the former dictator or his party is a highly symbolic event for democratic transitions, but its deeper significance for democratic consolidation, institutional transformation or cultural change is by no means automatic. Nonetheless, the Malawian case stands out for the apparent ease of the transition from what had once been widely viewed as one of the most tightly controlled authoritarian regimes in Africa, and in a country that ranks among the very poorest in the world. While human rights abuses, harassment of the democratic opposition, and a modest number of deaths did occur, generally speaking the Banda's Malawi Congress Party (MCP) regime responded to donor pressure by acquiescing to the opposition demand for a referendum on single-party rule, accepted the negative outcome, moved to a kind of interim national unity government with the opposition, held multiparty elections and accepted its loss without much in the way of protest, authoritarian coercion or devious scheming. The one brief eruption of violence involved the effective destruction of the MCP youth league paramilitary, the Young Pioneers, by the Malawian Army. This turned out to have more to do with institutional rivalry and

discontent than with transition politics, and its benefit for the transition process was thus fortuitous. A high level of aid dependency and a united prodemocratic opposition with strong moral and nonpartisan leadership from the churches up through the referendum vote were key factors in creating the transition. An additional important and somewhat idiosyncratic factor was the fact that the MCP regime was already in a succession crisis given Banda's advanced age and the unpopularity of his initial chosen successor, John Tembo. Banda attempted to address this by picking a different running mate for the 1994 elections in the person of Gwanda Chakwamba, but this last minute change proved ineffective.

The elections exhibited a sharp pattern of regional cleavages as the United Democratic Front (UDF) led by one-time MCP official Bakili Muluzi captured most of the vote from Malawi's most populous Southern Region and won the Presidency, while Banda and his MCP came in second with most of the vote from the Central Region, and the AFORD party came in third representing the least populous Northern region. The new Muluzi government appeared eager to cooperate with the donor community on democratic consolidation, and the United Nations Development Program (UNDP) headed up a joint effort to draft a National Democracy Consolidation Program to coordinate donor and UDF government cooperation. However, the UDF had not won a parliamentary majority in the election, and while AFORD joined it as a junior partner in coalition, this relationship broke down in acrimony and charges of UDF corruption in 1996. The UDF also attempted to strip the ailing Banda and the MCP of the inordinate wealth accumulated over 30 years in power and to prosecute Banda and Tembo for political assassinations and plots dating back to the 1980s. The former effort was successful, while the latter was not, but together with that UDF-AFORD disputes they worked to create a highly adversarial domestic politics including a parliamentary boycott and constitutional crisis which overshadowed any concerted effort at democratic consolidation. The UDF government complained that donor funding for the consolidation program was inadequate, while donors complained that government will and commitment were lacking.

Relations with the donor community soured further as the Muluzi government abandoned its earlier fiscal discipline and adherence to structural adjustment in 1997: this resulted in aid suspensions by the IMF and other donors until the government reversed course in 1998. Heading into the 1999 elections, the UDF used state resources to entice defections among opposition MPs, and various corruption scandals emerged. The UDF steadfastly refused to relinquish tight government control of the important broadcast media and began to engage in what was perceived as partisan manipulation of the Electoral Commission in advance of the upcoming elections. Donors funded the elections heavily, but clashed with the government and the Electoral Commission on a number of issues, and the election process itself turned into a fiasco of mismanagement resulting in polling day being rescheduled twice. The new MCP-AFORD opposition coalition claimed the pattern of mismanagement in areas such as voter registration was deliberately skewed against them. While the term of Malawi's first democratically elected government since the independence election of 1964 started off with great promise, it quickly became mired in partisanship and familiar clientelist politics. Donors attempted to support democratic consolidation efforts and the elections, but limited punitive conditionality and aid suspensions to structural adjustment issues.

Muluzi and the UDF won the 1998 elections with just over half the vote, and lost no time afterwards in focusing Malawian politics on the issue of whether the constitution could be amended to end term limits and allow Muluzi to run for a third term. Some enthusiastic UDF member was even quoted as saying the party leader should be made Life-President like his predecessor. Opposition parties, donors, and civil society including the churches all joined in opposition, and the UDF government banned rallies and adopted other increasingly undemocratic measures to try to undermine any opposition. While donors threatened unspecified negative consequences for aid, the UDF persisted, and the amendment was ultimately defeated in Parliament. The only other political issue that donors were reasonably explicit about in terms of conditionality was media liberalization: here the UDF government complied by passing new legislation, issuing licenses and instituting supposedly independent regulatory agencies, but during the run-up to the 2004 election, the same complaint of pro-government bias in all official radio and television was documented. Donors did

engage in conditionality and aid freezes over missed structural adjustment targets and corruption, but in the case of adjustment the donors ultimately backed-off because the domestic debt market that the government resorted to when external aid was frozen created such a debt burden that the IMF worried the UDF would default and cause a banking or even broader economic collapse in Malawi. Buffeted by drought, AIDS and erratic tobacco export prices on top of endemic poverty and made worse by government corruption and mismanagement, Malawi's economy was judged to be too precarious and too desperately in need of aid for strict conditionality to be applied.

Compared to its initial success with the Banda regime, aid conditionality was less successful during what had been hoped to be the consolidation phase of post-Banda democracy in Malawi: donors restrained themselves from imposing extensive or strict political conditions on a duly elected government. On the two issues they did speak out on, the "third term" question and media liberalization, compliance was lacking in the first case and proved largely illusory in the second once the electoral stakes became high. Given the rapid decline of Malawian politics into regional and clientelistic competition and discord, on the one hand, and the pressing economic problems of the country on the other, donors chose the latter for exercising conditionality leverage, but found the policy inadequate for dealing with the extent of the economic challenge. The challenge of democratic consolidation entailed both attempting to prevent back-sliding and finding opportunities for new institutionalization and progress: conditionality arguably still exerted important influence to constrain the worst but not all anti-democratic action (although this is hard to document), while progress on issues like the Anti-Corruption Board was slow and modest at best.

This chapter will present a historical narrative and an analysis of the democratic transition attempt in Malawi starting in approximately 1990 up to the eve of the 2004 election. It will divide that narrative into periods according to the logical phases and main political events of the transition (i.e. mostly according to the electoral cycles starting in 1994.) Each period will be analyzed to ascertain the progression of democratization or lack thereof, focusing on both the roles

of domestic political actors and those of the aid donors and other external actors that seek or appear to have an impact on the course of political events.

## 2. *The Changing Context, the Emerging Movement and the Pastoral Letter - 1990-1992*<sup>326</sup>

The pre-1990 historical background and important legacies and antecedent variables for Malawi's changing politics were summarized in Chapter 3 in an effort to provide a baseline for

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<sup>326</sup> The most extensive monograph on the democratic transition in Malawi, Heiko Meinhardt, *Politische Transition und Demokratisierung in Malawi* (Hamburg: Institut für Afrika-Kunde, 1997) (and all other work by this author) is available only in German. In English, the closest equivalents are two books by John Lloyd Chipembere Lwanda, *Kamuzu Banda of Malawi: A Study in Promise, Power and Paralysis (1961 to 1983)* (Dudu Nsomba Publications: Glasgow, 1993) and *Promises, Power, Politics and Poverty: Democratic Transition in Malawi (1961-1999)* (Dudu Nsomba Publications: Glasgow, 1996.) See also, Trevor Cullen, *Malawi: A Turning Point* (Edinburgh: Pentland Press, 1994) and possibly a still unpublished manuscript by Richard Carver of Article 19. The Kachere series sponsored by the Department of Theology at the University of Malawi includes M.S. Nzunda and K.R. Ross, eds., *Church, Law and Political Transition in Malawi, 1992-1994* (Gweru, Zimbabwe: Mambo Press, 1995), K. M. Phiri and K.R. Ross, eds., *Democratization in Malawi: A Stocktaking* (Blantyre/Bonn: CLAIM/Culture and Science Publishing, 1998), and Martin Ott, K.M. Phiri & Nandini Patel, eds., *Malawi's Second Democratic Elections* (Blantyre: CLAIM, 2000.) Jane Harrigan, *From Dictatorship to Democracy: Economic Policy in Malawi 1964-2000* (Aldershot/Burlington VT: Ashgate, 2001) focuses on economic reform and structural adjustment primarily, but also addresses politics. The local press in Malawi (unlike Kenya) was tightly controlled before the transition, then erupted into a plethora of newspapers, many of them short-lived, and most of them unavailable internationally: in recent years the Chronicle (Lilongwe) has emerged as a reliable source and is available via allAfrica.com, while The Nation (owned by Aleke Banda, minister in the Muluzi government from 1994- 2003 and once high up in the MCP under Pres. Banda) is another: <http://www.nationmalawi.com/>. Standard sources such as Africa Confidential, Africa Events, Southern Africa Political and Economic Monthly (SAPEM), Reuters, Panafrican News Agency, African News Service and Economist Intelligence Unit Country Profiles and Country Reports provide good coverage. Journal articles/book chapters include: Richard Carver, "Malawi: Between the Referendum and the Elections," Writenet/UNHCR at [www.unhcr.ch/refworld](http://www.unhcr.ch/refworld) (18pages, still available 8/27/02); Daniel Posner, "Malawi's New Dawn," *Journal of Democracy* Vol.6, no.1 (Jan. 1995): pp.131-145; Jan Kees van Donge, "Kamuzu's Legacy: The Democratization of Malawi," *African Affairs* Vol.94 (1995): pp.227-257; Jonathan Mayuyuka Kaunda, "Malawi: The Post-Colonial State, Development and Democracy," *Africa* (Rome) Vol.L, no.3 (1995): pp.305-324; Jonathan Newell, "A Moment of Truth? The Church and Political Change in Malawi, 1992," *Journal of Modern African Studies* Vol.33,2 no.(1995): pp.243-262; John R. Minnis, "Can Civil Society be a Force for Political Change In Malawi?," *Eastern Africa Social Science Research Review* Vol.7, no.1 (Jan.1996): pp.1-13; Ezekiel Kalipeni, "Transition to Democracy in Malawi: The Role of Internal and External Forces," *21<sup>st</sup> Century Afro Review* Vol.2, no.2 (Spring 1996): pp.49-77; Clement Ng'ong'ola, "Managing the Transition to Political Pluralism in Malawi: Legal and Constitutional Arrangements," *The Journal of Commonwealth & Comparative Politics* Vol.34, no. 2 (1996): pp.85-111; Julius Ihonvbere, "From despotism to democracy: the rise of multiparty politics in Malawi," in *Third World Quarterly - Journal of Emerging Areas* Vol.18, no. 2 (1997): pp.225-248 and *International Studies* Vol.34, no. 2(1997): pp.193-221; Jonathan Mayuyuka Kaunda, "The State and Society in Malawi," *The Journal of Commonwealth & Comparative Politics* Vol.36, no. 1, (1998): pp.48-68; Diana Cammack, "The Democratic Transition in Malawi: from single-party rule to multi-party state," in John Daniel, et al. eds. *Voting for Democracy: Watershed Elections in Contemporary Anglophone Africa* (Aldershot UK/Burlington VT: Ashgate, 1999): pp.183-205; Foster Mijiga, "Malawi's Transition to Democracy," in Pdraig O'Malley, ed., *Southern Africa: The People's Voices* (Parktown SA: NDIIA/Univ of Western Cape, 1999): pp.82-93; Peter Von Doepf, "The Survival of Malawi's Enfeebled Democracy," *Current History* Vol.100, no. 646, (2001): pp. 232 -238.

analysis of the subsequent transition attempt and the impact of conditionality. Despite its low level of socioeconomic development and the fact that a majority of the general hypotheses on democratization yielded negative predictions as to the success of a transition attempt,<sup>327</sup> there was nonetheless a majority pointing in the other directions among the hypotheses considered for antecedent and intervening variables affecting the possible impact of political conditionality.<sup>328</sup> While detailed consideration of the individual hypotheses will come in Chapter 6, the narrative presented in this chapter will be analyzed both with them in mind and with an eye what other factors or variables may emerge as important.

The key factors in the 1989 to early 1992 period leading up to the transition to multi-party competition beginning in 1992 include:

- 1) Clandestine opposition groups within Malawi began to organize with growing effectiveness. By 1991, the two networks that would eventually form the Alliance for Democracy (AFORD, largely in the North) and the United Democratic Front (UDF, largely in the South) opposition parties had started to function.<sup>329</sup>
- 2) The international community began to pay increased attention to the human rights situation in Malawi, starting with human rights NGOs in the mid to late 80s and culminating in major reports and campaigns focused on political prisoners as well as increased media coverage.<sup>330</sup>
- 3) Donor governments consequently gave greater attention to human rights and political issues in Malawi - e.g. the first resolution in the U.S. Congress to tie Malawi aid to human rights issues dates from 1989, and Vice President Dan Quayle is said to have emphasized democratization

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<sup>327</sup> 3 positive versus 5 negative, see Table 3.5, ch. 3, p. 70. It should be noted that the various hypotheses are not weighted for relative importance, but simply tallied equally. Such a weighting is a desirable theoretical exercise, but not essential for present purposes.

<sup>328</sup> 5 positive, 1 negative and 1 neutral, see Table 3.6, ch. 3 p. 81.

<sup>329</sup> See Lwanda *op.cit.*, part 5 and *idem.*, *Democratic Transition in Malawi: 1961-1999* (Glasgow: Dudu Nsomba Publications, 1996/7), chs. 3-6. In addition to their regional differences, another key difference between the UDF and AFORD is that the former included many former MCP leaders from the South, whereas AFORD in the north would later portray itself as the "real" opposition, untainted by these past links to the Banda regime.

<sup>330</sup> e.g. Carver, *op.cit.* and *Malawi: Human Rights Violations 25 Years After Independence* (London: Amnesty International, 1989).

and human rights concerns in a visit to Malawi in April, 1991. Donors also pressed for and obtained the release of some 87 political prisoners in January to March, 1991.

4) The 1991 elections in neighboring Zambia in which longtime incumbent Kenneth Kaunda was defeated provided a "demonstration effect" inspiring prodemocracy actors in Malawi.

5) The Pope's visit to Malawi in May, 1989 was seen as disappointing by some in that the Malawi Congress Party (MCP, the ruling party) portrayed it as a blessing of the Banda regime, but it seems to have exerted some galvanizing influence that led to the Catholic Bishops' Lenten Letter the following Spring (see below.)

6) Malawian exile groups also increased their activism and cooperation leading to both a "fax/samizdat assault" that cracked the information isolation the Banda regime had till then maintained in Malawi and to a major meeting in Lusaka, Zambia on March 19, 1992. The process leading to this meeting reflected both funding from some international allies (e.g. Scandanavian labor groups contributing at the urging of their governments) and increasing sophistication in orchestrating international media coverage.

7) Banda announced important changes that affected the future of the MCP regime by announcing the promotion of John Tembo in January, 1992 to the newly created position of Minister of State in the Office of the President - essentially an executive Prime Minister position that left no doubt remaining that Banda was grooming him as a successor.<sup>331</sup>

The seminal event that is typically seen as having sparked the eruption of the prodemocracy movement into open confrontation with the Banda regime was the promulgation of a pastoral Lenten Letter by the Catholic Bishops of Malawi that was read from the pulpit throughout the country on March 8th, 1992 as well as published and distributed.<sup>332</sup> The letter called for respect for

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<sup>331</sup> For two perspectives on the transition, see: Daniel N. Posner, "Malawi's New Dawn," *Journal of Democracy* v. 6, n.1 (January 1995): 131-45; and Jan Kees van Donge, "Kamuzu's Legacy: The Democratization of Malawi," *African Affairs* 94 (1995):227-57.

<sup>332</sup> On the role of the churches in the transition in Malawi, see: Matembo S. Nzunda and Kenneth Ross, eds., *Church, Law and Political Transition in Malawi 1992-94* (Gweru, Zimbabwe: Mambo Press, 1995) and Jonathan Newell, " 'A Moment of Truth'? The Church and Political Change in Malawi, 1992," *Journal of Modern African Studies* 33,2 (1995): 243-62.

human rights, "a more just and equal distribution of the national wealth", an end to corruption, tribalism and "apartheid (whether economic or social)", the "participation of all in public life", freedom of expression and association, a just legal system and for a commitment to work for change.<sup>333</sup> This led to student demonstrations of support at the University of Malawi, and to massive attendance at Catholic services in the following weeks as non-Catholics displayed solidarity and a common desire to protect Catholic clergy from retribution by the MCP regime, various members of which made death threats against the Bishops.

The Lenten Letter was followed in April by the dramatic return to Malawi of Chakufwa Chihana, an Malawian official of the regional Southern African Trade Union Congress, from the Lusaka exile groups conference. He was arrested at the airport as he attempted to read a declaration of the establishment of a new coalition to push for democracy in Malawi. This action was carefully staged for international media coverage (some of which reached Malawi thanks to the efforts of exile groups), and Chihana quickly became a rallying symbol (as intended) both within and outside of Malawi: several of his scheduled court appearances became opposition demonstrations as several thousand people converged on the court house. Chihana's arrest was followed a month later by major unrest as an unprecedented wildcat strike on May 5th at a textile plant in the major city of Blantyre cascaded into street demonstrations, police repression in which 40 strikers were killed and two days of subsequent rioting.

### *Analysis*

The period from 1989 to early 1992 displayed a number of signs that the previously monolithic authoritarian system of rule under President for Life Banda was experiencing increased pressure domestically and externally. The internal changes that allowed for more effective opposition organizing were in part a reflection of the deterioration of the power base of the Banda regime: given Banda's advanced age (mid-90s – his exact age was the subject of controversy), the succession crisis that had been brewing for a decade was coming to a head. This was reflected in

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<sup>333</sup> The text of the letter is reprinted as Appendix 1 in Lwanda, Kamuzu Banda of Malawi.

the promotion of John Tembo to a new official position that was essentially that of hand-picked successor to Banda. This alone put a dent in the MCP power base because of Tembo's unpopularity: he lacked Banda's aura of nationalist leader and therefore his legitimacy with Malawi's masses, and he had made many enemies among Malawi's elites.

The uncertainty raised by the prospect that Banda might soon pass from the political scene plus the prospect that Tembo would be his successor did much to undermine the status quo, but the changing international context clearly played a major role in convincing a range of political actors that the opportunity to push for change had come. The defeat of Kaunda in Zambia, the release of Nelson Mandela in South Africa, even the eruption of the prodemocratic movement in Kenya, along with fall of Communism in eastern Europe and the end of the Cold War, all signified profound changes in the international environment. Banda's policies of isolationism could no longer provide effective political insulation from the tide of democratization, and new forms of cooperation and linkage between internal and international actors worked to consciously bring external pressure to bear on the MCP regime and to support the emerging internal forces for change. In particular, Chihana's bid to become the "Mandela of Malawi" or focal point of mobilization and resistance may have been both brave and personally ambitious, but it played well in the international press and succeeded in galvanizing opposition within Malawi.

### ***3. The Conditionality Decision & Its Impact, 1992-1993: the Referendum on Multipartyism***

Donors met in Paris on May 11-13<sup>th</sup>, a week after the Blantyre strike, for a scheduled Consultative Group meeting to make new aid pledges to Malawi. Instead, following in part on the Kenya precedent from the previous November, they announced a suspension of all bilateral non-humanitarian aid to the government (approximately \$72 million) for at least six months pending "tangible and irreversible evidence" of improvements in human rights. They further only pledged a total of \$170 million out of a total of \$270 million in emergency food aid projected as needed to

respond to severe drought affecting Malawi at the time and to the fact that Malawi, with a population of some 9 million, was still hosting close to a million Mozambican refugees.<sup>334</sup> Multilateral aid via the IFIs continued, however, and even increased: this reportedly reflected an understanding among the donors that bilateral aid would be cut to send a strong signal to Banda, but IFI loans would continue to keep the fragile economy of the country from collapsing.<sup>335</sup> The possibility that bilateral donors would seek to expand the aid freeze by opposing further multilateral funding was raised, however. Unlike in Kenya, there was no immediate response by the Banda regime to donor conditionality, but financial pressures led within the first month to a foreign exchange crisis, a devaluation of the Malawian currency (the kwacha, designated MKw) by 22 % and the resignation of the governor of the Reserve Bank of Malawi (the central bank.)<sup>336</sup>

The summer of 1992 saw the formation in Malawi of the Public Affairs Committee (PAC), a coalition led by Protestant denominations and including the Muslim community, the Malawi Law Society, and representatives of the business community and of the so-called "pressure groups" that would become the major opposition parties. Backed by pressure from international church organizations, the PAC sought to engage the regime in dialogue on political reform and after several months of resistance succeeded in getting a commitment for a meeting in October with a committee of government ministers. The MCP held a party conference in September at which the idea of a referendum on multi-party rule was discussed and rejected. Then on October 18th, the day before the first PAC meeting with the President's Committee on Dialogue (PCD) was scheduled, Banda went on the radio to announce that a referendum would be held and expressed confidence that Malawians would continue to support MCP rule. This reportedly reflected a unilateral decision by Banda rather than a change of opinion within the MCP. Banda also invited the U.N. to help insure a free and fair vote that the donor community would find acceptable. On December 31st, he announced the referendum would be held on March 15th, 1993, but he subsequently acquiesced in

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<sup>334</sup> Economist Intelligence Unit, *Zimbabwe, Malawi Country Report 1992*, n. 3 (June 25):33-4, 39-40 and n.4 (October 1):28, 39-40. Much of the historical detail that follows is derived from the quarterly (and later monthly) EIU series of reports and from other cited sources.

<sup>335</sup> Interview by author with IFI official, Lilongwe, Malawi, August, 1996.

<sup>336</sup> EIU Country Report 1992, 4: 33-4.

February to opposition and U.N. pressure to allow for more time and moved the date to June 14th. Meetings of the PAC and PCD provided the forum for negotiations on the details of the referendum process.

Despite an uphill battle against the resources of the state deployed to defeat the referendum, the vote in June resulted in a 63% majority for an end to one-party rule and displayed a sharp regional pattern of support for Banda and the MCP in the Central region and large majorities opposed to the regime in the North and South of the country. Parliament duly amended the constitution on June 29th to allow for opposition parties and to pave the way for multiparty elections in May of 1994. The MCP continued to express confidence publicly despite the referendum defeat and put some faith in the ability of the opposition to divide as exiles returned to found more parties. The Party also succeeded in recruiting some surprising new leadership figures such as Gwanda Chakuamba, a one-time MCP leader from the far South of the country who had fallen into disfavor and been in prison for years and was only released in July: together with a few prominent Northerners, the party hoped to expand its base of support beyond the central region. In his late 90s, Banda continued to lead the party officially, but his health deteriorated significantly, and he underwent what party spokespeople termed "routine brain surgery" in South Africa in October.

### *Analysis*

The transnational linkages between the Malawian opposition groups and external allies including human rights and church organizations had already been working to bring the situation in Malawi to the attention of important actors such as the U.S. Congress and the donor community more generally. The end of the Cold War and the shifting political dynamics in Southern Africa including the efforts to end apartheid in South Africa and the civil wars in Angola and Mozambique were already causing donor countries such as the U.S. and the U.K. to rethink their policies in the region. Although the donors were not as frustrated with the Banda regime as they were with Moi's on the issue of structural adjustment, Banda was viewed as something of a relic of the era that was

passing, as a client of the Afrikaner regime in South Africa and a backer of Renamo, and therefore as an embarrassment if he were to continue to receive aid while repressing his own citizens and resisting the tide of democratization that most donors voiced support for. The precedent of donor action to freeze aid to Kenya also created some pressure for policy consistency, and there was no case to be made for why the Banda regime should be spared the same sanctions as Kenya: donors did adjust the conditionality policy to take account of the fragile economy and the refugee situation in Malawi, but on a symbolic level they signaled the same stance towards a need for political change and respect for human rights.

With aid constituting 32.8% of Malawi's Gross National Income (GNI) in 1992 (compared to only 11.63% in Kenya and an average of 11.36% among all Least Developed Countries)<sup>337</sup>, the aid dependency of the Banda regime was certainly significant enough for the donor's actions to make an immediate impression, but the still central role of the aging Life President seems to have played a major part in determining how and when the MCP government responded. In this respect, the impact of political conditionality in Malawi was similar to that in Kenya: in both cases, it was at least initially mediated through the central decision-maker in a highly personalist authoritarian regime (c.f. Hypothesis D6.) Two other factors appear to distinguish the application of conditionality in Malawi: first and already noted, the economic situation was feared to be more dire by the donor community, and by freezing bilateral aid but not the multilateral element, the donor signal was thus in a sense mixed despite the rhetorical commonality with the Kenya case. There is no evidence to clarify how Banda and the MCP may have interpreted this, but given its greater range of possible interpretation, it is not surprising that they took longer to decide and respond, apparently waiting until the direct economic effect began to be felt. The virtually immediate and strong signaling effect impact seen in the Kenya case is therefore not evident in Malawi.

The second differentiating factor concerns the timing of the domestic prodemocratic opposition's mobilization: in Kenya, the opposition began to mobilize publicly in May of 1990, a

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<sup>337</sup> The data on aid dependency are derived from the World Bank's World Development Indicators database and are presented more fully in Table 6.2, ch. 6.

full 18 months before the CG meeting of late November 1991 froze aid, and the Kenyan opposition arguably reached a new level of unity and coherence (short-lived, it turned out) with the formation of the Forum for the Restoration of Democracy (FORD) in August, 1991. The Moi regime had thus been grappling with how to respond to both the domestic opposition and increasing external pressures for some time before the formal application of conditionality and its aid freeze. In Malawi, by contrast, the period of opposition mobilization was much shorter before the donors made their intervention: the Catholic Bishops' Lenten letter and the Lusaka exiles' meeting came in March, 1992, Chihana's arrest in April and major labor unrest in Blantyre in early May immediately before the May 11-13 CG meeting. The major initial "united front" of the prodemocratic opposition, the Public Affairs Committee (PAC), did not form publicly until after the donors' aid freeze, was still led by religious leaders, and pursued a relatively "polite" approach to pushing for change by seeking to meet and engage in "dialogue" with the Banda regime (whereas FORD in Kenya was led by opposition political leaders who threatened a campaign of mass action.) This difference in both timing and approach for the domestic opposition that Banda faced while deciding how to respond to the CG meeting's partial aid freeze suggests he had less lead-time and perhaps a lesser sense of political urgency in making that decision.

Despite the difference between Moi's immediate reversal of stance and Banda's five-month delay in complying with donor (and opposition) demands, both leaders seem to have made the decision personally and in opposition to more hard-line (or perhaps simply more sycophantic) opinion in their parties' rank and file. Both also phrased their action as a response to external pressure alone as a way of denying any legitimacy dividend to the domestic opposition. They thus tried both to counteract any legitimacy effect that conditionality bestowed on that opposition and to mobilize some degree of nationalist backlash against "neo-colonialist" intervention and "outside agitators." The timing of Banda's announcement was also clearly intended to preempt any impact from the beginning of the PAC-PCD meetings and to assert that Banda was still in control vis a vis any domestic pressure for change. The results of the June 1993 referendum suggest that Banda failed on all accounts. His apparent optimism that he still enjoyed the support of the people of

Malawi, and even his willingness to invite in the U.N. to help supervise the referendum so he could prove it to the donors' satisfaction, suggest that in his state of physical and often mental decline, he had begun to believe his own propaganda.

A largely church-led opposition in this phase of the transition was able to first precipitate a crisis of legitimacy for the Banda regime (through the Catholic Lenten Letter) and then take advantage of the added pressure of donor conditionality to organize a broad coalition (the Protestant-led PAC) to extract a decisive referendum from the Life President. This illustrates the power of at least the religious side of civil society as arguably the only institutionalized autonomous sector in Malawian society outside MCP control and as a crucial authority on issues of legitimacy. In reacting to changing an external context and even pressure from their transnational church affiliates and to a long-stagnant and tolerated domestic status quo (with the prospect of further decline under Tembo), the church leaderships decided to act.<sup>338</sup> The legitimacy of the Banda regime and its apparent domination of Malawian society proved flimsy or, perhaps more correctly, rather transient as Banda, the personalist center of the regime, headed into decline without a popular successor. The referendum instead revealed a regional and ethnic political cleavage with only the Central region still loyal to the MCP.

#### ***4. From Referendum to Elections: 1993 - 1994***

While the opposition parties demanded a government of national unity following the referendum, a compromise with the MCP essentially continued the PAC-PCD negotiation structure under a new rubric as the National Executive Council to provide oversight of the MCP government while a National Consultative Council drafted a new constitution. Disagreements in the latter body, often between the opposition, resulted in the production of an interim constitution effective for one

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<sup>338</sup> The unity of the churches in supporting democratic change was not total: the Church of Central Africa Presbyterian, the second largest denomination in Malawi, split over the criticism of the government with the Nkhoma Synod in the MCP stronghold Central Region essentially maintaining support for the MCP regime.

year and passed by the existing Parliament before the election. (This constitution was then revised in the year after the election.)

The key event in the period between referendum and election was "Operation Bwezani": the opposition had been pressing unsuccessfully for the disarmament and disbanding of the Malawi Young Pioneers (MYP), the MCP's paramilitary "youth group" used for years by the Banda regime for repression and intimidation. On December 2nd, elements of the Malawi Army, a long-time institutional rival of the MYP, took matters into its own hands in response to an altercation between soldiers and MYP members and launched an attack on MYP facilities in several cities that shattered the unpopular organization, resulted in 20 deaths and the burning of the MYP headquarters in the capital and reportedly sent up to 2,000 of its members fleeing into Mozambique. These events, which could have easily turned into a coup against the MCP, appeared to end the possibility that the Banda regime would use violence or intimidation to steal the May election.

Donors were originally expected to hold the line for the most part on not resuming full aid until the elections scheduled for May, 1994 had come to pass, but aid resumed beginning in September, 1993 in response to refugee and food shortage issues, the overall drop in GDP of approximately 8% in 1992 due to drought and in light of the apparent progress in political reform. The aid freeze was officially ended at a December 20-21 Consultative Group meeting that pledged a total of \$305 million including \$63 million in new pledges, but actual dispersals by bilateral donors were still explicitly conditioned on continued progress in the political reform process. Donors also provided significant aid for the conduct of both the referendum and the election and for voter and civic education campaigns conducted by the PAC coalition of civil society groups (now minus the new opposition parties.)

The hopes of the MCP that the opposition would splinter were not realized. The election vote on May 17<sup>th</sup> largely paralleled the referendum vote, and the new opposition parties failed to make any dent in the more established opposition parties: the UDF dominated the vote in the South, the most populous region of the country and some border districts in the Central region, while AFORD swept the seats in the sparsely populated north, leaving most of the Central region districts

to the MCP plus Chakuamba's home district in the far south. This translated to a 47.2% vote for UDF leader Bakili Muluzi in the direct election of the President, followed by 33.5% for Banda and 18.9% for Chakufwa Chihana, AFORD's leader. At the parliamentary level, the UDF won 85 of the 177 seats, the MCP 56 seats and AFORD won 36.

Commentators have focused on the sharp regional voting patterns and the challenge these regional tensions posed for consolidating democracy especially given that regional identities are not simply reducible to ethnicity.<sup>339</sup> In considering constitutional designs to reconcile democracy with these apparent deep cleavages, one analyst has gone so far as to say that "Malawi is actually more suited to consociationalism than Switzerland... with three roughly equal, geographically concentrated segments, in which no one region commands a numerical majority."<sup>340</sup> Deliberations on a new constitution following the election rejected the idea of a bicameral legislature including a Senate based on group representation with reserved seats for women and traditional chiefs and apparently did not seriously consider any form of federalism for the country.<sup>341</sup>

### *Analysis*

The shift in the balance of power and legitimacy that had begun in the previous period leading to the referendum, was now confirmed by the election of May 17<sup>th</sup>, 1994. However, a key institutional issue in the balance of power was decided independently of the elections or even of the actions of the democratic movement: the effective destruction of the MYP and of its threat to the democratic transition by the Malawi Army during Operation Bwezani owed more to institutional issues and rivalries within what had been different branches of the MCP state. The Army

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<sup>339</sup> See Chijere Wiseman Chirwa, "The Politics of Ethnicity and Regionalism in Contemporary Malawi," *African Rural and Urban Studies*, Vol.1, no.2 (1994): pp.93-118; Deborah Kaspin, "The Politics of Ethnicity in Malawi's Democratic Transition," *Journal of Modern African Studies* Vol.33, no.4 (1995): pp.595-620; and Ezekiel Kalipeni, "Regional Polarization in Voting Pattern: Malawi's 1994 Elections," *African Journal of Political Science* Vol.2, no.2 (1997): pp.152-67.

<sup>340</sup> Andrew Reynolds, "Constitutional Engineering in the Plural Societies of Southern Africa: Beyond Consociationalism," paper presented to the African Studies Association meeting, Nov. 25, 1996: p. 16. The rough equality he assumes seems inaccurate, however, given the regional differences in population.

<sup>341</sup> A. Peter Mutharika, "The Malawi Constitutional Conference: Lilongwe, Malawi, Feb. 20-24, 1995," *Africa Demos* Vol.3, no.5 (May, 1996): pp. 4-5.

essentially took advantage of the new delegitimation of the MYP to settle old scores, and in the process, disgruntled middle officers and soldiers also expressed their dissatisfaction with the Army command and their low pay by proving their worth to the newly emerging political society of the country.

The major change in this period over the previous one is the coming to the fore of the new opposition parties, and given the nature of the competitive multi-party elections compare to the non-partisan referendum of the previous year, the relative decline in the earlier salient role of the churches and of PAC. The latter still played a key role in monitoring the election and in voter education to insure its success, but they no longer led the now-partisan struggle against the MCP. The once-united opposition was now divided between the UDF and AFORD, but was less divided than the Kenyan opposition going into its first multi-party election, and the simple difference in the arithmetic of the regional and ethnic cleavages in Malawi versus Kenya allowed the opposition to claim victory. The virtual equivalence between Moi's winning 34% in 1992 in Kenya and Banda's losing 33.5% in 1994 in Malawi illustrates this difference. However, these cleavages between the UDF and AFORD and between the three regions and their respective parties would soon pose serious challenges to the consolidation of the democratic gains of the 1994 election.

The defeat of the long-running Banda regime is still in some ways surprising in that it was relatively quick and peaceful. In summary, the key factors that allowed it to be so "easy" were the conjuncture of the succession crisis in the MCP, the changing international context that meant the removal of the Cold War era support for the regime from South Africa, the U.S. and the U.K. as well as a new donor consensus for democratization, the activation of the moral power of the churches in Malawi, the simple arithmetic of the regional cleavages in Malawi and the somewhat fortuitous events of Operation Bwezani that removed the Banda regime's last trump card that could have seriously compromised the new elections. Whereas in Kenya the opposition attempt to defeat the "old regime" would drag on for a decade, Malawi and the new UDF government, along with the donors, could turn their attention to the difficult task of consolidating democracy in such a poor country.

## 5. *Changing of the Guard?: Muluzi's First Term 1995-1998*

The new Muluzi government started its term with considerable good will from the donors. The process of donor coordination that the embassies and in-country aid agencies had developed during the transition process continued as a committee structure that included a Subcommittee on Democracy, Governance and Human Rights chaired by the deputy resident representative of the United Nations Development Program (UNDP). This local coordination process was subsequently cited as a model by the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD) which is arguably the highest ongoing official body for bilateral donor coordination among the advanced industrial democracies.<sup>342</sup> Under the leadership of the UNDP, this donor committee undertook a process of dialogue with the Muluzi government starting after the election in August 1994 on supporting the consolidation of the democratic transition. This in turn resulted in the constitution by the government of the Inter-Ministerial Committee on Human Rights and Democracy (IMCHRD) as counterpart and interlocutor for the UNDP and the donor subcommittee and in the subsequent development by the IMCHRD and the UNDP of a Malawi National Democracy Consolidation Programme.<sup>343</sup> This rather ambitious project carried an estimated price tag of \$116 million over 4 to 5 years of which the UNDP could commit only \$2.3 million.<sup>344</sup> Other major supporting donors were envisioned to be the U.K.'s Department for International Development (DFID, formerly ODA), the U.S.'s Agency for International Development and the European Union (which would probably be the largest donor) with other smaller donors participating on a more ad-hoc basis. This process of program

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<sup>342</sup> See *Country Level Donor Coordination Process on Governance and Democratisation - The Case of Malawi* (Paris: OECD/DAC, November, 1995).

<sup>343</sup> See *Malawi National Democracy Consolidation Programme* (Lilongwe: UNDP/Govt. of Malawi, draft May 10, 1997) and *Strategic Directions in the Consolidation of Democracy* (Lilongwe: UNDP, 1995)

<sup>344</sup> *Programme Support Document; Support to the Democracy Consolidation Programme* (Lilongwe: UNDP, draft dated June 7, 1997), p. 1. Average annual total aid to Malawi still averages around \$450 million, so the 5 year estimate works out to \$23 million a year or 5.2% of that annual total.

development was also chosen by the OECD's DAC as a pilot case of coordination and setting benchmarks for the consolidation of democracy.<sup>345</sup>

Despite being held up as a model of relatively peaceful transition from entrenched authoritarianism, of donor coordination and of efforts at consolidation, the case of Malawi also had several blemishes. As noted above, Muluzi had won the presidential vote, but the UDF did not attain a parliamentary majority. Relations between the UDF and AFORD, its logical coalition partner, were so estranged after the election, however, that Chihana bitterly refused all UDF offers and entered into an alliance with the MCP (a pact with the devil in the view of many AFORD supporters) that lasted for some four months before finally accepting a newly created position as Second Vice President and six cabinet portfolios for AFORD members in September, 1994.

This coalition arrangement fell apart in June, 1996 as Chihana, claiming UDF corruption, tried to lead his party out of the government, but the five of his MPs who had become ministers refused to go. This led to an institutional and constitutional crisis in the parliament over whether these "AFORD rebels", who now provided the margin for the UDF government to maintain a majority, had "crossed the aisle" and left AFORD for the UDF, in which case they would have to stand in a by-election to recontest their seats under their new party. These "rebels" were widely seen as "traitors" to their party and region who would be unlikely to win such a new election, and they denied that they had left AFORD arguing that they had instead been expelled. This controversy then boiled over into a boycott of the Parliament by the remainder of AFORD loyal to Chihana. The MCP's parliamentary delegation was already boycotting over UDF efforts to expropriate Press Trust, the massive "private" holding company representing the wealth Banda had accumulated in 30 years of rule and accounting for some 30% of the country's GDP, and the two parties together were able to thwart a quorum rule requiring a two-thirds presence of elected MPs. The crisis went on for nine months, but the UDF creatively "reinterpreted" the quorum rule early on and proceeded to pass legislation for several months which the opposition then challenged in court

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<sup>345</sup> *Final Report of the DAC Ad Hoc Working Group on Participatory Development and Good Governance, Part I* (Paris: OECD/DAC, 1997), p.5.

as invalid. In March of 1997, the country's Supreme Court ruled the legislation valid arguing that the UDF violated the constitutional quorum requirement "out of necessity" and in the public interest. The court likewise ruled in favor of the UDF in stating that the AFORD rebels were now simply independent MPs. Having just drafted a new constitution in 1995 after the transition election, the parties in Malawi managed to find all the weak points in its provisions in a very short time and to produce a serious impasse. The boycott itself was finally broken in April, 1997 only by mounting domestic and international pressure for the boycotting MPs to return and get on with the pressing business of the country, Malawi being one of the poorest countries in the world and one of the most densely populated in Africa, where the future of democracy is likely to depend in large part on its ability to address a perennial economic crisis.

The political crises of newly democratic Malawi could be ascribed to political "growing pains." Political relations between government and opposition became quite acrimonious at times, and while Malawi remained a peaceful country by African standards, the language of political competition included considerable rhetoric about the possibility of violence and civil war especially surrounding the election due in 1999.<sup>346</sup>

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<sup>346</sup> E.g.: Africa News Network/Inform: *Malawi News Online* #42, 2/27/98 - "OPPOSITION QUESTIONS MALAWI-LIBYA TIES":

"State President Bakili Muluzi who returned home on February 18 from a three-day visit to Libya on his way from the Vatican, sparked a controversy when he announced that Malawi was to set up diplomatic ties with Colonel Muammar Ghadaffi's Libya. United Democratic Front Secretary General, Sam Mpasu, who is also Information Minister, hailed the move and dismissed allegations from some quarters that by befriendng the Libyan leader, the ruling party was readying itself for a situation of total bloodbath should it fail to win the next general elections in 1999. Mpasu, however, accused opposition MCP and Aford, which he said were bent on causing war in the country. He alleged that the two parties started this by fomenting strikes on the back of the trade unions after they had been defeated at the 1994 polls. He said these strikes were aimed at making the country ungovernable so as to make the UDF appear as if it had failed to rule. "Our friends (MCP) had the MYP and youth leaguers secretly fighting alongside them. We therefore won't be surprised if the two groups appear again in the 1999 elections." He claimed that it was common knowledge these were in Mozambique where they are practicing guerrilla warfare."

However, Aford's publicity secretary, Dan Msowoya, had no kind words for the government saying by setting up ties with a "terrorist country" the government had betrayed the Malawi nation. He said the government has gone against the position of its traditional donors, the United States and Britain. The two countries are presently at daggers-drawn with Libya because of its terrorists activities. "But we pretty well know why Muluzi has taken this move. It's because he is jealous. He knows he has failed to rule this country and will lose the next elections and apart from money, he wants to seek arms from Libya which cannot resist such a request." Msowoya added that this was why they were saying Muluzi was looking for bloodshed in 1999 and that he was prepared for it 'because he does not want anyone else to rule this country'.

MCP administrative secretary, Brian Muungomo, concurred with Msowoya adding that his party was aware that Muluzi was training guerrilla fighters in Libya. He alleged that their mission was to fight for the UDF once it loses the elections in 1999. He said although the party was not afraid, it was asking the international community to intervene and alleged that the mission of the Libyan trip was to seek arms."

AFORD, which originally saw itself as the purer and more radical opposition party in the struggle against Banda in 1991-4 (as opposed to the UDF's slate of ex-MCP members), flirted with the idea of merging with the MCP in 1997. The motivation behind this was that if future voting (i.e. the 1999 election) followed the sharp regional patterns it did in 1994, then it appeared distinctly possible that the UDF could be defeated by the combined forces of the new opposition. Malawi would then have enjoyed the distinction of passing Samuel Huntington's "two transition test" of democratic consolidation. However, enough voices in Malawi in 1997 warned of the likelihood that the UDF would attempt to use the resources of incumbency to manipulate the election or that neither side would accept defeat gracefully to give outside observers cause to be concerned.

The above scenario for a UDF loss in the 1999 elections became less likely over the course of 1998, but for reasons that did not exactly inspire satisfaction at the progress of democratic consolidation. In 1995-96, the MCP's fortunes seemed to be rising as it won two by-elections it was expected to lose (for a net gain of one seat) and as it then seemed to be the major beneficiary of the breakdown of the UDF-AFORD coalition and of the rising prospect of a merger or alliance with AFORD in which it would be the larger partner. The pendulum started to swing the other way in 1997, however, as the boycott strategy failed and the courts once again ruled in favor of the government on the issue of expropriating Press Trust. This ruling came after several lower court judgements found in favor of Banda, and the new ruling had the effect of cutting the MCP as a party off from its major remaining economic resource. The UDF government tried to indict Banda and Tembo back in 1994 for the killing of the Matenje faction in 1983 only to have the charges dismissed for lack of concrete evidence (one of the few court rulings that went Banda's way, but clearly an important one.) Now the UDF government brought new charges against Banda and Tembo in early 1997 regarding plots to kill the Catholic Bishops back in 1992, a more recent conspiracy to kill UDF ministers and various charges of embezzlement of public funds during their tenure in power. Then in August shortly after a landmark meeting between ex-President Banda and now President Muluzi, their first since the election of 1994, all charges against Banda and Tembo

were dropped. At an MCP convention later that month, Banda came out of his de facto retirement to officially retire and give up his post as President for Life of the party, but he also took the occasion to speak out against the proposed merger with AFORD. Tembo likewise spoke against the merger, and it was defeated, even though Gwanda Chakuamba, who argued strongly for the merger, then beat Tembo in the election for a new party president by a margin of 2 to 1. This course of events gave rise to two prominent lines of conjecture: first, that a deal had been cut between Tembo and Muluzi to drop the court charges in return for scuttling the merger that so threatened the UDF, and second, that Tembo was still the real power in the party, prevailing on the merger question even as he instructed enough of his minions to vote for the more electable Chakuamba for the top party spot.

The merger issue having failed in part due to loyalty to the Banda tradition, the MCP then suffered a major symbolic blow with the death of Banda, estimated to be between 99 and 101 years old, in November, 1997. By April of 1998, the party showed clear signs of decay as it lost a series of by-elections and suffered defections of MPs going independent that together totaled a loss of 10 out of its 56 seats in parliament. The UDF was the direct beneficiary in winning three by-elections and achieving an outright majority in parliament for the first time, four years into its five year term. Speculation was rampant, however, that the UDF took advantage of the cutting of the Press Trust life line and used state resources to induce MCP parliamentarians to defect or declare themselves independent. If true, this did not bode well for the consolidation of a democratic political culture and a moving away from patrimonial logics of statecraft.

There are further troubling signs that as the UDF government finally "solved" one of its major political problems in overcoming its earlier parliamentary minority status, other problems neglected over its five year term came home to roost. Many of the commitments embodied in the Democracy Consolidation Program and in the initial democratic rhetoric of the Muluzi administration had not come to fruition four years later and appeared stalled whether due to lack of technical capacity and the inherent slow pace of institutional change, lack of sufficient resources

both locally and in terms of donor support or, one suspects, lack of prioritization and real political will and commitment.

The local and municipal elections that were originally supposed to take place in 1995 under the constitution were repeatedly postponed due to an alleged lack of the \$23 million needed to carry them out. Neither the government nor the donors considered them enough of a priority, and the World Bank in particular has allegedly argued they are too expensive a proposition at the time. However, many democracy activists and donor staff considered them to be crucial to bringing meaningful democratization down to the rural grass roots where 90% of the Malawian population lives. The repeated postponement supposedly meant these elections were ultimately to be held in 1999 along with the national elections, but even that seemed dubious because the UDF government had neither passed the necessary and long overdue enabling legislation nor provided the Electoral Commission (an institution that was already the focus of political controversy as 1999 approached) with the resources to demarcate districts and lay the groundwork for local voting.

Despite its rhetorical commitment to democratic openness and rights, the Muluzi government apparently took a page from standard authoritarian scripts in totally blocking the liberalization of broadcast media in Malawi. While the print media in Malawi have shown a remarkable vitality in the number of newspapers published (although the government also took action to undercut independent and opposition voices as will be described below), the UDF dragged its feet even in the face of concerted donor and civic pressure on the issue of granting radio licenses to any applicant other than those aligned with the UDF or those promising to restrict themselves to apolitical programming only (e.g. gospel music.) Given the high illiteracy rate of 45-50%, radio is a crucial medium for public discourse and education, yet the UDF has maintained a virtual monopoly via the Malawi Broadcast Corporation just as the Banda regime had. Banda had also prevented television from ever coming to Malawi, and the UDF similarly moved very slowly and maintained total control over its introduction which was now expected to occur in 1999 (i.e. just in time to extend the government's media monopoly in a new direction before the elections.) Meanwhile, the UDF government took action against independent and opposition newspapers in

1998 by selectively stopping the placement of government advertising, which had consisted of half the total print advertising in Malawi, in papers that it considered critical of the government. It also allegedly tried to discourage private advertising in these papers. This led to the closing of one prominent newspaper that had run many stories exposing cases of corruption in government (including apparently credible reports on Muluzi himself profiting from manipulations of the domestic sugar market), and it was feared that other will follow.

Many progressive institutions were discussed in 1994-95 and included in the Constitution and/or the Democracy Consolidation Program such as an Ombudsman, a Truth Commission to examine the Banda years and a Compensation Commission to make amends for injustices from that era, an independent Anti-Corruption Authority and a non-partisan Electoral Commission. Three to four years later, either they had yet to be established or were still not fully operational. The Anti-Corruption Authority was announced shortly after the '94 election, but by late 1997 still barely had a staff or a budget, and its slow operationalization had already led to considerable cynicism regarding both the government's commitment and the agency's potential effectiveness. The Compensation Tribunal started in 1996, but it became mired in controversy because its 1997 budget could only cover a fraction of the cases brought before it and then quite meagerly, yet earlier it expedited generous compensation to members of the UDF leadership who had been imprisoned under Banda. The Electoral Commission under the leadership of Justice Anastasia Msosa had actually gotten consistently good marks for non-partisanship from domestic and international observers, but its very independence would prove a magnet for controversy in 1998.

President Muluzi was quoted on the question of government priorities as saying that the people of Malawi "can't eat democracy or feed their children on human rights", reflecting the immense pressure on the government to deliver economic progress in one of the poorest countries in the world. "Poverty alleviation" was the main campaign slogan of the UDF in 1994, to the donors' satisfaction, yet four years later the government had little to show for its efforts. One of the earliest "scandals" of the administration was the payment of some \$3,000 out of a special poverty alleviation fund to every UDF and AFORD MP in the coalition at the time (but not to MCP MPs)

to supposedly use for projects in their districts. Since 1992, Malawi's primarily agrarian economy posted some impressive numbers in terms of GDP growth - close to or even over 10% in 1995, for example, depending on which estimates are used and 11% in 1993 - but these numbers tend to be taken out of context: both "boom" years followed drought years in which GDP had declined by comparable or even greater percentages - minus 12.4% in 1994, for example. Furthermore, given both the rapid rate of population growth and the extremely skewed distribution of wealth in the country, GDP growth on a per capita basis is low and may not reflect any real improvement for the rural poor.

### *The Donors*

The donors' response to the peaceful transition from Banda's one-party state to a democratically elected UDF government was extremely supportive in word and only somewhat generous in deed: in the period from 1994 to 2003 total net official development assistance to Malawi would never regain the level of 1989 to 1992 in constant dollar terms.<sup>347</sup> In the case of the U.S., despite Malawi being a relatively small country on a large continent, the USAID program there has grown to be the fifth biggest in sub-Saharan Africa. Donors contributed large amounts of political reform aid to help the new government, the parliament, judiciary, electoral commission and nascent civil society groups develop the capacity to function as effective democratic institutions and political players. Unlike in Kenya where economic growth was problematic, Malawi was seen as an African success story with annual GDP growth hitting 13.5% in 1995 and 14.5% in 1996 (albeit starting from a lower base than Kenya and, again, following drought years in 1992 with a -7.2% drop and in 1994 with a -12.9% drop.)

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<sup>347</sup> See Table 5.1. There are reasons for this decline which may have little to do with Malawi and its democratization: many donors' overall aid budgets were in modest decline ( a sort of perverse "peace dividend" following the end of Cold War competition) or were still being redirected to new recipients in Eastern Europe. Some donors like the EU were still expanding their overall aid programs while other (i.e. Japan for part of the 1990s, Denmark) shrank theirs.

The roller coaster picture of GDP growth is further complicated by a similar oscillation in the government's ability to maintain fiscal discipline and by a related fluctuation in relations with donors for whom that discipline is a key factor in structural adjustment efforts. After receiving high marks from the IFIs for its economic management in December, 1996, the Muluzi government came under severe criticism by them a year later for losing control of government spending and making no effort to meet adjustment targets. As a result, negotiations on a new IMF

	ODA/OA:	ODA/OA:		ODA/OA:	ODA/OA:		ODA/OA:	ODA/OA:	Total	Decade
Malawi	Total Net	Total Net	Decade	Total Net	Total Net	Decade	per	as %	Receipts	Ave.
Through		Growth	Ave.	in 1999	in 1999	Ave.	Capita		ODA+OOF	Growth
2000	(\$ Million)	Rate (%)	Rate	prices	prices	Rate	(\$)		Private)	Rate
year				dac2a_def	Growth				(millions \$)	
					Rate (%)					
1979	141.71	43.81	20.20	263.98	24.79	6.79	24.18	13.87	210.40	27.33
1980	143.31	1.13		240.94	-8.73		23.70	13.14	189.33	
1981	137.57	-4.01		239.52	-0.59		22.07	12.13	193.21	
1982	121.18	-11.91		218.28	-8.87		18.85	9.92	135.18	
1983	116.31	-4.02		210.10	-3.75		17.31	9.37	104.93	
1984	182.03	56.50		346.45	64.90		26.20	14.53	211.62	
1985	112.95	-37.95		213.10	-38.49		15.71	9.24	117.57	
1986	194.97	72.62		287.99	35.14		26.22	16.75	218.01	
1987	276.71	41.92		358.30	24.41		35.96	23.55	320.90	
1988	376.44	36.04		450.33	25.69		47.29	29.27	414.41	
1989	434.76	15.49	16.58	521.79	15.87	10.56	52.83	29.76	412.81	15.82
1990	503.36	15.78		539.17	3.33		59.18	29.58	517.97	
1991	550.3	9.33		561.38	4.12		62.55	27.19	558.52	
1992	578.27	5.08		552.96	-1.50		57.62	31.79	576.32	
1993	497.67	-13.94		487.03	-11.92		53.50	25.37	491.40	
1994	470.78	-5.40		450.14	-7.57		49.59	38.09	463.99	
1995	434.99	-7.60		385.20	-14.43		44.58	30.61	438.21	
1996	491.74	13.05		449.76	16.76		49.10	21.34	506.26	
1997	343.25	-30.20		325.59	-27.61		33.40	13.54	367.15	
1998	434.17	26.49		417.92	28.36		41.22	23.83	459.70	
1999	445.99	2.72	1.53	419.95	0.49	-1.00	41.34	23.00	436.68	1.89
2000	446.29	0.07		446.29	6.27		40.42	24.93	428.20	

Table 5a - Population, Gross National Income, GNI per capita										
	Population	Pop	Decade	GNI	GNI	Decade	Raw GNI	GNI per	GNI	Decade
	(thousands)	Growth	Ave.	(Current	Growth	Ave.	per cap	capita	Growth	Ave.
		Rate	Rate	\$ million)	Rate	Rate		(Atlas\$	Rate	Rate
year								)		
1979	5861	3.15	2.95	1022	10.85	14.25	174	170	6	11.48
1980	6046	3.16		1091	6.75		180	180	6	
1981	6234	3.11		1134	3.94		182	180	0	
1982	6427	3.10		1222	7.76		190	190	6	
1983	6718	4.53		1242	1.64		185	180	-5	
1984	6948	3.42		1253	0.89		180	180	0	
1985	7188	3.45		1223	-2.39		170	170	-6	
1986	7437	3.46		1164	-4.82		157	160	-6	
1987	7695	3.47		1175	0.95		153	150	-6	
1988	7960	3.44		1286	9.45		162	160	7	
1989	8230	3.39	3.45	1461	13.61	3.78	178	170	6	0.14
1990	8506	3.35		1702	16.50		200	200	18	
1991	8798	3.43		2024	18.92		230	230	15	
1992	10036	14.07		1819	-10.13		181	190	-17	
1993	9303	-7.30		1962	7.86		211	230	21	
1994	9493	2.04		1236	-37.00		130	170	-26	
1995	9757	2.78		1421	14.97		146	170	0	
1996	10016	2.65		2304	62.14		230	190	12	
1997	10277	2.61		2536	10.07		247	220	16	
1998	10534	2.50		1822	-28.15		173	220	0	
1999	10788	2.41	2.85	1939	6.42	6.16	180	200	-9	2.87
2000	11042	2.35		1790	-7.68		162	170	-15	

ESAF credit were suspended, pending IFI disbursements came to a halt, and key bilateral donors such as the U.K. and the E.U. threatened to suspend aid until action was taken. Just as Muluzi appeared to solve his domestic political problems through the use of state resources and to be headed into an election year in which those resources were likely to be in high demand, he created new and serious economic problems in relation to the donors that Malawi was still so dependent on.

It remained to be seen whether the donors would use their leverage to demand political as well as economic reform in the coming election year. After four years of strong support for the UDF government, a degree of disillusionment set in, and donors began rethinking their strategy and to adopt a "wait and see" approach until after the elections.

### *Analysis*

In the struggle for the transition to democracy the key variable can be conceived of as the balance of power between an incumbent and resistant authoritarian regime and a prodemocratic movement. However, in the consolidation phase for new and in many ways still nominal democracies, the key focus is on the creation of effective democratic institutions (i.e. the institutionalization of democracy) including systems of accountability and of checks and balances on state power, as well as the establishment of a democratic political culture. The post-Banda era in Malawi got off to a promising start with the development of the National Democracy Consolidation Programme, a commitment of the new government to poverty alleviation and an apparently high level of cooperation with the donor community. However, the weakness of the UDF government given its failure to secure a straight-forward and effective parliamentary majority, the consequent partisan conflicts and maneuvering reflected in AFORD's rejection, then embrace, then rejection of junior partner status in a coalition government, the Constitutional crisis over the "AFORD rebels" and the parliamentary boycott and quorum, and the UDF's ultimate resort to patrimonial inducements to secure the defection of opposition MPs – all this seemed to consume the bulk of the political energy that might otherwise have been focused on democratic consolidation and economic development. Politics in post-Banda Malawi appeared to be driven largely by the country's regional, ethnic and now partisan cleavages, and by a political culture of clientelism, instrumentalism and personal ambition. Civil society as represented by the churches did not revert to some status quo from before the transition, the PAC continued to function, but it definitely occupied a less prominent role for several years amid the new noise of ongoing partisan conflict. An array of new non-partisan civil society groups dedicated to various aspects of democratization were founded and

received funding from aid donors, but it took these groups several years to establish themselves, sometimes with only mixed success.

While some partisan conflicts were unavoidable such as that with the MCP over the effort to expropriate the Press Trust, the conflicts with and within AFORD over the “rebels” who refused to leave the government could have been avoided through either an unambiguous constitution or either self-restraint or a means to accommodate the political ambition and ego of Chihana and his disadvantaged “permanent minority” constituency of Northerners. The extent to which the raw partisan ambition for power overcame any ideological or democratic commitment is perhaps best reflected in the effort to merge AFORD and its erstwhile nemesis, the MCP, simply in order to defeat the UDF at the next polls. For its part, the UDF essentially adopted the same position as the MCP during the Banda years in refusing to liberalize the broadcast media. It also quickly began to engage in forms of corruption and clientelism that sapped its anti-poverty and other economic policies, and then dragged its feet on implementing the Consolidation Programme while pleading a lack of capacity and trying to coax more aid from the donors.

The donors for their part were initially patient while the party system in Malawi appeared to go through a process of settling down to business, but the end-point of the process never materialized. Likewise they appeared patient in waiting through an initially slow phase of implementation for the Consolidation Programme to gather momentum, but a second phase never came. The emergence of corruption in the new anti-poverty programs, the wavering commitment of the Muluzi government to fiscal discipline from 1997 on, and the repeated postponement of local elections were all additional reasons contributing to the eventual donor disillusionment with the UDF and to a return towards more explicit conditionality and aid slow-downs in advance of the 1998 elections. In retrospect, while donor capacity and willingness to intervene in the partisan politics of Malawi’s new “democratic” Parliament were necessarily limited, donors could conceivably have held the government to a stricter schedule for the Consolidation Programme through the use of both incentives and conditional penalties. They could also have tried to institute better accountability and stricter conditions for the use of aid in relation to overall government fiscal

discipline. As in Kenya, the conditionality agenda would increasingly come to focus on corruption issues from 1997 on, but first the donors joined Malawi's political parties in focusing on the upcoming elections.

## 6. *Malawi's Second Multi-Party Election, 1998 – 1999* <sup>348</sup>

The run-up to the 1999 elections effectively began in mid-1998 given the requirement that the as-yet-unscheduled elections would be held in the late Spring of the coming year. At this point, the UDF government seemed to be growing in strength and assertiveness, and the major opposition parties – the MCP and AFORD – seemed to be in disarray and potentially in decline. The donors seemed very concerned that President Muluzi and the UDF were seriously drifting from both the democratic promise of the 1994 transition and from the economic discipline of structural adjustment into an increasingly patrimonial, corrupt and authoritarian style of government, more similar to the MCP of old or Moi's KANU under multipartyism in Kenya than to the principled reformers hoped for in Third Wave democratizations. The Muluzi regime was able to placate the donors in part by dividing the donor agenda and improving its economic reform compliance so as to buy itself some leeway in terms of its political behavior in and around the election.

The UDF government had finally achieved its own narrow, yet independent parliamentary majority in April of 1998 thanks to winning by-elections and its ability to entice MCP MPs to become pro-UDF independents. This would prove to be short-lived as deaths (probably due to the growing AIDS epidemic) produced two vacancies in UDF seats by October. Nonetheless, the ruling party seemed to enjoy its consolidation of power as President Muluzi warned civil servants in June that they were expected to vote for the UDF in the next year's election, and as Heatherwick

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<sup>348</sup> While the primary source in this section remains the monthly Economist Intelligence Unit *Malawi Country Reports*, additional history and analysis of the 1999 elections and the run-up to them can be found in Martin Ott, Kings M. Phiri & Nandini Patel, eds. *Malawi's Second Democratic Elections: Process, Problems and Prospects* (Blantyre, Malawi: Kachere/CLAIM, 2000) especially the chapters by Nandini Patel, "The 1999 Elections – Challenges and Reforms," pp. 22-51 and Zimani D. Kadzamura, "Management of the Electoral Process during the Second Multi-Party Elections," pp. 52-66.

Ntaba, treasurer of the MCP, was arrested for calling the President “silly” in a speech. MCP leader John Tembo accused the UDF government of planning to assassinate opposition leaders, while in September the government claimed to have uncovered a coup plot. Accusations of UDF corruption emerged with Muluzi himself accused of having profited via a company he owned from manipulating the price of maize and creating artificial domestic shortages and higher prices. Despite a February visit by Muluzi with the Pope at the Vatican, the Catholic Church in Malawi issued another pastoral letter on March 15<sup>th</sup> denouncing corruption and rising insecurity and crime in Malawi. The Church thus echoed earlier complaints about crime and insecurity made by British Overseas Development Minister Claire Short in a visit in January. Muluzi’s response was to replace the heads of both the police and the Army for the fourth time since assuming power in 1994. The UDF also postponed the overdue party conference called for in its constitution claiming a shortage of funds, and instead the executive invested President Muluzi with complete authority to make decisions related to the upcoming elections including selecting parliamentary candidates (an echo of the Banda years under the MCP).

Preparations for conducting the elections became controversial starting over a year before the expected polling date: criticism started from donors likely to be footing a major portion of the bill for the election with the Danish embassy complaining in mid-February that sufficient advance preparations had not begun. Malawi’s Electoral Commission (EC) chair Justice Anastasia Msosa responded by criticizing Parliament (and the major parties in it) in March for failing to provide adequate resources and enforcement authority to the EC and not moving on related enabling legislation. Later in the Spring, the International Foundation for Electoral Systems (IFES, which is U.S.-based and usually U.S.-funded) issued a report arguing that there were major problems with both voter registration and electoral procedures and regulations.<sup>349</sup> Despite (but in fact because of) Justice Msosa’s outspoken and nonpartisan independence and effort to fulfill the EC’s mandate, Muluzi seized on these complaints as an excuse to not reappoint the existing Electoral Commission

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<sup>349</sup> Butler, Vic, and Joe Baxter. *Report on Issues in Preparation for the 1999 General Elections in Malawi*. (Washington: IFES, 1998.)

in June (the commissioners actually contended their term ran for another year), to basically fire Msosa, and replace her with another judge, Justice William Hanjahanja, and a new commission in July. The new EC chair was widely viewed as less independent and more susceptible to UDF influence, and any argument that the old Msosa Commission was somehow incompetent enough to deserve starting over from scratch would soon pale before the manifest problems of the new and less experienced EC.

The cost of the combined Presidential and Parliamentary elections was estimated at approximately 700 million Malawi kwacha, (\$15.9million) and the UDF government committed to providing Mkw 300 million with the remainder expected to be made up by international donors. The UNDP, still the leading multilateral organization committed to promoting democracy consolidation in Malawi, but by no means the wealthiest, undertook to coordinate donor support. However, it also called upon the UDF to liberalize the media, particularly radio, and to guarantee opposition access and fair coverage, thus emphasizing an existing concern for many donors. Media liberalization then became the most explicit donor political conditionality related to the election and election funding. A second though lesser concern was for the long overdue local elections: donors were divided over this issue with the IFIs expressing concern about cost while those bilateral donors genuinely concerned with democratization at this point believing local elections were central to bringing democracy to the grassroots and rural areas where most Malawians lived. The Msosa EC had complained that a full twelve months would be needed for local election district and ward demarcation, and that the funding and enabling legislation had not even been tabled in Parliament yet, thus effectively preventing holding the local elections at the same time as the national polls and achieving some financial efficiencies in the process. The local elections would thus be postponed yet again, but as the election approached and before that, as the voter registration period arrived, it became clear the national elections would have to be postponed to some degree as well.

The government finally put the last enabling bill for the Spring 1999 elections before the Parliament in December, 1998: coming after the upheavals and criticism of the EC over the course of that year, this seemed like a recipe for further mismanagement and delay. The EC set May 18<sup>th</sup>

as the election date. Voter Registration finally began on March 16<sup>th</sup>, 1999 after two postponements blamed on delays in importing forms and cameras, but despite these reschedulings, the process was still very chaotic: registration centers that did open had shortages and registrants faced long queues, and many locations simply failed to open for several weeks past the official start of registration. The opposition parties immediately claimed a pro-UDF bias in that locations that failed to open or faced crippling shortages were largely in AFORD and MCP stronghold regions. The Constitution requires a 21-day inspection period between the completion of the registration process and the election, and given the delays at the beginning of the registration process, the EC initially postponed the election to May 25<sup>th</sup>. In the midst of the March chaos, the government announced that the budget for the election had been cut from 700 to 463 million kwacha (\$10.5 million), and donor funding would now comprise over two thirds of the total. (Total donor contributions related to all facets of the election would actually turn out to be just under \$15 million.<sup>350</sup>) With the further chaos of the registration process itself for the estimated 4.8 million potential voters and the extensive criticism of the EC from many quarters for its failure to meet the 21-day window, the opposition and other interested parties called on the Commission to delay the election a second time. Pres. Muluzi protested that this would add unacceptable costs, and the EC agreed with him and rejected the idea of further delay. The opposition parties, however, went to the High Court which, given the clear 21-day requirement, ruled in their favor and mandated a delay until at least June 15<sup>th</sup>. The Parliament had been dissolved on March 22<sup>nd</sup>, but had to be recalled into a special session on May 21<sup>st</sup> in order to ratify legislation implementing the Court's ruling. Shortly thereafter, the Electoral Commission's chief officer was fired, and Commission chairman Hanjahanja resigned claiming ill health and was replaced by another judge, Justice Kalaile.

As if mere inefficiency and incompetence by the EC were not enough to cast a cloud over the election, the Commission also became embroiled in other partisan disputes between the UDF and the two major opposition parties over whether the latter could form a coalition to contest the elections. While the earlier proposed formal merger between the MCP and AFORD had been

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<sup>350</sup> See Appendices in Ott et al., eds., *Malawi's Second Democratic Election (op.cit.)*, pp. 212-222.

defeated back in 1997 due to the opposition of former President Banda and MCP Vice Chairman John Tembo, the stark political facts remained that the only strong chance the two parties had of beating Muluzi in a plurality Presidential vote was if they united behind a single candidate. The two parties appeared to finally come to an agreement in late January over a Presidential slate of Gwanda Chakuamba of the MCP for president and Chakufwa Chihana of AFORD for Vice-President plus a still-to-be-worked-out agreement to cooperate in the Parliamentary elections to unite behind a single candidate in each district. However, Chakuamba's agreement with AFORD did not have the backing of Tembo and his faction of the MCP (probably the majority), and Tembo claimed he had been named by the MCP executive committee as the party's vice-presidential candidate. While this alliance threatened to self-destruct quickly, the EC stepped in to change the focus by declaring that a two-party joint candidacy was not allowed under election regulations. The MCP and AFORD once again went to court to challenge the EC's decision and won a ruling overturning the EC on April 15<sup>th</sup>. The EC then sparked further controversy and considerable criticism for its lack of nonpartisanship by appealing this ruling to the High Court, but the intensity of criticism mounted to the point where the EC dropped the case on May 29<sup>th</sup>, just over two weeks before the rescheduled vote. The result was that the two candidates were able to both be on the same ballot, but with only the MCP party emblem above the two rather than a joint designation (party symbols being especially important for an electorate with an estimated 40% adult illiteracy rate.) Finally, the EC was embroiled in a third major controversy that also led to accusations it favored the UDF in that it earlier proposed the addition of 70 new parliamentary constituencies to the existing 177, 42 of which would be in the UDF-dominated Southern region. The opposition complained bitterly that this was an attempt to stack the electoral deck in favor of the UDF, and ultimately only 17 new constituencies were added, 11 of which were in the southern region with the remainder in the central region.

*The Donors, Conditionality and the Malawian Economy*

Overall aid dipped significantly in 1997 (-27 to -30%) as the IMF had expressed displeasure with the UDF government's budgetary discipline and suspended disbursements and new ESAF negotiations, actions which in turn affected other aid flows. This appears to have accelerated a process of economic decline as GDP growth dropped from 7.3% in 1996 to 3.8% in 1997 and 2.0% in 1998. (GNI figures show a -28% drop in 1998.) This slide was also reflected in depreciation pressures on the kwacha and consequent increases in inflation, all of which convinced the government to change its ways, rein in spending and seek new negotiations by mid-1998. These efforts proved successful in July when the government reached an agreement with the World Bank for a new \$60 million credit under a second Fiscal Restructuring and Deregulation Programme (FRDP II). Yet even as this occurred, some bilateral donors (Denmark and the EU) withheld pledged balance-of-payments support to the tune of around \$5 million while they awaited signals from Malawi's efforts to satisfy the IMF. In the days before an August Malawi delegation meeting in Washington with the IMF, the Reserve Bank of Malawi (RBM - the central bank) chose to halt any intervention in the currency markets and allowed the kwacha to slide 37% in value from August 21<sup>st</sup> to 24<sup>th</sup> to a new low of 42.7Mkw/\$. This fall was in addition to an earlier decline from around Mkw15/\$ the previous year (a level that had been fairly stable for 2 years before that, from 1995 to 1997), meaning that in total the kwacha had lost almost two-thirds of its exchange value in one year. (In terms of regional context, the South African rand fell some 25% and the Zimbabwe dollar some 40% in the same period.) As a result, the UDF government chose to raise prices for some essential goods (notably maize and gasoline) between 50% and 70% by October, which in turn produced a day of violent protest and rioting in Blantyre (Malawi's biggest city and commercial capital located in the Southern region.) Malawi officially estimated the annual inflation rate for 1998 at 43% by September.

While the RBM's action was widely seen as sending a sign that the government was now willing to take politically difficult actions to restore balance to its finances, the suspension in foreign aid and the consequent decline in foreign reserves also made it difficult for the bank to have a

realistic option of continuing to intervene to support the kwacha. Price liberalization and currency devaluation were subsequently rumored to be unofficial conditions for resumption of IMF funding. Talks with the IMF progressed and set the stage for more World Bank loans in early December (\$158 million for economic restructuring and poverty alleviation/social fund) plus a loan from the African Development Bank (\$10.5 m) and for a successful combined Consultative Group (CG) donors and Paris Club creditors meeting in Lilongwe in the second week of December. The IMF finally approved a new ESAF agreement (Malawi's third) on December 18<sup>th</sup> involving \$34 million in new Special Drawing Rights loans. It included conditionalities regarding civil service retrenchment and the rationalization of ministries, moving forward with privatization of some 15 parastatals in 1999, and consistent commitment to budgetary discipline, all of which policies posed challenges to patrimonial political tendencies on the part of the UDF. The ESAF agreement represented new confidence by the donors in the UDF government which had restrained spending and encouraged devaluation despite the looming election. As a result, the CG and Paris Club meetings produced significant aid and possibility for debt relief: the CG portion of the meeting produced pledges for \$ 1.25 billion over the next 3 years in a 50/50 mix of concessionary loans and outright grants, while the Paris Club discussed possibly helping Malawi qualify for the IFIs' Highly Indebted Poor Countries (HIPC) debt forgiveness program and alternately establishing a "debt trust fund" that would work to swap debt for increased social service expenditures. At approximately the same time, Malawi's Catholic Commission for Peace and Justice launched a local effort as part of the international Jubilee 2000 campaign for total debt forgiveness. In its 1999 Human Development Report, the UNDP would characterize Malawi's debt situation as "unbearable." Malawi's debt in late 1998 was estimated by the EIU as follows:

**Debt indicators, 1998**

(a) (\$ m unless otherwise indicated)

<b>Total debt stock</b>	<b>2,409</b>
<b>MLT(b) owed to official creditors</b>	<b>2,245</b>
<b>Foreign debt service</b>	<b>108</b>

**Ratios (%)**

<b>Total debt/GDP</b>	<b>134.3</b>
<b>Debt service/budget revenue</b>	<b>27.1</b>
<b>Debt service/exports</b>	<b>21.6</b>

**(a) EIU estimates. (b) Medium- and long-term debt.**

**Source: EIU.**

Donors were not unanimous in their approach here, however: Japan, the largest bilateral donor to Malawi at this point, acknowledged the high debt load and pledged Y 90 billion (\$765 million at '98 rates) over five years and entirely as grants, but also made known its opposition to Malawi attaining HIPC status. The Japanese ambassador noted that this would then put Japan under pressure to forgive loans it had just recently made, which might in turn lead to a reduction in future grants. It was quite noteworthy that the ambassador also explicitly called on the UDF government to respect human rights and free expression and said that Japan would fund the upcoming elections. This represents a shift from Japan's traditional role among donors as the silent follower on democracy and governance issues, more concerned with trade interests than with political issues and reform, but not willing to assert itself and draw attention to this divergence despite its relative power based on the volume of its aid. Democracy, the elections, human rights and the media in Malawi were thus undeniably on the donors agenda along with economic reform and adjustment going into the 1999 election year, but it remained to be seen whether donor demands and conditionality, on the one hand, and the Muluzi government's compliance, on the other, would be comparable in each of these issue domains.

Turning back to the political and electoral process, therefore, it was already noted that the Danish Embassy was among the first critics of election preparations in early 1998. Then the UNDP stepped forward in Spring 1998 as a leader among the donors to coordinate election aid and in the process crystalized expression of a de facto donor condition (delivered as a strong recommendation, rather than as an ultimatum) that the Muluzi government liberalize the broadcast

media (namely radio at this point) by ending the government monopoly and also stop harassment of independent and opposition print media. In response to pressure that had actually been growing over the course of a whole year, the UDF finally passed a media bill in Parliament in November, but in a maneuver reminiscent of Moi's reforms in Kenya, its major provisions would not take effect until after the expected May 1999 elections. Donors nonetheless expressed satisfaction, but even before the bill was passed, the international watch-dog NGO Article 19 criticized the draft bill in October as thoroughly inadequate in terms of fully addressing liberalization of radio and television broadcasting (the latter would start shortly on March 29<sup>th</sup>, 1999), internet access, press freedom and independence of regulatory bodies from political interference.<sup>351</sup> Even though the Parliament passed the media bill in November, President Muluzi still had not signed the legislation by mid-March of the following year, but by that time donor focus appeared to have moved to the many problems of the Electoral Commission, voter registration and the process of trying to get the elections on track. During the run-up to the elections, the state-run Malawi Broadcasting Corporation made only a nominal effort to include coverage of and access by opposition party campaigns while continuing to run lavish coverage of the Muluzi government and the UDF campaign. Donor conditionality regarding media liberalization thus seems to have been much less effective than economic conditionality in the 1997 to 1999 period.

### *The June Elections*

The campaign through the Spring of 1999 until the twice-postponed elections were finally held in June was acrimonious. It took place in a context not only of ongoing economic crisis, notably inflation and renewed food shortages, but also biased media coverage, use of state resources for the UDF campaign, mismanagement of voter registration and repeated court rulings and donor

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<sup>351</sup> The October 1998 report can be found at < [www.article19.org/docimages/474.doc](http://www.article19.org/docimages/474.doc) >. Despite these criticisms, Article 19 along with other media watch-dog NGOs nevertheless called the legislation a significant step forward in January, 1999, < [www.ifex.org/en/content/view/full/23939](http://www.ifex.org/en/content/view/full/23939) >. However, a more recent (2003) retrospective on the impact of the Malawi Communications Act of 1998 found much to criticize in terms of manipulation by the UDF government: < [www.article19.org/docimages/1706.doc](http://www.article19.org/docimages/1706.doc) >. Full text of the Act can be accessed via the Malawi Ministry of Information at < <http://www.maform.com/> >.

interventions trying to move the process forward. While the results were ultimately judged by domestic and international observers to be reasonably free and fair, they were closely divided, and this provided still another reason for the losing parties to reject the results and again go to the courts to try to overturn them.

Muluzi and the UDF won the June 15<sup>th</sup> 1999 elections by the slimmest of margins: 51.37% (of total votes cast; 52.38% of valid votes) for Muluzi as President and initially only 93 parliamentary seats for the UDF party out of 193.<sup>352</sup> Muluzi received 77% of the vote in the Southern region, 34.5% in Central and only 9.4% in the North. Chakuamba in turn received 18% of the Southern region vote, 61% in Central and 88% in Northern for a total of 44% of votes cast (43% of valid votes.) The next place in the election tally was occupied by null and void votes at just under 2% (4% in the Parliamentary vote), followed by three minor candidates splitting the remaining 2.5%. Voter turnout was high at 93.76% of registered voters casting Presidential ballots (4.755 million votes).<sup>353</sup>

The immediate reaction to the vote was a by now somewhat predictable pattern in many emerging democracies. International and independent or civil society domestic observers declared the election day process to be essentially free and fair with numerous irregularities being ascribable to incompetence more easily than to any systematic efforts at manipulation. More serious criticisms were directed at the voter registration process and the unfair use of state resources such as the media by the incumbent regime. The defeated parties, on the other hand, argued that the pattern of irregularities was an effort to rig the election, that the announced vote totals were suspect or false, and the election therefore illegitimate. In the case of Malawi's second multi-party elections, the opposition MCP/AFORD alliance immediately sought intervention by the courts to declare the election invalid on two main grounds. First, that the Constitution actually called for a winning Presidential candidate to garner the votes of over 50% of the registered voters ("a majority

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<sup>352</sup> The opposition AFORD-MCP alliance initially won 95, independents won 4 seats and 1 seat election was postponed. The UDF did ultimately cobble together a slim 97 votes majority thanks to enlisting the support of some of the independents and winning several by-elections.

<sup>353</sup> Election statistics are from Ott, et al., *Malawi's Second Democratic Elections*, Appendices pp. 212-222.

of the electorate”), whereas Muluzi’s total was only 48% of the registered voters. Their second argument was that irregularities in the voter registration process had been systematically skewed against the opposition. The election was followed by minor opposition violence in which only 2 people were killed, but several mosques were destroyed. (Muluzi is a Muslim head of state in a country that is between 66% and 75% Christian.) The Malawi Army turned out to confront opposition demonstrators in Blantyre even as some of those same demonstrators were calling on the Army to step in and take control away from the now “illegitimate” Muluzi government. MCP/AFORD candidate Chakuamba told rallies he was the legitimate President of Malawi because, unlike Muluzi, he had won significant votes in all three regions of the country.

Despite these challenges, the election outcome and the security of the UDF government were not seriously threatened. All 95 opposition MPs boycotted the opening of Parliament on July 16<sup>th</sup> to protest Muluzi’s reelection and address to the nation, but by August 10<sup>th</sup> the UDF had assembled the slimmest of parliamentary majorities by convincing the four elected Independent MPs to rejoin the UDF’s bloc of 93.<sup>354</sup> Rather than repeat the boycott of the previous Parliament, the opposition MPs took their seats on August 23<sup>rd</sup> saying they affirmed the results of the parliamentary elections. Even though the opposition may have had some technical merit in their constitutional challenge over Muluzi’s vote being less than 50% of registered voters, this was widely seen as a technical defect in the Constitution rather than a real flaw in the legitimacy of his reelection. Many sectors of civil society and even a Supreme Court justice called for constitutional reform. On the opposition challenge to the election results, the courts initially sided with the opposition in November on the preliminary matter of granting the plaintiffs full access to the voting records. The High Court did not begin to hear the case until February 2000, and finally rejected the challenge in October of that year, some 16 months after the election.

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<sup>354</sup> The four independents had been UDF MPs in the previous Parliament, but then failed to win the party nomination in their districts and therefore chose to run as independents. The one vacant seat was assumed to eventually be won by the MCP, given its location and history, and would thus narrow the UDF majority to a single vote. However, in early 2000, two MCP MPs defected to the UDF.

Beyond the opposition's court challenge and the calls for constitutional reform, the many problems of the 1999 elections led to serious criticism and reflection in the aftermath. Much of the criticism focused on the Electoral Commission (EC). Malawian and Malawi-based scholars undertook an effort at collaborative and systematic analysis that pulled together various evaluations and comments, including many touching on the donor role. Ott et al. highlight "a noticeable lack of coordination between the various bodies involved in the electoral process such as the Electoral Commission, the non-Governmental Organisations (NGOs) and the International Donors."<sup>355</sup> Although Patel is said to have argued that "the electoral Commission did receive expected support from most of the stakeholders for its work," she also argues that "the commission receives almost no assistance in terms of capacity building from international bodies."<sup>356</sup> Similarly she states that "without donor funding the elections would not have been held in Malawi in 1999", but also argues that despite efforts by the UNDP and others, "donor assistance was not systematic or coordinated, which made planning difficult for the commission."<sup>357</sup> Perhaps most revealing of the dynamics of donor involvement as perceived by some key African actors are the following quotes which Patel cites. In its final report from November 1999, the Malawi Electoral Commission states: "IFES and the Donor Community tried to influence the electoral process so that it could be handled according to their wishes and this was a negative development in the whole process." Likewise, the Organization of African Unity (OAU) Observer Group in their report state "their attitude [that of the donor countries and the many NGOs and foreign consultants and trainers (Patel's paraphrase)] was dictatorial, patronizing and obtrusive", although Patel also notes that the report did not attempt to substantiate these claims in any detail.<sup>358</sup>

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<sup>355</sup> This comes in the following context: "there were several obstacles that could have been easily overcome. They included a number of administrative and logistical problems on the part of government and implementing agencies, the lack of competitive spirit on the part of political parties owing to the excessive use of state resources by the ruling party, and their total denial to other political parties and a noticeable lack of coordination between the various bodies involved in the electoral process such as the Electoral Commission, the non-Governmental Organisations (NGOs) and the International Donors." Ott et al. (*op.cit.*), Introduction, p.15.

<sup>356</sup> Introduction, p. 19, and ch. 1 by Nandini Patel, "1999 Elections in Malawi. Challenges and Reforms", p. 29. In particular, Patel asserts that "There was very little training for the secretariat staff."

<sup>357</sup> *Ibid.*, p. 39.

<sup>358</sup> Malawi Electoral Commission, *1999 Parliamentary and Presidential Elections Report*, November 1999, p. 24; and Organization of African Unity. *Report of Observers Group to Malawi during the Parliamentary & Presidential Elections, 15 June 1999*, p. 18 – both cited in Patel, *op.cit.*, p. 40.

## Analysis

The donors expressed their commitment to assisting Malawi's ongoing democratic consolidation through fairly generous funding of various aspects of the election process that went beyond the initial budget. However, they were certainly caught up in the controversy over the performance of the Electoral Commission, a key democratic institution that declined in its performance compared to 1994. The postponement of the election, the problems with voter registration, and the repeated turn to the courts to address controversies before and after the election all denote a lack of effective institutionalization for an agency playing a central role in establishing confidence in the democratic process.

If the Muluzi government were considered to be committed to democracy and generally effective, then the election result might arguably be considered a step forward for consolidation in that it produced a stronger victory for Muluzi than 1994 and the basis for what became a clear (but razor thin) parliamentary majority. However, the UDF government does not warrant high marks in either democratic commitment or efficacy. The election result could also be viewed as a rejection by voters of the somewhat desperate opposition strategy of merger and victory at all costs, a perspective that might be attractive if one continues to assume that the MCP and AFORD do not belong together for historical and ideological reasons (an assumption held by some of the rank and file of both parties.) But this perspective discounts the degree to which the political culture of the parties in Malawi appears to be highly instrumental in its approach to democratic politics and willing to forget history or ideology in the pursuit of power. It also ignores the vehemence of the protest and controversy over the conduct of the election, over the alleged bias of the Electoral Commission and the UDF's use of state resources in the campaign including its control of the broadcast media which resulted in limited access for the opposition political parties and biased coverage favoring the UDF. It is thus unclear whether the margin of the UDF's victory (which improved slightly over 1994) was due to popularity or unfair incumbency advantages (or some of both), but in any case the election was a divisive political event.

Through aid halts and slow downs starting in 1997, the donors did succeed in getting the UDF government to return to at least attempted compliance with structural adjustment conditionalities in 1998 and to do so in the difficult context of the election campaign. The presumed negative impact of austerity measures and devaluation on the government's popularity could arguably increase the meaningfulness of their victory, but this is perhaps offset by the positive impact of being able to claim credit for securing large new commitments of aid. The donors were not nearly so effective on the one clearly political issue they attempted to apply conditionality leverage to: broadcast media liberalization and fairness legislation seemed to be too little and too late in terms of its impact on the 1999 elections.

In hindsight, the 1999 elections were not totally peaceful and did not reflect much serious progress in democratic consolidation. However, aside from the poor performance of the Electoral Commission, the elections did not represent a serious setback to consolidation either (although some would consider stasis or stagnation a form of setback.) Many observers felt such a setback began shortly after the 1999 election in President Muluzi's quest for a third term in office.

### *7. Muluzi's Second Term – 2000-2004: The Ebbing of Democracy?*

As noted out the outset of this chapter, the one global project which attempts to track the status of democracy and democratization (Freedom House) rated Malawi as consistently democratic ("Free") from 1994 (presumably from the elections of May of that year) through 1999. For all six of those years, Malawi was rated with scores of 2 for political rights and 3 for civil liberties to yield an average of 2.5, the minimum threshold for inclusion in the category of "free" states. Starting in 2000, however, Malawi began a three year slide on this index: its political rights rating declined to 3 in 2000 then to 4 in 2001 and 2002, while its civil liberties rating declined to 4 in 2002. Its average or total score thus declined by a half point in each of those three years to reach 4 in 2002, and the country descended into the "Partly Free" category where it has remained through

2003 even though political rights were rated improved from 4 in 2002 to 3 in 2003 (average score of 3.5.) Assuming these ratings are correct for the moment, what explains this “de-consolidation” of democracy or reversion towards authoritarianism?

During President Bakili Muluzi’s second term in office, the democratic “honeymoon” appeared to end due to a range of political conflicts (often personal conflicts as well), constitutional disputes, corruption scandals, ongoing economic difficulties and recurrent food shortages, and the intractability of not just poverty but also AIDS. The donors by and large stuck with Malawi during this period, expressing displeasure with apparent abuses of power by the UDF and the overall crisis of political leadership, freezing aid in several cases, but also moving forward to help Malawi begin to address its debt burden and the recurrent droughts, famines and threats of famine that plagued much of Southern Africa to varying degrees. The donors were widely credited with convincing President Muluzi not to run for a third term, although as will be shown below, this can also be attributed to purely domestic political factors. They were also credited with causing Muluzi to dismiss his entire cabinet in 2000 due to corruption allegations. They continued to aid Malawi at a relatively stable level and to exercise a disciplinary function that curbed or at least responded to the worst anti-democratic and economic abuses, but seemed to recognize that political and economic progress would be slow, long-term propositions. But considerable uncertainty attended the May 2004 elections as the splintering of Malawi’s political party system seemed to display the same old personalist and patrimonial struggle for state resources and power rather than any vision of national consensus for development.

Issues of government corruption intensified as the Anti-Corruption Bureau (ACB) finally began to function and bring cases to public attention, but this process largely failed to yield actual convictions when the cases were referred to prosecutors. Donor pressure was cited as largely responsible for President Muluzi’s dismissal of his entire cabinet in November, 2000 due to corruption allegations. Three ministers were subsequently indicted, including the Transport and

Public Works Minister, Brown Mpinganjira, who was widely viewed as the unofficial number two leader in the UDF party after Muluzi and ahead of Vice President Justin Malewezi, and the remaining ministers were reappointed. A second sacked and indicted minister was Cassim Chilumpha, the Education Minister. Mpinganjira was actually arrested and released on bail after the relevant ACB report was presented to a parliamentary committee in December. In January, however, all charges were dropped. The donors nonetheless seemed satisfied that Muluzi had taken some dramatic action that publicly recognized the problem within his own government. The dismissal of Mpinganjira from the cabinet was only the first step in a process of disaffection that saw him leave the UDF to found the National Democratic Alliance (NDA), a “pressure group” that would eventually become a major opposition party by 2004. He was subsequently subjected to a variety of forms of harassment by the UDF government including allegations of involvement in a coup plot and a murder. A peaceful pro-NDA rally attended by some 10,000 people was violently broken up by police in January, 2001. These last two incidents are examples of major abuses of power by the UDF government and certainly did not go unnoticed both domestically and internationally. Mpinganjira would go on to be the NDA presidential candidate in 2004, while Chilumpha, on the other hand, would bounce back into the good graces of Muluzi and the UDF, rejoin the cabinet and become the UDF’s vice-presidential candidate in 2004.

The process of Constitutional reform took a few steps forward and several steps back and thus actually deteriorated in many observers’ opinion as the Parliament abolished both the Senate, a second chamber supposed to come into existence after local elections, and a recall provision that would have allowed constituents to attempt to unseat MPs deemed unworthy for various reasons (e.g. corruption.) Local elections were postponed again, but then finally held in April 2000 with a turnout of only 14% and an overwhelming victory (70%) for the UDF candidates. This was a severe disappointment to both donor and civil society democratization promoters and a marked contrast to the 94% turnout for the national elections.

While the legal challenges to the Muluzi/UDF victory in 1999 continued for 16 months, the dust had barely settled on the actual voting before the politics of Malawi became focused on the next election five years down the road in 2004: in October of 1999, four months after the June vote, UDF politicians began to raise the idea of amending the constitution's two term limit for the Presidency in order to allow the incumbent Bakili Muluzi to run for a third term. This issue of a third term and the related question of who would succeed Muluzi as the UDF candidate if he did not run again became one of the central issues in Malawi's politics and would not be resolved until March 2003, some three and half years later. Outside the UDF, the defeat of the MCP/AFORD opposition coalition in the 1999 election set off an extended process of maneuvering and conflict that, together with conflict within the UDF over the succession question, would produce major splits in all three of the parties that had defined the political landscape of the country since 1993. Muluzi himself did not publicly embrace the idea of running for a third term, although he certainly did nothing to prevent members of his party from pushing the idea to the point of bringing the required bill to amend the constitution to a vote in Parliament. Such a bill requires a two-thirds supermajority vote of Parliament to pass. As early as August 1999, Attorney General Peter Fachi was quoted as saying in reference to both the opposition challenge to the recent polls and the question of a third term that "Muluzi will remain president of this country until another candidate is worn in after holding fresh elections. Muluzi may even become life president regardless of what the courts rule." In October, former Energy & Mining Minister and still high-ranking UDF official Dumbo Lemani was quoted as saying "two thirds or no two thirds – the constitution will be amended to pave the way for a third term."<sup>359</sup> Needless to say, this talk of ignoring constitutional requirements for amendment and bringing back the "Life President" of the authoritarian Banda era sparked outrage from organized civil society, the donors and much of the opposition, especially coming so soon after a controversial and divisive election that was very close at the Parliamentary

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<sup>359</sup> Peter Fachi, "Muluzi Can Be Life President," *Daily Times*, August 24 1999; Lemani quoted in B. Sonani, "UDF Agrees on Bakili's Third Term", *Daily Times*, October 14, 1999 – both quoted in Patel, *op.cit.* p. 44. Lemani had been dropped from the cabinet due to corruption allegation but returned in Dec. 2000 as Minister of Presidential Affairs.

level. The Muluzi government issued a ban on demonstrations against a third term, and after this ban was successfully challenged in court, threatened to ignore the High Court ruling, another example of new undemocratic tendencies on the part of the UDF government. The donor community expressed displeasure, and the Catholic Bishops issued a Pastoral letter urging that any constitutional amendment be put to a popular referendum. The Presbyterian church (CCAP) likewise opposed a third term, and even Sunni Muslim groups (i.e. his co-religionists) criticized Muluzi for seeking it.

After almost three years of public debate and controversy, the bill to amend the constitution and strike term limits for the Presidency finally came to a vote on July 5<sup>th</sup>, 2002 and fell just three votes shy of the required two thirds majority. Due to the splits and realignments of party factions over the previous two years (to be explained below), virtually all UDF MPs supported the measure, plus MPs from the Tembo faction of the now split MCP and the Chihana faction of the now-split AFORD, thus yielding 125 votes in favor versus 59 opposed, 3 abstentions and 5 absentees.<sup>360</sup> The motion was actually introduced by an AFORD MP now in alliance with the UDF, and donors lobbied strongly against the introduction of the measure: four ambassadors met with AFORD leader Chihana to urge that the bill not be introduced, but they seem to have only succeeded in delaying the introduction by a week. Chihana subsequently admitted publicly that AFORD MPs in his faction were given “gifts” of MKw 100,000 (approx. \$1,250) before the vote, and rumors circulated that a similar arrangement obtained for MCP MPs in the Tembo faction. The Anti-Corruption Bureau launched an investigation.

Given the close vote, some UDF supporters called for another vote, and speculation turned to amending the bill to simply allow for three Presidential terms rather than to abolish all term limits. However, President Muluzi then broke his silence on the issue to say that he accepted the vote of Parliament and that he would not seek re-election even if his party wanted him to run again. Although the UDF Executive Committee subsequently passed a resolution calling for a third term,

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<sup>360</sup> One seat in the 193 seat Parliament was vacant at the time due to death of the incumbent and awaited a by-election.

commentators speculated both that Muluzi was increasingly concerned with preserving his positive legacy as Malawi's first democratic President and that support for a third term was in fact ebbing within the UDF as factions formed around the ambitions of potential successors. By the end of 2002, however, the President had back-tracked to saying he would let the UDF party decide. In the meantime John Tembo withdrew the support of his faction of the MCP for the third term bill, leaving its fate very uncertain if brought to a new vote. A bill to change the term limit from two terms to three was finally tabled in late-January 2003 at a specially called session of Parliament, but was withdrawn due to insufficient support. Two UDF MPs and a sitting minister were sacked for failing to support the bill.

The third term and related UDF succession issue were finally resolved on March 30<sup>th</sup>, 2003, when Muluzi, seemingly taking a page from Moi's failed strategy in Kenya, admitted defeat on amending the constitution and by-passed all the major contenders within the UDF to pick a relatively minor political player as his successor. He announced that his choice as the next UDF presidential candidate was Dr. Bingu wa Mutharika, who had just joined the cabinet as head of the newly formed Ministry of Economic Planning and Development on March 13<sup>th</sup>. Mutharika had previously had a career as an economist and technocrat with several international financial institutions, most notably as Secretary-General of the Common Market for Eastern and Southern Africa (Comesa) from 1991 to 1998, and had actually returned to Malawi in 1998 to attempt to launch a political career without much success: he formed his own political party, the United Party which attracted some interest briefly, but then went on to place dead last behind two other minor candidates in the Presidential election of 1999, receiving a mere 22 thousand votes or .46% of the total votes cast. In his early 70s, he appeared to owe his return to the political limelight solely to President Muluzi and to command no political base of his own. His selection as candidate was subsequently confirmed by the UDF Executive Council, along with the appointment of Muluzi to the new position of Party Chairman,, after which Muluzi reshuffled his cabinet and dropped several longtime ministers and UDF leaders who were known to have their own presidential ambitions: two of the casualties, Aleke Banda, Agriculture Minister and a co-founder of the UDF, and Harry

Thomson, Natural Resources and Environment Minister, subsequently resigned from the party. Justin Malawezi, Muluzi's Vice-President since 1994 whom many had assumed would succeed him, would wait until New Year's day 2004 to resign from the party even though he remained the elected VP, thus raising fresh constitutional issues. They all thus joined in a post-UDF exile with Brown Mpinganjira, another co-founder. Three out of the four would found new parties or otherwise seek the Presidency in May 2004. Mpinganjira's National Democratic Alliance (NDA) claimed to have the allegiance of many sitting UDF MPs from its founding in 2001, but stayed a "pressure group" and didn't become a political party until 2004 in order not to trigger conflicts and by-elections for those supporters. According to the Economist Intelligence Unit, "Mr Mpinganjira outlined plans to form an opposition alliance—which he will lead—similar to the National Rainbow Alliance Coalition, which succeeded in unseating President Daniel arap Moi and his party after more than 20 years in power at the Kenyan elections in December."<sup>361</sup> Thomson joined the NDA despite his own ambitions, while Banda and Malawezi initially tried to cooperate under the new Progressive People's Movement (PPM) that the former had co-founded.

In the meantime, the other two members of the Malawian political party system since 1993 – the Alliance for Democracy and Banda's original Malawi Congress Party - were also in the process of splintering. Chihana of AFORD announced an end to the party's opposition alliance with the MCP in January of 2002, and by April, just after Muluzi's announcement of Mutharika as his successor, he led at least part of AFORD back into a coalition with the UDF that included the Second Vice President spot for him again plus five cabinet posts. The UDF was eager for this new support given the defections due to the Mutharika announcement. Much of AFORD was not at all happy with Chihana's decision, however, and by a November AFORD convention the party split with 19 of its 32 MPs and many other party leaders leaving to join the Movement for Genuine Democratic Change.

The MCP for its part still foundered on the Tembo-Chakuamba rivalry at the top: for much of 2003, the two made attempts to reconcile which succeeded long enough to drive Heatherwick

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<sup>361</sup> EIU, *Malawi Country Report*, April 1, 2003.

Ntaba, who had occupied the number three spot in the party since the Banda days, to realize his own ambitions had no future in the MCP. He quit the party in December to form his own short-lived New Congress for Democracy (NCD) before joining in an alliance with the UDF and being awarded the Ministry of Energy and Mining less than two months before the new election.. Finally, despite the attempts at reconciliation, the MCP finally split, and Gwanda Chakuambe, having lost the presidency of the party to Tembo, now formed his own party, the Republican Party.

While the major opposition parties and the ruling UDF were in the process of splintering over the course of 2003 and into 2004, a new dynamic within opposition political and civil society was attempting at least in part to move in the other direction. Starting approximately in mid-2003, small and large opposition parties, together with the help of facilitators from church and civil society organizations, began talks on forming a coalition or a cooperative agreement to defeat the UDF and its recently affiliated partners in the elections scheduled for May 18, 2004. The participation in the talks apparently ranged from between six and ten different parties in the increasingly complex and shifting political landscape.<sup>362</sup> The effort ultimately appeared to come up short, however, for as the time before the election grew short and commitments had to be made, only six smaller parties signed the Memorandum of Understanding to found the Mgwirizano (Unity) Coalition on January 23<sup>rd</sup>, 2004: the MCP, the NDA and the Movement for Genuine Democracy (Mgode, the anti-UDF AFORD splinter) all refused to sign. John Tembo, now in control of the MCP, demanded that as a “big” and national party, the former party of Kamuzu Banda receive both the Presidential, and Vice-Presidential slot on the coalition ticket. Perhaps as a fitting symptom of the times, the Mgode party subsequently split into two factions over their disagreement on participating in the Mgwirizano coalition (which then increased to seven parties.) Despite Brown Mpinganjira of the NDA’s vow to follow the Kenyan model and lead a united opposition to defeat the UDF, one press report stated “The refusal to join the coalition has dashed hopes of a united opposition ever getting into power in Malawi as did Mwai Kibaki's Rainbow Coalition in Kenya in Dec. 2001.”<sup>363</sup>

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<sup>362</sup> Denis Mzembe, “Coalition talks gather steam”, *Malawi Nation*, 7/2/2003; Joseph Langa and Mabvuto Banda, “Opposition coalition talks enjoying smooth ride”, *Malawi Nation*, 24 October 2003.

<sup>363</sup> Frank Phiri, “Malawi: Main opposition parties pull out of coalition deal,” Inter Press Service, January 24, 2004.

The electoral picture still appeared confusing and in flux despite a February 25<sup>th</sup> deadline for presidential nomination papers: four sets of candidates filed papers – Mutharika and Chilumphe for the UDF/AFORD/NCD alliance, Mpinganjira for the NDA, Tembo for the MCP, and Gwanda Chakuamba representing his Republican Party and Aleke Banda from the PPM as VP on the ticket for the Mgwirizano Coalition. To further confuse matters, Justin Malawezi, despite being First Vice-President of the PPM party whose President Aleke Banda was running as VP on the coalition ticket, announced that he would run as an independent candidate for President, was promptly expelled from the PPM, but took many followers with him, splitting that relatively new party as well. Commentators such as the journalist cited above and the Economist Intelligence unit predicted that the lack of opposition unity on the one hand and the superior resources of the UDF/AFORD alliance (plus the NCD as a minor partner) including the continued use of state resources all but sealed a victory for Mutharika, the candidate who had done so poorly in 1999 running on his own,

While the political parties were enmeshed in this seemingly chaotic process of splintering, reshuffling and coalition formation, the Electoral Commission (EC) appeared to once again be caught up in its own turmoil, that grew to be only slightly less severe than in 1999. Due to logistical problems and procurement scandals, the voter registration period was again delayed, this time only once from November 17 to January 5<sup>th</sup>. When it was finally held, however, it appeared quite successful in that voter rolls increased by 1.2 million over 1999 up to 6.6 million, approximately a 25% jump. Some critics argued this number had to be inflated. This success in turn caused its own problems as the EC increased the number of polling places from 7000 to 8,224, printed some 2 million extra ballots and requested additional funding to cover the unanticipated costs only to be told by the Finance Minister Friday Jumbe that no additional funds were available above the budget that had been worked out in cooperation with donors and external consultants.<sup>364</sup> Civic groups and opposition parties complained that neither donors nor the government had provided sufficient funding for effective voter education, especially of the new voters, and that with the political confusion caused by the multiplying parties and general disenchantment with the

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<sup>364</sup> Denis Mzembe, “No more money for commission – Jumbe”, *Malawi Nation*, 28 March 2004.

political class on the part of voters, this would cause turnout to decline markedly.<sup>365</sup> The opposition complaints of media bias were also virtually unchanged from the previous election. Then to compound the EC's problems and once again cause a delay of the election as in 1999, the Commission announced that on May 7<sup>th</sup> a last minute computer cross-check of the voter rolls engineered by a just hired South African software company had purged some duplicate or faulty 900,000 voters from the list. This last minute adjustment meant that the EC was once again in violation of the Constitution's requirement for a 21-day examination period for the voter list which would mean the scheduled May 18<sup>th</sup> election was too soon. The Mgwirizano Coalition sued the EC and won a court ruling delaying the election until May 20<sup>th</sup> and addressing the security of the two million extra ballots that had been printed.

Despite these in many ways familiar complaints from the opposition and civic groups, a new more activist and explicitly political role for major elements of civil society was definitely discernable in the build-up toward the May 2004 election. Organizations like the Public Affairs Committee representing both church and secular forces that had played such a key roll back in 1992-94 seemed to be re-energized and played at least an indirect role in founding new coalitions and organizations like the Forum for the Defence of the Constitution that opposed the Muluzi/UDF attempts to allow for a third term.<sup>366</sup> Both religious (largely Catholic) and professional groups (lawyers and accountants) were also involved in the founding of one of the first of the new parties in the 1999-2004 period, the Malawi Forum for Unity and Development or Mafunde, which for a time appeared as a potential dark horse party that could harness voter and grassroots discontent with the established political parties and the political class in general. Ironically Mafunde did not "catch fire" and ended up as one of seven parties in the Mgwirizano Coalition that nominated ex-MCP Chakuamba and ex-UDF Banda as their candidates. But even here, church and civil society actors played important roles in facilitating the negotiations to form what was supposed to be the

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<sup>365</sup> Gedion Munthali, "Civil society predicts poll disaster", *Malawi Nation*, 24 March 2004.

<sup>366</sup> At the opposite end of the formal institutional spectrum, the Malawian military maintained its apolitical tradition despite having been called onto control opposition demonstrations after the 1999 elections: no precedent for continued or partisan political involvement appeared to have been set.

grand coalition of the opposition. Key figures like Anglican Bishop James Tengatenga, the facilitator/convenor of the coalition talks, thus took what could only be seen as a more direct and partisan role in trying to move Malawi's democratic political process forward. The active and partisan role of the churches appeared to go even a step further in the final weeks of the campaign of May 2004, as Catholic Bishops and leaders of other denominations made increasingly explicit pleas to their congregations and to the general public to vote for candidates who would advance democracy and fight corruption, the implied favorite being Chakuamba of the Mgwirizano Coalition. Several late polls of uncertain methodology, including one by the Catholic Commission of Justice and Peace, also claimed Chakuamba was in the lead over the UDF's Mutharika, but whether these suggestions of a late surge – one helped by the delay due to the Mgwirizano lawsuit – would prove real in overcoming the early favorite and hand-picked successor to President Muluzi was unclear. In any case, given the lack of faith in the EC on the part of the opposition, predictions and “evidence” of a Mutharika/UDF defeat will heighten the tension surrounding the official results, tensions which could easily erupt into violence. The likelihood that the results will be challenged in court is also extremely high. Predictions made closer to the polls suggest that while the UDF will win the plurality of parliamentary seats, no party is likely to win a majority, and whoever the Presidential winner is, he will have to form some type of coalition government.

### *The Donors, Economic Conditionality and Democratic Consolidation*

After two multi-party elections in Malawi, the donor focus and conditionality policy during President Muluzi's second term centered largely on economic policy issues: aid was suspended by various donors on several occasions for noncompliance with adjustment targets. Corruption was the major crossover issue in which donors went as far as demanding particular legislation be passed and particular anti-corruption institutions strengthened, thus putting major political pressure on the incumbent regime and its often corrupt practices. However, donors also expressed strong opinions about political issues such as the attempt to remove the Presidential term limits so Muluzi could run

for a third term, various abuses of power by the UDF government and the competence of the Electoral Commission. These interventions constituted an often implicit form of anti-backsliding political conditionality in that they served notice that anti-democratic practices would have negative consequences for the aid relationship. Aside from the explicit demands in the area of corruption, however, and inasmuch as donor policy can be disaggregated into separate components, the donors did not advance much of a proactive political agenda through the use of conditionality leverage. They continued to provide political aid to civil society organizations, for elections and for the reform of state economic and governance institutions. The latter two categories were in a sense conditional on effective cooperation between donor and recipient, on accountability and an absence of corruption and diversion (standard aid conditions, at least in theory), but they lacked any element of ultimatum or explicit demand as the original imposition of conditionality in 1992 contained. This policy stance is in fact what most political actors (donors, recipients, prodemocratic activists, etc.) view as appropriate for a new and hopefully consolidating democracy: broad anti-backsliding conditionality, but no proactive attempt by outside donors to undemocratically micro-manage the democratic politics of an aid recipient state.

In Malawi as in much of the world from the mid-1990s into the first decade of the new millennium, the economic policy/structural adjustment agenda was extended to include issues of government corruption and governance in general. In the period from 1999 to 2004, the overall donor/government relationship in Malawi was in large part focused on issues of fiscal restraint and stability as a key factor in the macroeconomics of Malawi's growth and development, but also on effective poverty alleviation in the face of recurrent drought and food shortages, declining terms of trade for key exports like tobacco, and a growing HIV/AIDS crisis. These two priorities often appear at odds with each other, while aid recipient corruption and mismanagement impede both.

In the 1999-2004 period, key components of aid continued to be frozen at times, to be turned on and off again, as donors clashed with the UDF government over economic policy, government spending, the speed and sincerity of adjustment reforms, and corruption. However, on the larger question of donor conditionality in general for this period, the important story appears to

be that strict economic conditionality was ultimately suspended (i.e. temporarily abandoned) because, while the government continued to miss fiscal targets and other conditions, donors and observers feared that a possible government default with the domestic creditors (whom they had turned to when aid was suspended) could set off a wider economic crisis. Such a financial crisis could have especially severe repercussions in an economically fragile country racked by recurrent drought, food shortages, endemic poverty and AIDS.

On October 25<sup>th</sup> of 1999, the IMF approved release of the second tranche of the 3<sup>rd</sup> ESAF loan package, agreed to the previous December, despite the fact that inflation and GDP growth targets had not been achieved. At a May 2000 Consultative Group (CG) meeting held in Lilongwe, donors pledged a total of \$1.1 billion over three years (compared to \$1.25 billion pledged in 1998), called for civil service retrenchment, reduced government expenditures and deficits, accelerated privatization of parastatals, and an end to agricultural subsidies and to corruption. The donors also are said to have warned the Muluzi government that no more slippage in conditionality compliance would be tolerated. In the same period, the Government's Director of Public Prosecutions asserted that up to one third of all government expenditure is wasted or tainted by corruption through inflated charges, and noted the government lacked fully computerized accounting and sufficient qualified auditors. The CG meeting also supported Malawi's application for HIPC status and debt relief: Japan, however, which held 70% of Malawi's bilateral debt (80% of total debt being with the IFIs), also announced that no more loans would be forthcoming.

In late 1999, the World Bank and the Government of Malawi released a study that estimated that up to 25% of the urban workforce could die of AIDS in the next 10 years. Overall, 14% of the population were estimated to be infected with HIV. Donor pledges at the CG meeting included \$109 million for HIV/AIDS program. The Government of Malawi had requested \$130 million. Later in the year, the World Bank rejected a Malawi request for a \$40 million loan for AIDS programs reportedly out of concern with the level of the country's external debt.

The IFIs granted Malawi's HIPC application in December of 2000, and the same month the IMF approved a new 3-year \$58 million Poverty Reduction and Growth Facility (PRGF) loan package. The net present value of HIPC debt relief was estimated at \$643 million out of a total debt stock of \$2.9 billion, but as equivalent to 44% of outstanding debt calculated on the net present value standard and was projected to save some \$50 million in debt service on an annual basis. Despite this significant relief, Malawi's debt stock would continue to increase. The granting of HIPC status and its ongoing benefits, it should be noted, come with a full array of conditionalities for continued structural adjustment, economic good governance, pro-poor policies, etc.<sup>367</sup> Other key indicators in late 2000 included: the kwacha had continued to slide from 45/\$ in October 1999 to 75/\$ in September 2000; interest rates were in the vicinity of 45% in part to try to support the kwacha; and one estimate of the current account deficit for the coming year forecast it at \$507 million or 30% of GDP while another forecast a much more modest \$138m (8.9% of GDP). One factor in the slide of the kwacha was a delay of some \$120 million in donor funding in September and October due to a short-lived technical dispute over government debts to the private sector.

The donor push on corruption that led Muluzi to dismiss his cabinet and to the subsequent indictment of Brown Mpinganjira occurred in November of 2000. Again, the donor community appeared satisfied that an Anti-Corruption Bureau report led to some consequences for the government even though no convictions resulted as the charges were dropped by January. The

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<sup>367</sup> Debt-relief was one hopeful area of progress that Malawi began during the 2<sup>nd</sup> Muluzi term. Another was land reform: In 2001, Malawi began a long-planned land reform program. High population growth, the need for serious rural poverty alleviation, and the long-term stagnation and even decline of the estates agricultural sector compared to the growth and dynamism in the smallholder sector made reform of the large estates sector a development imperative. According to Harrigan in her comprehensive overview of Malawi's economic history and performance, "The crisis in the estate sector needs to be halted which will entail a scaling back of the sector and politically challenging land reform and redistribution." (Harrigan, *From Dictatorship to Democracy*, p. 350) The initial phase of the program planned for the very modest resettlement of only 20,000 people in a country of 12 million. Many of the estates created during the Banda years were still intact. White owned estates still constituted 10% of the land in Malawi, and land owned by Asians, who may or may not be Malawi citizens, is another significant segment. The IFIs and the donors generally supported the idea of careful land reform even while they disagreed sharply with the government over other policies to support smallholder agriculture and food security—specifically subsidies and how fast to pursue diversification away from tobacco production. Muluzi assumed the rotating Presidency of the Southern African development Community (SADC) in September 2001, and in that capacity he condemned the land seizure policies of the Mugabe regime in neighboring Zimbabwe. As the land reform program gained some momentum by early 2004, Asian businessmen in particular began to voice complaints over new legal requirements that non-citizens could not own land independent of Malawian partners.

Mpinganjira affair raised the issue of whether a regime such as Muluzi's that is subject to conditionality and donor pressure over corruption might adapt this pressure to its own ends by using it selectively to scapegoat certain individuals or factions within the government who had fallen out of favor or were seen as overly ambitious and a threat. Also at this time and in the midst of the success of the HIPC application for debt relief, the UDF suffered another embarrassing scandal over the off-budget purchase of 39 Mercedes limousines for some \$2.5 million: donor outrage was sufficient for the government to backtrack and put the cars up for resale.

The most controversial and politically difficult aspect of the donor-mandated reform program from the perspective of the Muluzi government was privatization of parastatal enterprises, long a staple of neoliberal Structural Adjustment programs. In 2001, parastatals still employed some 500,000 workers and produced 20% of GDP, but many were inefficient and constant drains on the fiscal capacities of the state. Malawi had privatized 36 parastatals since the 1995 ESAF agreement, but like most governments in its position had started with the easier candidates and still had major enterprises to privatize completely or in which large government owned stakes needed to be sold off. On July 23<sup>rd</sup>, 2001, the UDF government suspended the privatization program for review ostensibly because of concern over the very low offers received for the 30% government share in Malawi Telecom Limited (MTL - the phone company), an enterprise which had gross revenues of some \$2.6 million per month. More generally, critics of the privatization program inside and outside the government argued that it led to foreign ownership and major job losses. Donor reaction to this surprise suspension of a key element in the adjustment agenda was swift: various donors suspended portions of aid, and the donors as a whole began a campaign of pressure to the government to reverse its decision. The government reinstated the program in mid-October after three months of suspension, and sales of major government stakes in banking and eventually MTL proceeded. While privatization may have produced less returns than the government hoped for, its overall dependence on donors was such that the EIU estimated that 40% of government expenditures were funded by donor grants.<sup>368</sup>

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<sup>368</sup> EIU, *Malawi Country Report*, January 2002.

The aid freezes that the suspension of the privatization program apparently triggered then seemed to broaden to reflect donor displeasure with a wider range of UDF behavior. Denmark suspended its entire aid program to Malawi allegedly over frustration with corruption and with the UDF's pattern of interference with the judiciary, although a change in government over to the conservatives in Denmark may also have meant the new government there with a very different fiscal policy was looking for reasons to curtail a generous aid program initiated by its more leftist predecessors. The Danish aid program was large, peaking at \$28.4 million in 1999 when it was third largest behind Japan and the U.K., (and thus bigger than the US program in 1998 and 1999, and bigger than Germany's program in 1999): in 2000 it had declined to \$17.9 million, but was still quite sizable by Malawi's standard. Based on a leaked Malawi government memo, the EIU also revealed that the European Union had suspended \$13.4 million in aid because of potential corruption and noncompliance with grants conditions and had requested the government refund an additional \$6.25 million in aid that was improperly spent. The same memo claimed that USAID had cut aid from \$7 million to \$1 million during the privatization suspension. While the government denied this, the EIU noted that donors did not dispute the contents of the memo. During the same period of the Privatization suspension in 2001, the UK also delayed disbursement of some \$18 million in aid.

Ironically, given the government's dependence, these aid suspensions threw off the budget and made it even harder for the deficit targets that were part of the PRGF conditions (and through cross-conditionality part of other aid agreements) to be achieved. The Muluzi government was already having considerable trouble meeting the PRGF agreement targets: after its first disbursement under the December 2000 agreement, the IMF did not see fit to release any more tranches of the overall loan throughout 2001 and 2002. Malawi was essentially deemed non-compliant with the PRGF conditions. One key element in the PRGF process was supposed to be the government's drafting of and IMF assent to a Poverty Reduction Strategy Paper (PRSP) originally expected in mid-2001, but delayed until April 2002. By that time serious famine had emerged throughout much of Southern Africa, and the IMF granted Malawi a \$23 million

emergency credit for famine relief, the only country in the region to receive such a loan. Many other donors made emergency grants in aid of food in this period: the World Bank approved a \$50 million drought relief credit in November.

Donor policy clearly diverged in this period as cross-conditionality with the IMF's PRGF was loosened in the face of both the famine and the ongoing economic difficulties of the country: the European Union, a growing player in development aid in general, unveiled the biggest bilateral aid package in Malawi's history – 345 million euros (roughly the same number of US \$) over 5 years. But lack of IMF approval still clearly limited aid in general: the IMF sent a mission to Malawi in November, 2002, (one of six over the course of 2002 – a very high level of engagement) which reported that not only was overall fiscal discipline and serious commitment to reform still lacking, but the Government also admitted that \$8 million had been lost to corruption involving government “ghost workers”. Resumption of the IMF program in 2002 would have resulted in the release of \$47 million from the IMF and more than \$44 million from other donors including primarily the UK, the EU, Norway and Sweden. The EU in particular, while demonstrating a potential generous commitment to Malawi in the aid package just noted, continued to withhold budgetary support (one form of program aid) while providing developmental project aid, humanitarian/relief aid and other social service and economic program aid.

In 2003, while the drought and food picture improved considerably, the IMF indicated its interest in restoring aid despite the many targets and unmet conditions if only the government would display some serious move towards fiscal discipline. The UDF did introduce a number of expenditure controls the IMF team had recommended the previous December, and by the time an FY 2003-2004 budget was introduced in Parliament in July, the IMF had indicated it would resume funding soon because of a growing fear that the government's reliance on domestic credit in the absence of aid was creating the possibility of default, of a collapse of the domestic banking system and therefore some degree of general economic collapse. The fiscal deficit was over 11% of GDP in FY 2002-2003, and domestic debt had risen from MK6.1 billion at the end of December 2001 to MK38.5 billion (approximately \$356 million) at the end of September 2003, at least a six-fold

increase in kwacha terms and more in dollar terms given the still declining rate of exchange. Domestic debt service of the high interest treasury bills (e.g., bearing 40-50% interest) used to fund the deficit was already accounting for 16% of government spending by the July to June FY 2003-2003.

The IMF finally resumed its budgetary support loans under the PRGF in October, 2003, and given that the agreement was set to lapse in December, also extended it for a year at the government's request. In addition to a strong focus on fiscal issues – i.e. spending restraint despite the looming election in May 2004 and increased taxation and other revenue generation-, the new agreement revising the existing PRGF included very specific stipulations on legislation strengthening the independence and prosecutorial powers of the Anti-Corruption Board. These conditions specified that legislation be introduced by the end of October and passed in the parliamentary session running through December. While the legislation was introduced on time, it was promptly sidetracked into a committee due to UDF opposition to some of its provisions. Both the IMF and bilateral donors such as the U.K. responded with statements that aid might once again have to be frozen: the U.K. in particular demanded that the Muluzi government explain publicly why the bill amending the Corrupt Practices Act was not passed. The US ambassador announced in December that Malawi would not qualify at present for aid from the Bush administration's new \$15 billion Millenium Fund because of rampant corruption in the government.<sup>369</sup> In January, 2004, the National Bank of Malawi reported that most donors' contributions to budgetary support had been on a "go-slow" status of reduced disbursements both because of unmet conditionalities and because the approaching election could soon change the administration in power. The issue of the Corrupt Practices amendments was finally resolved in March when the parliamentary Legal Affairs Committee reported the bill to the floor and it was debated, amended and passed. Some of the stronger provisions desired by the donors and originally recommended by the Malawi Bar's Law Commission, such as making the ACB fully independent from the Director of Public Prosecution

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<sup>369</sup> 'Malawi may lose US aid', Jang Newspapers accessed at: <http://jang.com.pk/thenews/dec2003-daily/20-12-2003/world/w6.htm> ;

(a government appointee), were stripped from the original bill by a coalition of UDF and AFORD MPs.<sup>370</sup> A spokesperson for the British High Commission asserted after the debate that had the bill not reached the floor and been passed in some acceptable form, then donors would have reduced or cut aid.<sup>371</sup>

#### *Analysis, 1999 - 2004*

The 1999 to 2004 period – President Bakili Muluzi’s second and final term in office – was marked by increasingly complex and contentious domestic politics, which increased the amount of conflict and the tendency toward undemocratic behavior, and by economic difficulties and exogenous shocks in the form largely of drought, poor crops and even AIDS. In terms of domestic politics, the election of 1999 had essentially rerun the previous election involving the same parties and mostly the same personalities (Banda excepted) but with the most obvious variation on the previous theme: an opposition coalition between the MCP and AFORD as the only plausible formula to prevent another UDF victory and get those two parties a secure share of power. The long run-up to the 2004 election was marked by the search among the existing opposition parties for a new formula to gain access to power (or a reversion to an old one on the part of Chihana and his faction of AFORD) and likewise for new vehicles toward power by those ambitious UDF leaders who left or were driven out by the third term/succession dilemma.

Nevertheless, compared to the more problematic status of transition attempts in many neighboring countries, particularly Zambia and Zimbabwe, not to mention the disasters in Rwanda, Burundi and Congo/Zaire, Malawi remains a relative success story in terms of stability and nonviolence and is viewed by donors as a country making modest progress on the long road to democratic consolidation. Its biggest challenges continue to be poverty alleviation given its status as one of the poorest countries in the world, extremely high HIV/AIDS infection and mortality rates, and this is currently compounded by drought, serious food shortages and the specter of

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<sup>370</sup> Gedion Munthali, “House retains DPP’s consent”, *Malawi Nation*, 18 March 2004.

significant death by starvation despite advance warning of the crisis. In this context, continued government patrimonialism and corruption under a democratically elected and donor scrutinized government, along with apparent failures to deliver in both the areas of significant economic and political reform, have been the source of widespread disappointment both domestically and among donors.

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<sup>371</sup> Mabvuto Banda, "Debate on CPA saves Malawi", *Malawi Nation*, 21 March 2004.

## **Chapter 6.**

### **Conclusion: The Impact of Conditionality on Democratization**

#### *1. Summary Introduction*

This concluding chapter addresses the central questions of how democratic are Kenya and Malawi in 2004 after experiencing the period since conditionality and the transition to multiparty competition, and what the role and impact of aid conditionality has been in producing these outcomes. It then explores those questions further by means of the theoretical hypotheses that were distilled in Chapter 2 from existing literatures on democracy and democratization, foreign aid, and economic sanctions regarding antecedent conditions and intervening variables: which of these hypotheses are supported by the historical evidence of the case studies, and which are not? Which prove most useful in understanding these cases and what if any new or modified hypotheses are suggested by the cases? Finally, it briefly considers both policy and theoretical implications of the findings and directions for further research.

To anticipate those findings, both Kenya and Malawi are judged to be unconsolidated democracies in 2004: both are still in a transition process in which there is movement or pressure to create fully functioning democratic institutions and a democratic political culture, but both still face obstacles, opposition, and setbacks. The initial imposition of conditionality was crucial to ending one-party rule and propelling the two countries across the threshold of multiparty electoral competition. However, since this dramatic beginning, political conditionality and donor policy in general have had more modest effects on advancing democratization: anti-backsliding conditionality has arguably prevented major reversions towards authoritarianism, while anti-corruption and structural adjustment economic conditionalities attacked the still clientelist power base of incumbent

parties. Not surprisingly, key variables or antecedent conditions that enable the impact of conditionality are aid dependency and the spread of democratic norms internationally, but also into the domestic arena. Major intervening variables that affect whether the impact of conditionality will result in democratization include the pattern of social cleavages that in turn affect political party systems, the politics of personal ambition within the leadership of clientelist parties especially as they play out in succession crises and coalition formation, and finally the related instrumentalism (or opportunism) of supposedly prodemocratic political elites that undermine their commitment to democratic norms. While these intervening variables are difficult for aid donors to affect, a more coherent and proactive conditionality is nonetheless possible, and the relevance of conditionality to a wider set of countries deserves further research.

## ***2. Democracy and Democratization in Kenya and Malawi, 2004***

Aid conditionality has become a political fact of life for most aid recipient countries since the advent of Structural Adjustment in the 1980s, and since at least 1991, democratization, human rights and “good governance” have been regular features of the discourse and often the practice of policy dialogue and bargaining between donors and recipients. “Corruption” formally joined the list of explicit conditionality issues in approximately 1997 as a further specification of what should not exist under conditions of good governance (although it has always been a donor concern.) At crisis points when the dialogue and bargaining reach an impasse and when recipient policy and behavior is unacceptable to the donors, the threat of aid freezes is implemented. Kenya was the first and Malawi the second case in which donors froze significant portions of aid simultaneously on a multilateral basis. In both cases, political conditionality was a crucial action that compelled authoritarian regimes to liberalize, to legalize opposition parties and to move towards competitive multi-party elections. However, in neither case did political conditionality produce “democracy” overnight; rather, the aid freezes succeeded in pushing the target countries one major step down a long and somewhat uncertain path toward real democratization and “consolidated democracy”, a

path which both countries are still on over a decade later. Ongoing conditionality as a policy and several more resultant aid freezes have kept significant pressure on governments in both countries to keep moving along that path.

This dissertation has explored the impact of conditionality on democratization in its two case studies by attempting for the first time to assemble and analyze reasonably full historical narratives of the politics of the two countries during their transitions from authoritarian single-party rule to a multiparty electoral politics that acknowledges “democracy” as its standard of legitimacy and practice. In tracing these political histories from 1990 to 2004, the result is still in some sense an interim report in that the struggle for democracy continues in both countries, and the gains of the past fourteen years do not yet appear fully secure. Still, as of April 2004, Kenya had three multiparty national elections since aid was frozen in 1991, while Malawi has had two since 1992 and awaited a third in May, 2004. In Kenya, the third of these elections produced a peaceful change of government, while in Malawi the first election did. The period since 1990 thus provides ample grist for the analytic mill, but the basic or bottom-line questions at issue here are: how democratic are Kenya and Malawi in 2004 after experiencing this transition period, and what has been the role and impact of aid conditionality in producing these outcomes?

Kenya and Malawi in April 2004 presented distinct and in some ways contrasting portraits of would-be democratic politics, but both merit the term “consolidating democracy.” Kenya was marking the 15 month anniversary of the election in which a grand coalition of opposition parties finally united to defeat the KANU party that had ruled the country since independence. It was also entering into the final stage of a multi-year, multi-stage process of rewriting its constitution to guide in the establishment of a more democratic and hopefully more effective government. In Malawi, on the other hand, a chaotically splintered opposition was in the midst of an election campaign that many observers predicted would re-elect the UDF that has governed since 1994 despite the fact that the UDF candidate (Bingu wa Mutharika) was widely considered an inexperienced and even

incompetent stand-in who would allow the outgoing President (Bakili Muluzi) to continue defacto rule despite the constitutionally mandated term limit that is supposed to force his retirement.<sup>372</sup>

These important differences also mask some key similarities. Both countries are still struggling economically to achieve rates of growth that can outpace population growth enough to alleviate the endemic poverty of huge segments of their populations, and both still struggle with a legacy of patrimonialism, clientelism and corruption that seems to taint most of the political class and prevents more rapid economic progress. Politically, both countries rely on elections to allocate authority and power, and those elections, while imperfect, are highly scrutinized and arguably improving slowly. Likewise, the judiciaries in both countries are struggling to establish their independence and integrity. Skeptics as to the possibilities of democratization in both countries would have correctly predicted a politics in which ethnicity and instrumentalist, self-interested elites seem to hopelessly divide the country, to engender conflict and to avoid any serious consensus-building on policies for national development. However, many democratic institutions in both countries do their best to function nonetheless.<sup>373</sup>

The more formal definition of democracy outlined in Chapter 2 (pp.7-9), the “expanded procedural minimum definition,” contains three elements: 1) “fully contested elections with full suffrage and the absence of massive or decisive fraud or incompetence”; 2) “effective guarantees of civil liberties, including freedom of speech, assembly and association”; 3) “elected governments must have effective power to govern”, meaning no undemocratic constitutional or institutional preserves of authority exist outside the sovereignty of the elected government such as autonomous militaries (no “democratic birth defects”.) Kenya struggled with the first element in 1992 and

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<sup>372</sup> Ironically, several of the opposition parties that failed in their efforts to unite for the election campaign are running on platforms calling for a government of national unity embracing all major parties to build an effective consensus for national development.

<sup>373</sup> Returning to the Freedom House ratings that are the most-cited global comparative standards of democratization, we can note that Kenya with an overall rating of 3 in 2003 ranks as slightly more democratic than Malawi with its rating of 3.5, but both are at the more democratic end of the “Partly Free” category of states (the threshold for “free” being 2.5), and both are deemed to have made considerable progress since 1990 when they were rated 6 and 6.5 respectively and “Not Free.” (I would also argue that the FH ratings from 1994 to 1999, when Malawi was rated

1997, but, as discussed in Chapter 4, seems to have crossed this threshold given the lack of decisive fraud and the achievement of effectively open contestation in 2002. Malawi still struggled with this element going into its May 2004 election given the lack of faith in the Electoral Commission with regard to competence or fraud, but it actually seems to have passed this threshold in 1994 and 1999. Both countries have some blemishes regarding the second element, yet these problems with civil and human rights are generally exceptions to widely understood norms of political freedom: Kenya experienced improvement in this regard in 2002 and subsequently, whereas certain actions of the UDF government in Malawi since 1999 to limit political assembly have violated this criterion. Finally, both countries pass on the third element: while low state capacity or competence may limit the effective power of government in both countries, there are no alternative sources of sovereign authority beyond the elected governments and constitutionally sanctioned judiciaries. To summarize across all three elements, both countries are more democratic than they are non-democratic. The idea that they are still working to consolidate or fulfill their democratic status seems appropriately descriptive.

Despite, as just argued, ending up in roughly comparable places as unconsolidated democracies some twelve or so years after the application of political conditionality, it must be noted that had the assessment of democratization occurred earlier, the two case countries would have been further apart. Some analysts categorized Moi's two multiparty elected terms in Kenya as "multiparty" or "competitive authoritarianism" that only ended with the opposition victory over KANU at the end of 2002.<sup>374</sup> However, as KANU supporters would be quick to point out, both the 1992 and 1997 elections were ultimately accepted by the donors and by most of the opposition as basically legitimate despite some irregularities. While the opposition was constantly harassed between 1992 and 1997, and civil and political rights remained precarious and inconsistent, after the IPPG pact of September, 1997, this condition did improve, and in the run-up to the 2002 elections

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three to four points more democratic than Kenya, overstate the differences between the two countries to a degree, especially after the IPPG agreements of September 1997.)

<sup>374</sup> See the articles on hybrid regimes and "Elections without Democracy" in *Journal of Democracy* Vol.13, no.2, (April 2002.)

there was relatively little in the way of gross or systematic abuse of state power by the KANU regime (as compared to the Rift Valley ethnic clashes of 1991-1993 or the violence in Mombassa in 1997.) It was also in the 1998-2002 term that Parliament asserted its power and handed important defeats to the once all-powerful Presidency. Kenya was thus arguably making democratic progress even before the defeat of KANU, thanks in part to the second round of conditionality in 1997 and the resulting IPPG accords that marked a threshold of change in the political culture. The peaceful change of power in 2002, a somewhat tumultuous, but still holding governing coalition of unprecedented ethnic breadth, along with the serious prospects of a new constitution, all suggest Kenya is heading in a consolidating direction in 2004.

Malawi appears to have had almost the opposite trajectory: it emerged from the electoral defeat of the Banda regime in the first multiparty election in 1994 into a “honeymoon” period in which the National Democracy Consolidation Plan was drafted, and the new Muluzi/UDF government (with AFORD as an initial partner) moved ahead with reforms, structural adjustment and even poverty alleviation programs. While partisan conflict turned into a parliamentary and constitutional crisis in 1996, fiscal discipline and commitment to structural adjustment came into question in 1997, and claims the UDF was using state resources to woo opposition MPs to defect emerged in 1998: the honeymoon phase had ended. The 1999 elections proved problematic not only due to partisan conflict and the unwillingness of the opposition to accept defeat, but also due to management issues and the lack of institutionalization and perceived independence for the Electoral Commission. Muluzi’s second term was marked by attempts at suppression of opposition to amending the constitution to allow for a third term, by harassment of new parties or groups such as the NDA, by new corruption scandals and clashes with donors over structural adjustment, and it was in reaction to the erosion of political and civil rights that Freedom House began to drop Malawi’s democracy ratings beginning from 2000 through 2002. The 2004 elections offered an opportunity to show that democratization was progressing in the country, but a poorly run election once again resulted in a lack of clear legitimacy, in opposition protest and in some deaths. International observers called the election “free, but not fair,” highlighting that while there was no

obvious manipulation of the vote on election day, the UDF had used state resources and monopolized the official media, while the Election Commissions handling of voter registration evoked little confidence. The fact that the ruling UDF party candidate won with only 35% of the presidential vote and an even smaller parliamentary share means a coalition government must be formed out of the now more splintered party system. New President Bingu wa Mutharika appeared eager to form a broad “government of national unity” that could hold some promise for political progress and for reversing what many see as Malawi’s slow slide into economic crisis and political impasse and conflict.

Why the difference in political trajectories in these two similar democratization cases after the common move to multiparty electoral competition? This question will be revisited at several points in this chapter, but some initial components of an answer can be offered here. The major distinction between the two trajectories was whether (or rather when) the incumbent, formerly authoritarian party was defeated at the polls and thus a democratic transfer of power to a new government occurred. First, to state the obvious, elections are determined by who gets the most votes in combination with the particular electoral system in use in a given country. Both Kenya and Malawi use first-past-the-post plurality systems that do not require majority runoffs and therefore allow candidates to win with relatively low percentages of the vote in divided fields of several candidates.<sup>375</sup> Since they share this institution, it alone clearly does not explain the differences between the cases, but in combination with the emerging and shifting party system and with the ethnic and regional cleavages and personal ambitions that largely drove the party formation process for at least the first two multiparty elections in both countries, it would prove crucial in Kenya. The fact that a simple plurality could produce victory and, most importantly, that the oppositions to the incumbent parties were not united meant that President Moi could win his first competitive election with just 36.4% of the vote against a field of three major opposition candidates. Had any two of those three united or had there been a requirement for a majority runoff election, then Moi would

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<sup>375</sup> Kenya has an exception, however: Moi in 1992, along with the two term Presidential limit, introduced the distributional requirement for a presidential candidate to win at least 25% of the vote in at least 5 of the 8 provinces of Kenya. If the plurality candidate fails to meet this threshold, then the top two vote-getters have a run-off election.

most likely have been defeated in 1992. By contrast, in Malawi, President Banda lost his first competitive election since independence despite a comparable 33.5% because the opposition was less divided than in Kenya. The opposition in Malawi was still divided, but only into two parties, and the “ethnic and regional arithmetic” driving party formation and allegiance meant that the single bloc representing primarily the Southern region through the UDF party was simply bigger than Banda’s largely Central region base of support. Bakili Muluzi as the UDF candidate could therefore win with a plurality of 47.2%. In Kenya in 2002, the previously divided opposition finally united and changed the electoral arithmetic so that Mwai Kibaki as the single major opposition candidate could win with 62% of the vote. By 2004 in Malawi, the now incumbent UDF government came to be seen by many as the chief obstacle to progress in democratization, but despite numerous calls to emulate the Kenyan strategy of 2002, the opposition remained more divided than ever, and the UDF’s Mutharika won with 35% of the vote.

While the patterns of opposition party and coalition formation (or lack thereof) and the ethnic arithmetic or relative size of incumbent authoritarian parties’ own power base were key variables for explaining the different electoral trajectories of these two cases (or any cases) of attempted democratic transition, other diverging factors also affected these outcomes indirectly. To mention just two that will be revisited below, Banda’s advanced age meant both that his MCP party confronted an imminent succession crisis and that he seemed to have less enthusiasm for the kind of ruthless repression of potential opposition that had been his trademark earlier in life. In Kenya, on the other hand, even before the aid donors implemented conditionality, KANU supporters had already initiated violent campaigns of ethnic cleansing to drive likely supporters of the prodemocratic opposition out of areas that had traditionally been the homelands of pro-KANU ethnic groups.

### *3. The Contribution of Conditionality*

What contribution did conditionality make to this progress in democratization? In Kenya, the first round of conditionality in 1991-2 provided the impetus needed for the Moi regime to choose multipartyism, elections and the minimum required limited liberalization over its previous policy of simple repression of the movement for democracy. The evidence for such an impact is both sequential and found in the statements of Moi and other member of his KANU government: the response was direct and almost immediate, and their statements about their sudden change in attitude and policy clearly framed it as a response to the new donor pressure.

The second round of aid freezes in 1997 provided the extra impetus needed to create the crisis that produced the IPPG compromise pact. This agreement with the political opposition directly reflected donor reform demands as well, and it signified the KANU regime's final acceptance both of the opposition as legitimate, a key change in the political culture of the Moi era, and of the slow process of constitutional reform that KANU was ultimately unable to sidetrack. Evidence here is that the KANU government gave no indication of moves towards compliance with opposition and donor demands for reforms in advance of the election until the IMF suspended its ESAF program (as some bilateral donors were lobbying it to do) at the end of July, thus triggering cross-conditional aid freezes from other donors as well. Donors had tried a high-level diplomatic delegation on July 1, 1997, with no results, and this was followed by major opposition demonstrations on the anniversary of the 1990 Saba Saba protest on July 7<sup>th</sup>, but no moves towards compliance were forthcoming until aid was frozen three weeks later. At that point the Moi government moved quickly to not simply offer concessions on the reforms that donors and the moderate factions of the opposition had in common, but also to engage those more moderate elements in a new level of political dialogue that pushed reforms somewhat further.

Continued conditionality that focused on issues of corruption from 1998 to 2002 challenged the legitimacy and the competence of the KANU regime and contributed to the pressures that broke the KANU coalition apart and to the electoral failure of Moi's "Uhuru"

project for continuing KANU rule and his own power beyond the 2002 election. The impact of this form of conditionality is more diffuse since it does not center on compliance by the targeted regime, but rather on the consequences for a failure of compliance. The economic impact was relatively clear in the ongoing government struggle with accounts deficits that aid had once covered. It was also arguably evident in the fitful economic growth ever since the years when aid peaked in the late 1980s and into 1990 or in other words during all the years when conditionality made the flow of aid uncertain. Regular observers of the Kenyan economy such as the Economist (whose perspective was arguably closely aligned with that of the foreign investors Kenya hoped to attract) repeatedly emphasized during this period how the renewal of aid and restoration of the blessings of the IFIs was absolutely crucial not just for foreign investment, but for restoring significant growth in general. The declining party discipline in Parliament and rising factionalism in general within KANU can be attributed in large part to the combination of a culture of clientelist ambition with the party's leadership succession crisis (already a legitimacy and competence crisis in and of itself.) But it is reasonable to assume that if enough patrimonial largesse had been available to lubricate such potential intraparty friction points, then Moi would have had an easier time keeping the party together. Finally, turning to the impact of endless squabbling with the donors and poor economic performance on KANU's image of competence and legitimacy among the voters, one need only note that KANU shares of the presidential and parliamentary votes in 2002 was the lowest of any of the multiparty elections, a number that stands regardless of whether the opposition to KANU was united or not. Ironically, the one major attempt by the Moi government at compliance with donor demands for a stronger Anti-Corruption Authority was stymied by the opposition in Parliament, which blocked passage of a necessary Constitutional amendment and thus prevented the release of aid in August, 2001. This ability of a parliamentary minority to use the constitutional requirement for a two thirds vote to check the authority of the KANU majority and of the government signifies that democratic constitutional norms were in effect, rather than the authoritarian practices from the one-party era when Parliament functioned as a rubber stamp for the executive.

In Malawi, the initial political conditionality aid freeze of 1992-3 provided the economic pressure that convinced Banda to risk a referendum and an election to try to show that he still enjoyed the support of “his” people, and thus opened the door to the defeat of the MCP and what was in many ways a rapid and peaceful transition out of authoritarian rule. Evidence for this pressure is found in the economic slide that followed the aid freeze in May of 1992, and in Banda’s statements in October inviting the United Nations to assist with and monitor the referendum on one-party rule so as to assure its credibility with the donor community. While they had initially planned to maintain an aid freeze until the multiparty election process had been completed in May, 1994, donors resumed aid in the Fall of 1993 because of a combination of economic crisis and the fact that the Banda regime was being quite conciliatory in accepting opposition participation in the interim National Executive Council.

During the first term of the Muluzi/UDF government (largely a “honeymoon” period for the new democracy), donors failed to impose strict conditionality requiring prompt implementation of the democratic consolidation agenda they drew up with the new government. Given the UDF’s perceived status as a legitimate new democratic party, rather than a formerly authoritarian party that had made a dubious “conversion” to democratic norms like the MCP or KANU, donors avoided a punitive approach in favor of attempts at cooperation over democratic consolidation efforts. From as early as 1997, donor slowdowns and then IMF aid suspensions along with cross-conditionality (suspensions by other donors following the IMF) signaled displeasure with the UDF’s economic indiscipline and became increasingly focused on corruption. Donor conditionality on traditional structural adjustment issues and the new emphasis on corruption made at best slow and erratic progress in changing policy and behavior on these issues: whereas Moi in Kenya could be said to have played the “communal card” involving self-fulfilling prophecies of ethnic violence as a form of counter-leverage against donor pressures, the Muluzi government seemed to play the “poverty”

card by claiming it did not have the capacity or resources to take actions (e.g. hold local elections) or enact the reforms that donors demanded and that donor funding was inadequate.<sup>376</sup>

Conditionality on more explicitly political and democratic issues such as media liberalization also had only a modest impact, producing sham compliance that reverted to media monopolization during the 2004 election campaign. Donor pressure was credited with causing Muluzi to dismiss his cabinet in 2000 over corruption issues, but this proved to be a symbolic gesture in that no prosecutions resulted. The associated attempt by Muluzi to scapegoat Public Works minister Brown Mpinganjira did lead to a rift in the UDF, so corruption pressures by the donors could be said to have undermined ruling party cohesion to some degree. In another instance of implicit conditionality, donors were also credited as one major influence in convincing Muluzi not to change the constitution to run for a third term by arguing that such a move would have serious negative consequences for aid. However, as described in Chapter 5, the UDF did proceed with attempting to amend the constitution twice, and the defeat of these motions in Parliament can be attributed to domestic opposition. On the other hand, the UDF could have strong-armed some amendment through by less democratic means (as numerous other ruling parties have done in Africa), and the fact that Muluzi ultimately respected the democratic and constitutional process could in part be attributed to likely donor reaction if he had not. An underlying serious conditionality regarding minimum democratic behavior – an anti-backsliding conditionality – arguably prevented a possible worse reversion to outright authoritarianism compared to the abuses that did occur. Structural adjustment conditionality did exacerbate the economic difficulties of the UDF government to the point where the policy was lifted in 2003 out of fear of further economic deterioration, and the economic stagnation of the country was certainly one factor responsible for the major decline in UDF vote-share in the 2004 election (down to 35% for Mutharika versus 51% for Muluzi in 1999, plus a loss of about 50% of their initial parliamentary seats.) However, given

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<sup>376</sup> In expressing resentment of donor pressures, President Muluzi was fond of saying that Malawi's poor "could not eat democracy or human rights", and that "We would rather be poor looking up than down" in a subservient posture to the donors.

the divisions in the opposition, the political price for this decline was light as the UDF won a plurality of the Presidential vote.

Stepping back from the individual cases, a general conclusion they both support is that conditionality played a decisive role in causing the legalization of opposition parties and the commitment to multi-party elections, but that beyond determining the timing and fashion in which this key threshold was crossed, conditionality then played a more diffuse role as constraint and recurrent pressure that helped preserve and advance democratic gains without crossing major and dramatic thresholds. Further logical support for this claim comes from counterfactual reasoning: considering the hypothetical questions of what might have occurred had no aid conditionality been introduced does not provide empirical evidence, but it can clarify the causal logic presumed to be in operation. If aid donors had not introduced political conditionality when they did in Kenya and Malawi, it is reasonable to assume that, given their pre-existing records of the use of repression against the domestic movements for democratization, both the Moi and Banda regimes would have been free to indulge that preference and would have gone to greater lengths to squelch the movements through violence. Whether they would have been entirely successful is not clear, but certainly the possibility that the other alternative could have been some degree of civil war would have increased. Given a regional trend towards forms of multipartyism in Sub-Saharan Africa (a trend conditionality probably helped create), each country could have eventually evolved towards some accommodation with the prodemocratic movement. However, without a clear intervention by the donors to support the movement and change the balance of power, such an accommodation would have been much more on the terms of the incumbent regimes than the actual outcomes observed given the imposition of conditionality. They would therefore in all probability be less democratic.

Three major factors determine the success of political conditionality policies, and they involve the three main sets of actors involved - the target regime, the donor governments and

agencies, and the democratic opposition or movement in the country in question. Put most generally, the target regime must be susceptible to external influence, the donors must implement a coherent policy of influence of which conditionality is inevitably only one major part, and the domestic opposition must also be relatively strong, cohesive and actually democratic for political conditionality to result in a significant positive impact on democratic transition and consolidation. In this view, conditionality (and external influence more generally) is an additive or synergistic factor that can tip the balance of power in a struggle between an authoritarian regime and a pro-democratic movement. Absent an effective democratic opposition, a coherent overall policy by the donors or a regime susceptible to influence, conditionality policies will have only limited impact if any.<sup>377</sup> Given its relationship to compliance and the primary impact of conditionality, regime susceptibility will be discussed further here, while the democratic opposition and donor policy coherence will be addressed below under the relevant hypotheses regarding intervening variables

Regime susceptibility involves not only its level of aid dependence, but also its cultural identity and overall orientation toward international society and toward integration into the international economy. In general, regimes with clearer preferences for "development" and integration will be more susceptible to conditionality than those preferring autonomous national, religious or cultural identities for whom "pariah status" or relative disengagement from international society can actually fit their own legitimation logic. In the former cases, regimes and the coalitions which support them are likely to be effected not simply by the direct economic impact of aid sanctions, but also by the international social costs and various other indirect costs represented by the signaling and legitimacy effects of sanctions. These change the regime's calculus of its future opportunities, resources, incentives and costs, and they can thus complement and amplify direct economic effects.

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<sup>377</sup> There is a theoretical possibility of a top-down self-transforming democratization by an authoritarian regime that is not aid dependent, but is somehow responding to conditionality as a positive incentive, and that does not face any real domestic democratic movement. Possible partial examples might include post-communist regimes that did not face much internal democratic pressure, but wish to satisfy the membership conditionality of the European Union.

Both Kenya and Malawi ranked relatively high among developing countries on aid dependency (measured crudely by aid as a percentage of GNP: 16% and 26% respectively in 1993). In neither case did conditionality halt all aid even from the donors most involved, but the freezes on quick disbursing or program aid undoubtedly signaled that further cuts were possible. Yet the direct economic impact of the aid freezes cannot account for the response of the target regimes and the timing of their attempts at compliance: Moi's in Kenya was almost immediate, while Banda's took some five months to materialize. First, the imposition of conditionality was a gesture of solidarity and signified a granting of international legitimacy to the democratic opposition movements that went beyond previous attention to individual human rights issues and bolstered the cohesion of those movements and their threat to the regimes. Second, for countries that were staunchly pro-western during the Cold War, the habits and identities of allegiance die hard even if the donor's new criteria constituted a rude awakening. Conditionality signified the emergence of democracy as an international norm (or at minimum a donor norm) in a new way with new practical consequences and with a likelihood of persistence, even if it did not yet signify a fully coherent donor policy. Most poor countries such as those in Africa are still outside the rising flows of private finance, portfolio investment and foreign direct investment (FDI) that constitute a large part of the process of globalization. The combination of economic need and the desire to maintain a degree of membership in the international club dominated by the West means that pro-Western dictators will try to play the donors' game rather than become international pariahs or simply further disadvantaged economically than they already are. This means they will take calculated risks on liberalizing and democratizing if they feel they can control the process.

Moi, having prevailed in a quite competitive political process during the Kenyatta succession and more generally over a fractious and semi-competitive party, had a sense he could divide the opposition and keep it and the donors off-balance through selective repression and selective reform together with unofficial campaigns of ethnic cleansing that produced an electoral advantage in some districts and threatened even greater strife. Banda, on the other hand, was used to a much more tightly controlled political environment, and this led to his overconfidence in thinking he would win

a referendum on one-party rule and show the donors he still enjoyed majority popular support. By the time he lost the referendum and given his advanced age, the logic of his own succession crisis took charge, his anointed successor's unpopularity helped undermine support from the military, and Banda himself seemed to start thinking of his image in posterity and to conform to the more soft-line and benevolent identity of previous propaganda than the hard-line approach of three decades of repressive rule. While the process of liberalization and democratization got out of Banda's control, Moi was able to master and to a large degree set the new rules of the game up until 2002, granting just enough by way of reforms to keep the donors and much of the opposition invested in the process and hopeful of further progress (e.g. the promise of constitutional reform), but never enough to lose his advantage and control. The political elements he ultimately was unable to control adequately were his own leadership succession in KANU and the learning process through which the Kenyan opposition ultimately decided to unite against him and his hand-picked successor.

The donors' obvious excuse for the failure of conditionality to produce rapid democratization in Kenya, and even for the acceptance of flawed elections in 1992 and 1997, is that the Kenyan opposition handed Moi victory by splitting along ethnic lines. While this is true to a degree, it opens up a broader issue that even an opposition victory would probably not have avoided or finessed, and that is whether Kenya's nominally democratic political and electoral system is in fact appropriate and conducive to functional and consolidated democracy given the country's political sociology. Political identity in Kenya still is largely tribalized despite almost forty years of official nation-building ideology dedicated to cultivating Kenyan nationalism and transcending the evils of tribal or ethnic divisions. In that context, winner-take-all politics, first-past –the post-plurality systems or even simple majoritarianism plus a patrimonial state are a recipe for distributive conflict and minority exclusion and oppression. In Malawi, the opposition was just as divided after the initial unity around the referendum on one-party rule, and political identity seems just as tribalized, but the ethnic and regional arithmetic was such that an opposition party emerged as the plurality election winner rather than Banda and his MCP. However, the problems of patrimonialism

have persisted under the Muluzi regime despite attempts at achieving a level of democratic scrutiny and transparency.

#### ***4. The Theoretical Report Card: Hypotheses and Evidence***

This dissertation has posed some general hypotheses about the effects of political conditionality and looked systematically at a wide range of possible antecedent and intervening variables that affect the impact of political conditionality or impact the process of democratization directly themselves. These were presented in Chapter 2, and they are restated and considered in turn below.

##### **The Primary Hypothesis (H1): Political conditionality applied to foreign aid can promote democratization.**

Specifically, by affecting the balance of power between authoritarian regime and prodemocratic movement (the existence of which is an antecedent condition for most cases of conditionality deployment and impact), proactive political conditionality can:

**H1a** - facilitate a democratic transition attempt where it otherwise would have been suppressed, and, more importantly, cause a successful transition where an attempt would otherwise have failed; and

**H1b** - accelerate and/or change the mode of a transition attempt.

**H1c** - In the absence of a significant prodemocratic movement, aid conditionality is likely to only be effective in cases of extreme aid dependence and crisis (e.g. Mozambique - a case of civil war leading to economic decline and approximately 70% of GNP from aid), and,

**H1d** - Absent a prodemocratic movement or extreme dependence on the part of a resistant authoritarian regime, external democracy promotion can only succeed via military intervention and victory or conquest.

The argument for the primary hypothesis that political conditionality can promote democratization has essentially just been presented above in Section 3 of this Chapter. The evidence is in part temporal or sequential: the behavior of the two authoritarian regimes changed after the application of conditionality, although the temporal link is clearer in Kenya where the

covariance between donor action and aid recipient response was almost immediate by standards of political action (two weeks from donor ultimatum to the ratification of an amendment to the Kenyan constitution ending the de jure one-party state.) A second form of evidence was the accompanying statements by the Kenyan government and President Moi in particular which left no doubt as to the linkage between the donors' action and his response. In Malawi, the two types of evidence were not as clear, the link not as immediate, but covariance and causality can nonetheless readily be inferred. In both Kenya and Malawi the incumbent regimes appeared to prefer repression to accommodation with respect to the prodemocratic movements until conditionality was imposed. Some degrees of repression continued after that point, but the opposition's right to exist was grudgingly acknowledged.

The tests for the major hypothesis are moderately strong. The pro-democratic impact of conditionality in the two cases first pass what has been termed a hoop-test: some democratization occurs and persists in both case countries after the introduction of conditionality.<sup>378</sup> If no net democratization occurred, then there would be no clear basis for claiming that conditionality had a definite prodemocratic effect or had at least contributed as one factor in a multi-causal process. The impact of conditionality in Kenya in 1991 achieves that status of a "smoking gun" test: the causal linkage as manifested in both the quick reaction of the Kenyan government and their accompanying statements leave little room for doubt as to the decisive impact of the aid freeze. The causal linkage in Malawi in 1992 is less direct and less transparent given both the opaqueness of MCP decision-making due to Banda's still central role, but also his declining and increasingly erratic capacities, and given the consequent five month delay in deciding to comply with donor demands. Nonetheless, the impact of conditionality seems inescapable: in predicting that aid conditionality would produce significant compliance by the Banda regime, the test is passed for it is difficult to

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<sup>378</sup> Stephen Van Evera, *Guide to Methods for Students of Political Science*, p. 31-3.

ascribe such compliance solely or even primarily due to the power of the domestic prodemocratic movement.<sup>379</sup>

**Three Mechanisms of Conditionality (or other prodemocratic sanction) Impact:**

**H2. Direct economic Effect:** The greater the concrete economic costs actually imposed on the target, the more effective aid conditionality will be in eliciting compliance from the target regime.

**H3. The Signaling Effect:** The more credibly a conditionality policy signals the emergence and commitment to enforcement of a new international or donor norm, the greater the shadow of the future on target calculations of costs and the greater the probability and degree of compliance.

**H4. Legitimation Effect:** The greater the diplomatic, social and legitimation costs of aid freezes, the more target regimes may lose internal cohesion and domestic support, the more prodemocratic oppositions may gain support, cohesion and access to resources, and the greater the probability of compliance and/or democratization.

The theoretical assumption made in Chapter 2 was that all three of these effects could operate together in a synergistic fashion, but that their causal pathways could be distinguished.

Translating these hypotheses into predictions asserts that conditionality:

- will impose significant enough concrete economic costs to cause compliance or decay on the part of the target regime<sup>380</sup>;
- will signal credible norms that will persist and be enforced enough to shape target regime planning or calculation before or independently of the experience of concrete economic or legitimation costs;
- and will impose legitimation costs that will change the dynamics of cohesion, support and even identity within and between regime and movement.

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<sup>379</sup> Hypothesis H1a and H1b are further logical specifications of the main hypothesis, but can only be supported by recourse to counterfactual speculation (i.e. what would have happened to these transition attempts without conditionality- see above in section 2, p. 12-13) H1c and H1d are not relevant to either of these cases and are only included for logical completeness of the theory.

<sup>380</sup> Another outcome besides compliance or decay would be effective adaptation by the regime, which constitutes an unsuccessful outcome for conditionality as a policy.

The evidence upon which to evaluate these predictions therefore includes the monetary deficits caused by frozen aid (in comparison to some previous expectation of aid levels) and their various economic consequences, degrees of policy compliance and/or of loss of capacity by the target regime traceable to economic deficits, indications of commitment to continue to enforce or support democratic norms (institutionalization or other indicators of credibility and persistence), and changes in cohesion or support for the regime or the opposition.

All three mechanisms of posited conditionality impact were observed in the two cases. The economic effect is observed most broadly in the economic difficulties that both countries experienced while aid was frozen and in the adaptation efforts of the two regimes, which both developed domestic public debt markets (short-term Treasury bills or government bonds) as an alternative source of finance. The latter appeared to provide a short-term alternative, but at great cost to both the government and the economy as a whole because of the side effect of raising commercial interest rates very high and otherwise displacing and distorting private sector lending and investment. (This is addressed further below under hypothesis E1c.)

The initial impact in the Kenya case relied on a signaling effect to produce Moi's rapid compliance, whereas in Malawi a degree of direct economic impact was necessary before Banda capitulated to the new international reality he faced. The legitimation effect did boost the status of local democratic movements temporarily, but once major segments of the democratic movement became political parties competing for votes on the same level as the incumbent regime, this effect seemed to dissipate. The extent to which such an effect or associated companion policies of aid and training/capacity building managed to instill democratic values in new members of the political elite seems to have been quite limited.

## Hypotheses on Conditionality Impact Grouped by Mechanism <sup>381</sup>

### I. Direct Economic Effects (hypotheses designated "E" for economic)

#### A) Target Regime/Economy Variables

##### E1. Aid Dependency

##### E1a. Percentage of Aid Affected

##### E1b. Budgetary Dependency

##### E1c. Domestic Substitution

Surprisingly, E1 is only partially supported in these cases because while Kenya and Malawi are both above the relevant category averages for aid dependence (see Table 6.1), there is no systematic comparison made here other than between the two cases, and that comparison currently suggests that conditionality has been slightly more effective in Kenya in the long run, while Malawi is clearly the more aid dependent country of the two. The predicted impact outlined in Chapter 3 was that Aid Dependency would be a more positive factor for conditionality impact in Malawi, but that it would also be positive in Kenya. However, for most of the time period in question (i.e. before the 2002 election in Kenya), Malawi would actually have rated as the case in which conditionality was most effective in causing or contributing to democratization. The same argument applies to Hypotheses E1a and E1b which specify the general hypothesis more precisely. Hypothesis E1a is actually supported within each individual case in that the multilateral conditionality which was imposed with aid freezes in 1991 and 1992 was preceded by some declarations of bilateral conditionality policies which affected less aid and were not by themselves effective in democratization (except by building momentum for the more effective multilateral conditionality policy.)

Hypothesis E1c on Domestic Substitution proved relevant in both cases because, in both Kenya and Malawi, the target governments were able in the short term to develop an internal public debt market for high-interest Treasury Bills as an alternative funding mechanism when aid was suspended or reduced. In both countries, the governments managed to quickly amass significant

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<sup>381</sup> For full statement of hypotheses, see Table 2.3 in Chapter 2, p. 37.

domestic debt burdens to complement their already major international debt burdens. In Malawi, IFI concern with a danger of default on that new domestic debt became high enough in 2003 to trigger the suspension of adjustment conditions and the resumption of aid despite a lack of compliance simply in order to avoid a major financial crisis that could trigger a broader economic collapse. This particular form of Domestic Substitution does allow conditionality target governments to buy themselves some alternative relief from sanctions in the short run, but the longer term fiscal burden it generates makes them even more dependent on international aid (given that their ability to increase domestic taxation significantly is limited.)

## **B) International Financial Context**

### **E2. International or Transnational Substitution/Alternative Sources**

**E2a. Breadth of Conditionality Coalition**

**E2b. Cost of finance alternatives**

**E2c. Bloc Competition**

**E2d. Tradable Assets**

These hypotheses are not particularly relevant to Kenya and Malawi precisely because these two cases were selected to largely neutralize these variables: by selecting cases of multilateral conditionality involving virtually all the major donors (“most likely” or “critical” cases for these variables), the international sources of substitution are minimized. (The dynamics of the conditionality coalition are discussed further below under Hypothesis S1.) For poor, already debt burdened countries like these two, commercial rate sources of international finance are not viable options as their sole source of such finance (at least not in the long term): these countries are not particularly credit worthy. (Although there is nothing to prevent international commercial financiers from participating in the domestic T-Bill markets considered above under Domestic Substitution.) These hypotheses were included for reasons of logical completeness of the theory: the bloc competition hypothesis E2c in particular can help explain why conditionality may have been less effective during the Cold War when aid from the Communist bloc was often a potential alternative.

Neither country had or developed the kind of high-demand tradable assets (e.g. high value minerals, tropical hardwoods, illegal drugs) that could be subject to increased state extraction to substitute for lost aid, nor did they experience any significant export commodity boom that affected the whole national economic picture and reduced aid dependency.

## II Signaling Mechanism (designated "S")

### A) Donor & International Society Variables -

#### S1. Breadth of Conditionality Coalition

#### S2a & b. Competing Donor Interests

a) (domestic) within donors polities or governments and/or

b) (international) between governments and institutions in a coalition

#### S3. International Norms

Again, as the first clear cases of multilateral prodemocratic conditionality, the two case countries maximize the breadth of the conditionality coalition. The only changes or disruptions to the donor coalitions actually reinforced the signaling mechanism of conditionality: Norway broke diplomatic relations with Kenya for several years as a protest over anti-democratic behavior and human rights issues, and Denmark ended its aid program to Malawi over issues of corruption and disagreement over programs supporting civil society. In Chapter 3, the number of donors and collective action costs for coordination in Kenya were posited to be a potentially negative factor for the success of conditionality in that country, but no major problems arose. For example, U.S. lobbying of the IFIs for the second round of corruption-focused conditionality in 1997 found enough positive reception among other donors to turn the tide against IMF technocrats who might otherwise have resumed aid. In general, the potentially divergent interests of “apolitical” IFIs found increased convergence with the more explicitly political democratization agenda through corruption as a linking issue. The only problematic periods for signaling a clear policy and norm were from 1993 to 1996 in Kenya, when there was something of a reversion to “business as usual” led by the IFIs, and to a lesser degree in Malawi from 1995 to 1997, when some

opportunities were missed for pushing more rapid progress on the democratic consolidation agenda. (Both of these lags can charitably be viewed as donor learning and adjustment phases after leaping into the conditionality policies without much preparation during the earlier intense phases of the transition attempts.)

On the question of competing donor interests at the level of the coalition, donors such as Japan, which initially showed less interest in letting democratization and governance issues shape an aid policy closely aligned with trade interests, have apparently embraced the emerging norms over time. At the level of common but potentially competing interest for all donors, concerns over stability and ethnic violence in Kenya definitely moderated donor enthusiasm for aggressive democracy promotion in 1992-1997.<sup>382</sup> As geopolitical concerns about terrorism became a major interest with regard to Kenya after the embassy bombing in 1998 and even more so after September 11, 2001, it is noteworthy that the increased interest in cooperation with the Kenyan government on the part of the U.S. did not totally trump or displace the conditionality and democratization interest as it might have during the Cold War. In Malawi, the tensions over competing interests did become severe within the common donor agenda: the temporary suspension of structural adjustment in 2003 out of concern for overall economic stability probably risks signaling that economic crisis in general can buy some leeway on conditionality issues, including possibly on democracy issues as well as on structural adjustment. The 2004 elections returned democracy concerns to the forefront of attention, but the donor agenda overall will require some reconsideration in the election's aftermath.

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<sup>382</sup> A more general version of this concern with stability evolved in tandem with the general normative spread and institutionalization of democracy and good governance over the course of the 1990s.

### **III. Legitimation Mechanism ("L") Target Society Variables: Political Culture & History**

#### **L1. National Political Culture and Nationalist Backlash**

#### **L2. National Political Culture and Instrumentalism**

As predicted in Chapter 3 based on the pre-transition baseline assessment of Kenya and Malawi, there was no significant nationalist backlash against donor conditionality that undermined its impact on the transition attempt. This can be attributed to the fact that even the opponents of democratization, who might try to foment such a backlash, recognized the reality of aid dependency and did not embrace a political alternative that cuts aid ties with the donor community. Also as predicted, the presence of an instrumentalist political culture emphasizing ethnic clientelism and patrimonial politics poses a major obstacle to the success of democratization and of conditionality. The partisan political maneuvering and continued political and state corruption in both countries give ample illustration to problems posed by instrumental politics. As posited in Hypothesis L2, the engagement of opposition parties in instrumental politics has complicated efforts at unity of the prodemocratic opposition and seriously impeded progress in the transition in Kenya, while the instrumental politics of all parties in Malawi has impeded democratic consolidation. Any legitimation boost that conditionality originally provided when introduced was relatively short-lived for elements of the democratic opposition that became political parties.

### **Regime Interests, Options and Decisions**

#### **H5. Alternative Interests Protected**

This hypothesis did not receive support from these case studies in that no special actions by sanctioning donors or domestic movements were in evidence that protected incumbent regime property or prerogative. On the other hand, incumbents did appear to take action to protect themselves by trying to hand-pick their successors, and, in the case of Kenya, by trying

unsuccessfully to pass an amnesty applying to most cases of political corruption committed before 1997.

**Hypotheses from the Skeptical Side of the "Exporting Democracy" Debate**

- SK1 - a) Lack of sufficient local political knowledge**
  - b) An underestimation of the difficulty of the task**
- SK2 - Perverse effects**
- SK3 - Foreign policy "quagmire"**

The first two of these hypotheses received modest support: it can easily be argued in hindsight that better local knowledge could have produced better policy on the part of the donors, and a degree of naïve optimism seemed to accompany the transition in Malawi and the subsequent blueprints for rapid consolidation. The only perverse effects appeared to relate to a new democratic electoral cycle that at times wreaked havoc with budgetary discipline promoted as a key element of structural adjustment. Aid freezes had negative economic effects, and in Malawi and to a lesser extent Kenya, domestic borrowing undertaken by the governments as an alternative to financing deficits with aid produced high interest rates, crowded out private sector investment in productive activities, and produced new and severe debt servicing problems in the long-run. On the other hand, while Malawi worries many observers in 2004, overall violence has been low, and no strong prospect exists for civil war or politically induced disaster or quagmire.

**General Hypotheses from the Comparative Politics of Democratization –**

**Antecedent or Intervening Variables for Conditionality Policy (designated "D"):**

- D1. **The military/coercive institutions of the state**
- D2. **Civil Society**
- D3. **Cleavages and Social Identities**
- D4. **Democratic History**
- D5. **Economic Crisis**
  
- D6. **Regime Type & Factionalism/Decay/Reform**
- D7. **Regime Cohesion**
- D8. **Trade Internationalism versus Protectionism**

**D1. The military/coercive institutions of the state**

The professionalism and relative autonomy of the military establishments from politics and from the civilian-led authoritarian regimes in both countries were positive factors for democratic transition: they produced relative neutrality for a coercive institution that otherwise could have tipped the balance of power against democratization. This confirms the basic relationships of hypothesis D1. The D1 prediction for a negative impact in Malawi due to the size of the more partisan MYP force under Banda (see ch. 3) proved wrong as the Army neutralized the larger, but less well-armed and trained MYP during Operation Bwezani in 1993. The strategy of structural counterbalancing or counterweight institutions of coercive power as a support for the Banda regime seems to have failed for both the organizational and military reasons that allowed the Army to rout the larger MYP rather quickly (the most proximate reasons), but more importantly also because the factors which had kept the Army depoliticized via both professionalism and an ideology of regime legitimacy seem to have shifted. The changing context of political legitimacy after the referendum on single-party rule meant that the Army's professional commitment shifted to defending the new political process that Banda had endorsed, while the same process delegitimized the MYP and produced the National Executive Council that called for disbanding MYP. The intervention of the

international community via conditionality was certainly part of the changing context of legitimacy, but whether this international factor exerted a distinct influence on the Army is not clear from the available evidence and would require further research. In Kenya, by way of contrast, the structure of the institutions of coercion remained intact through the transition in 2002, the Army remained neutral and the behavior of the General Services Unit, the Special Branch and the Central Intelligence Department appeared to moderate along with the overall political climate after the IPPG accords of 1997. The problem of KANU affiliated youth-gangs continued but was much more modest than the threat posed by the MYP. With Kibaki's assumption of power in 2003, no immediate wholesale reform of the police or military was contemplated, but nor on the other hand have any human rights investigations or prosecutions centering on those institutions been started either, although the issue of the Rift Valley "clashes" has begun to be revisited in Parliament.

## D2. Civil Society

The D2 hypothesis on the autonomy and strength of civil society as a key factor in the success of transition attempts is not strongly supported by the two cases in question, but nor is it definitively rejected or undermined. The baseline assessment of Kenya and Malawi before the transition attempt or the application of conditionality predicted that this factor was more favorable to a successful transition in Kenya than in Malawi given the relative development and autonomy of civil society in the two countries. In the short term (i.e., in 1992-1998), Malawi's transition appeared more successful and the role of civil society as represented by the Public Affairs Committee (which included the churches) in 1992 to 1994 was clearly central. From a longer term perspective (i.e. from that of early 2004), organized civil society appears to be playing a more salient long-term role in Kenya, especially around the ongoing effort via the 4Cs and the NCEC/Ufungamano coalitions to rewrite the constitution since 1996. In Malawi, by contrast, in the run-up to the 2004 election, particular religious leaders and even the Catholic Bishops as a whole have taken a very visible and surprisingly partisan, but unsuccessful role in trying to facilitate the coalescence and unity of opposition parties behind a single candidate to run against Mutharika of

the UDF, and secular NGOs appear to be playing less of a cohesive and salient role than in Kenya. Thus, while the predicted differential impact was not evident in the initial years of the transition attempts, it did appear to manifest over the longer term.

The Malawi situation in particular, but also Kenya to a lesser extent, illustrate the limitation of this hypothesis beyond the initial transition period, specifically beyond the 3<sup>rd</sup> and 4<sup>th</sup> phase of transition distinguished in Chapter 2 – “the decision for democracy and elections” and “formulation of the details for a transition” including an electoral schedule and procedures. Beyond these two logical and usually temporal phases, transition-attempting countries enter the phase of partisan electoral contestation and elements of the prodemocracy movement transform into political parties. The autonomy of civil society from an authoritarian regime may be important for the initial incubation of a prodemocratic movement, but once the political space for multi-party competition is established, even if precariously, the movement confronts a crucial point of development and choice to continue as a party/movement united by a common interest in democratization or to split into multiple parties pursuing their own interests in political power and hopefully, but perhaps secondarily, in democratization. Whether these new parties succeed in displacing the incumbent regime, as the UDF did in Malawi in 1994, or become opposition parties, as they did in Kenya until 2002 (until 2001 in the case of Raila Odinga’s NDP, which merged with KANU temporarily), the relationship with the civil society elements of the movement is changed, the movement is often weakened and the latter are left to reconstitute a new role for themselves in continuing to advocate for democratization on a presumably nonpartisan basis.

### D3. Cleavages and Social Identities

Ethnic and regional cleavages have complicated the transition attempts in both Kenya and Malawi, given that the basis of support for the political parties competing since the transition from single-party rule is found in such cleavages and identities rather than in some ideological difference. This is true even as these parties can also be characterized as driven by clientelism and personalism in how they function and are led, for both of these depend in turn on an underlying ethnic or

regional solidarity and sub-nationalism. These cleavages have complicated the transition attempt both by thwarting attempts at unity of the democratic opposition at the outset of the attempt and subsequently and by continuing to undermine national unity or consensus around a possible program of democratic consolidation and economic development. Politics in both countries has thus approximated a factional conflict over pieces of the state or national “pie” rather than any joint effort to grow or effectively manage that pie.

The reality of ethnic cleavages and the unwillingness of political leaders to unify and forsake the cultural status of attempting to be their group’s leader and champion and of asserting that their turn as a group and an individual had arrived to be President led to desperate and bizarre strategy ideas among the Kenyan opposition in 1997: some argued that only by further “balkanizing” the vote through the running of even more opposition candidates championing ethnic groups that might otherwise support Moi and KANU could Moi be denied the constitutionally mandated requirement (instituted by Moi in 1992 as a “democratic concession”) that the winning candidate get at least 25% of the vote in five of the eight provinces. Failure of the plurality candidate to make this threshold would then force a run-off election between the top two vote-getters and thus force opposition unity behind the only remaining alternative to Moi. Despite this fanciful notion on how to turn the proliferation of opposition Presidential candidates (the number increased from three in 1992 to four in 1997), Moi was the only candidate that year to meet the distributional requirement because his primary base of support was in the old KADU coalition of smaller “tribes” that had understood since independence that the only way they stood a chance of asserting their interests amid Kenya’s larger ethnic groups was to maintain political unity.

The threat of actual civil war and of secessionism has been higher in Kenya than in Malawi even though the political use of a rhetoric of violence has been evident in both countries. In Kenya, the actual level of violence has been much higher via the KANU orchestrated “clashes” of 1991-93 in the Rift Valley and 1997 in Mombasa. Also, both the rhetoric of “majimbo”-ism (federalism or devolved local government) on the part of KANU hardliners and the apparent concrete preparations by the Moi regime via the otherwise irrational projects of an international airport and a modern

bullet factory in the Rift Valley “capital” of Eldoret gave rise to fears through the 1990s that KANU might prefer civil war and secession to electoral defeat and a loss of state power. Moi and the KANU hardliners successfully “played the communal card” in the words of a 1995 Human Rights Watch global report that included a chapter on Kenya. By unleashing communal violence by “Kalenjin warriors” against largely Kikuyu settlers in parts of the Rift Valley, the Moi regime signaled to the donors and the Kenyan opposition that it was prepared to destabilize the country and contemplate civil war in response to the pressures for democratization. Rather than evoke escalated international sanctions for these human rights abuses, KANU appears to have bought itself space temporarily and given the donors reason to pause lest they provoke another Somalia or Rwanda-type quagmire in what had long been viewed as a showpiece of stability in an unstable region.<sup>383</sup>

#### D4. Democratic History

There are certain ways in which Kenya’s greater history of competitive electoral practices at the parliamentary level appear to have given it slight advantages in the process of democratization, but they do not appear to be very significant or at all decisive within the timeframe under consideration. For example, the need for voter education, especially in rural areas, exists in both countries, but is somewhat less serious in Kenya. However, this can be attributed as much to the lower illiteracy rate in Kenya as to democratic history and experience per se, i.e. to a different element of the historical legacy the country brings to its transition attempt. Likewise, the greater vibrancy and activism of Kenyan civil society overall and around the issue of constitutional reform compared to Malawi is likewise based in part on historical development and legacy, but not in a way that depends directly on electoral experience per se. Rather it is due to the existence of more autonomous political space for civil society as part of a more open political and social system

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<sup>383</sup> Human Rights Watch, *Playing the “Communal Card”: Communal Violence and Human Rights* (N.Y./London/Brussels: HRW, 1995). The Kenya chapter is largely the work of Binaifer Nowrojee.

compared to Malawi under Banda, to a history which for Kenya is in some sense “democratic” during the Kenyatta and early Moi phases of KANU rule.

#### D5. Economic Crisis

The general pressure on both authoritarian and democratic governments caused by economic crisis is certainly in evidence in both of the case study countries, and the hypothesis that economic crisis can both facilitate transitions but then also complicate democratic consolidation receives support. However, these two cases do not support an argument that economic crisis is somehow necessary or sufficient for democratic transition. At first glance, the impact of economic crisis seems to be quite variable. Economic slowdowns did not prevent Moi from winning elections (albeit with much less than a majority vote) in 1992 and 1997, nor did a real swing in economic growth from 1993 (a growth year) to 1994 (a drought year) seem to make any difference in the referendum and election votes in Malawi (the pro-MCP percentage was essentially the same.) With Kenya’s disputes with aid donors and conditionality from late-1991 on, one might assume that in an aid-dependent economy this story spells crisis: the national economic data show that, except for the 1995-6 period, the Kenyan per capita GDP declined every year from 1991 to 2002 (1994 was actually essentially flat at -0.01%) (see Table 6.2). Mapping this onto the political history for these years, we see that the Moi regime enjoyed that brief two-year period of growth in 1995 and 1996 (and when the IFIs returned to “business as usual”) that gave its first term of the multiparty years a mixed economic picture, while the entire second term from 1998 through 2002 was one of clear decline in per capita GDP and very anemic growth in aggregate GDP averaging around 1%. Coupled with the actions of the IFIs and other donors (not to even mention the Kenyan opposition and media) that portrayed the Moi second term government as corrupt and economically incompetent, then it does appear that the political impact of economic crisis would be strongest in the 2002 elections when KANU was in fact defeated.

TABLE 6.2

COUNT	IND1_DESC	COUNTRY	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
KEN	Kenya	GDP growth (annual %)	6.20	4.69	4.19	1.44	-0.80	0.35	2.63	4.41	4.15	2.08	1.62	1.29	-0.16	1.13	1.03
MWI	Malawi	GDP growth (annual %)	3.18	1.34	5.69	8.73	-7.33	9.69	-10.24	16.73	7.32	3.79	3.31	4.04	1.12	-4.21	1.82
LDC	Least developed	GDP growth (annual %)	3.15	2.12	1.51	1.40	0.46	0.93	1.88	5.06	5.39	5.12	4.29	4.68	4.22	5.33	4.33
SSA	Sub-Saharan Afr	GDP growth (annual %)	4.23	2.86	0.75	0.41	-1.27	0.69	2.15	3.76	4.97	3.51	2.25	2.50	3.04	3.34	2.80
WLD	World	GDP growth (annual %)	4.65	3.82	2.92	1.60	1.84	1.43	3.06	2.82	3.22	3.47	2.17	2.91	3.95	1.28	1.90
KEN	Kenya	GDP per capita growth (annual %)	2.82	1.44	1.06	-1.35	-3.47	-2.29	-0.01	1.78	1.58	-0.40	-0.79	-1.08	-2.41	-0.99	-0.93
MWI	Malawi	GDP per capita growth (annual %)	-0.08	-1.80	2.45	7.02	-8.80	7.97	-11.66	14.89	4.70	1.38	1.02	1.83	-0.97	-6.17	-0.23
LDC	Least developed	GDP per capita growth (annual %)	0.52	-0.53	-1.18	-1.38	-2.08	-1.03	-0.22	2.42	2.78	2.42	1.93	2.41	2.05	2.88	2.05
SSA	Sub-Saharan Afr	GDP per capita growth (annual %)	1.34	0.00	-2.09	-2.41	-4.01	-1.47	-0.15	0.97	2.18	0.68	-0.25	0.10	0.71	0.96	0.54
WLD	World	GDP per capita growth (annual %)	2.86	2.06	1.17	-0.02	0.29	-0.02	1.61	1.35	1.75	2.03	0.81	1.57	2.66	0.03	0.72
KEN	Kenya	GDP per capita (constant 1995 US\$)	349.19	354.22	357.99	353.14	340.88	333.08	333.05	338.97	344.32	342.96	340.23	336.54	328.44	325.20	322.16
MWI	Malawi	GDP per capita (constant 1995 US\$)	144.15	141.55	145.02	155.20	141.54	152.82	135.01	155.12	162.41	164.64	166.32	169.37	167.73	157.38	157.01
KEN	Kenya	GDP per capita, PPP (constant 1995 int'l \$)	1011.00	1024.45	1047.04	1038.09	993.24	1007.92	976.78	978.74	977.95	972.10	954.34	948.60	922.07	913.62	902.09
MWI	Malawi	GDP per capita, PPP (constant 1995 int'l \$)	482.26	469.83	477.24	509.73	465.14	501.46	450.54	515.82	530.66	538.09	547.80	557.38	551.61	516.11	514.89
LDC	Least developed	GDP per capita, PPP (constant 1995 int'l \$)	988.46	986.54	974.83	960.31	941.61	931.39	928.03	951.23	976.19	992.73	1007.30	1026.56	1046.62	1071.62	1097.88
SSA	Sub-Saharan Afr	GDP per capita, PPP (constant 1995 int'l \$)	1579.41	1580.81	1548.55	1509.95	1449.05	1425.33	1420.82	1434.70	1466.61	1473.51	1469.92	1471.36	1479.97	1491.25	1505.44
WLD	World	GDP per capita, PPP (constant 1995 int'l \$)	5612.90	5712.72	5747.52	5726.39	5756.41	5796.71	5915.01	6032.33	6178.27	6338.61	6421.55	6561.12	6772.52	6837.17	6946.23
KEN	Kenya	GNI per capita, Atlas method (current US\$)	410	400	380	350	330	250	250	260	320	350	360	360	350	350	360
MWI	Malawi	GNI per capita, Atlas method (current US\$)	170	180	200	240	220	240	170	170	190	220	220	190	170	160	160
KEN	Kenya	GNI per capita, PPP (current international \$)	790	830	880	890	890	890	900	940	970	990	990	1000	990	1010	1010
MWI	Malawi	GNI per capita, PPP (current international \$)	380	390	410	460	430	470	420	500	530	550	560	580	590	560	570
LDC	Least developed	GNI per capita, PPP (current international \$)	830	860	890	900	900	910	930	970	1020	1060	1090	1130	1180	1240	1280
SSA	Sub-Saharan Afr	GNI per capita, PPP (current international \$)	1290	1340	1370	1380	1360	1370	1390	1440	1500	1530	1550	1580	1620	1670	1700
WLD	World	GNI per capita, PPP (current international \$)	4550	4810	5040	5210	5360	5530	5760	6000	6270	6560	6730	6970	7350	7600	7820

Sources: World Bank World Development Indicators

The impact of economic crisis on Malawi's transition is more varied, and since it involved recurrent drought (i.e., "acts of God") and changing international prices for key export commodities affecting a much less diversified agricultural economy, its domestic political implications are not as straightforward. The more difficult economic situation facing Malawi was recognized in the initial application of conditionality in 1992 in which only bilateral donors suspended aid, while the IFIs continued their programs lest the country's economy become too destabilized. It was recognized again in 2003, when the IFIs and other donors resumed funding despite a disappointing performance of the Muluzi government in meeting adjustment targets because of a fear of the possibility of a serious economic crisis or "collapse" if funding was not restored. As already noted above in Chapter 3, the Malawian economy appeared to be strengthening in the four years from 1988 to 1991 heading into its transition attempt, while the Kenyan economy was beginning to decline in the same period. The period from 1992 to 1994 displayed wide oscillations in GDP due to drought followed by "bounce-back" years, and the 1992 numbers also reflect the impact of conditionality aid freezes: -7.33% in aggregate GDP in 1992, + 9.69 % in '93, -10.24% in 1994, +16.73% in '95. The lack of clear impact on the political transition is evidenced by the fact that the incumbent Banda regime received essentially the same vote percentage in its favor in both the referendum of 1993 (a "bounce-back" or growth year) and the election of 1994 (a drought/negative growth year.) From 1995 through 1999, essentially the years of Muluzi and the UDF's first term, Malawi's economy cooled off from the artificially high growth rate of 1995 (a "bounce-back year") to modest growth rates in the 3% to 4% range in 1997-99, but it outperformed the Sub-Saharan and World aggregate GDP growth averages in all five years. This would seem to have provided a supportive economic environment for democratic consolidation, but it was precisely in these years that a promising start turned into disappointment. After the close election of 1999, aggregate growth slowed and GDP per capita experienced negative growth for the next five years with major declines in 2001 and serious famine in 2002. These economic crises and a generally negative economic picture that includes numerous corruption scandals on the part of the UDF government have certainly not helped the consolidation of

democracy in Malawi so far, except perhaps in stiffening the resolve of the opposition and the donors to oppose the attempt to amend the constitution to allow Muluzi a third term. If these conditions are to have any electoral impact, then it would have been expected in the May 2004 Presidential and Parliamentary elections, but the prognosis there was dominated by the apparently effective coalition of the UDF and AFORD in contrast to the failed attempts at coalition-building among the opposition parties. Nonetheless, given the geographical concentration of many parties' votes, the outcome was a Mutharika/UDF Presidential victory but with a much reduced vote (35% vs. 51% in 1999), and the failure of the UDF/AFORD bloc to win a Parliamentary majority, due probably in part to voters' economic disenchantment.

D6. Regime Type & Factionalism/Decay/Reform

D7. Regime Cohesion

D8. Trade Internationalism versus Protectionism

Both the Banda and Moi regimes were alike in falling into the category of personalist, civilian single-party regimes even if the Banda regime was somewhat more personalist while the Moi regime was more party-focused. Hypothesis D6 is supported by the events surrounding the initial application of conditionality and the transition to multipartyism in both countries: no conciliatory "reformist" element within the parties overcame a hardline faction to move towards democracy. Instead, reformists, dissidents and malcontents – anyone deviating from total loyalty to the President - were driven out of both KANU and the MCP in the years leading up to and during the transition period, and the decision to comply with donor demands was made by the supreme leader virtually in opposition to the carefully nurtured defiant sentiment in the majority of his party. While the hypothesis posits this swaying the central decision-maker as being a more difficult task for a conditionality policy, the weight of aid dependency appears sufficient in these cases, plus both Moi and Banda displayed some confidence in their ability to manage and manipulate a new electoral reality (and Banda's confidence proved misplaced.)

Once the new multi-party system was in effect, however, new dynamics emerged and factionalism became more evident concerning policy differences over democratization issues, but especially over issues of succession and political ambition. In Kenya, the KANU A and B factions began to be discussed by 1995 as reformists and hardliners respectively, and by the time of the struggles over who would succeed Moi emerged in 2001–2002, there was talk of a KANU C. The key differences that electoral competition and the end of the single-party system created were that no longer could a faction or an individual simply be banished to political limbo through expulsion from the single party, and that now party competition meant that parties like KANU needed to maintain a winning coalition in new ways and to placate or reward loyal ethnic groups or local power barons who could deliver votes. Now defectors from KANU had obvious places to go. This no doubt became painfully apparent to Moi as his strategy to create a winning coalition for KANU by adding Raila's Luo voters and at least some Kikuyu through the choice of Uhuru Kenyatta as successor ended up back-firing terribly and causing major defections to the finally unified opposition. The personalist element of the regime (and indeed of virtually all the political parties) was still apparent in the "big man" leader asserting his prerogative to hand-pick his successor and in the tendency to pick someone from outside the established hierarchy or circle of loyal, yet ambitious lieutenants, someone with less of an independent power base, someone manipulable. The loss of the discipline inherent in the one-party system meant would-be successors who were passed over could now easily try to take their following to another party or to start one of their own.

The problems of succession in personalist regimes and parties provides a strong link between events in Kenya and Malawi. The irony of Malawi's transition is that had John Tembo, Banda's original anointed successor, been more popular and commanded some of the nationalist legitimacy that Banda had effectively cultivated, then events may well have turned out quite differently. Given the "Life President's" advanced age, the MCP regime already faced a looming succession crisis even before the Catholic Bishop's issued their Pastoral Letter and pro-democracy "pressure groups" started organizing clandestinely. Operation Bwezani as a key event in the transition can be interpreted in this light as the showdown between the Army, which historically had

never liked Tembo, and the MYP as the pro-Tembo's party militia. Banda responded to the Tembo popularity problem and the new electoral competition by hand-picking Gwanda Chakwamba, freshly released from jail (where Banda and Tembo had put him), to be his running-mate and provide some voting base in the Southern region (Banda and Tembo both being from the Central region.) This set up the long-running rivalry between Chakwamba and Tembo that doomed the MCP to internal conflict and ultimately split the party.

Almost ten years after Banda's choice of Chakwamba, Bakili Muluzi, a former Secretary-General of the MCP, seems to have invented his own variation on the hand-picked successor solution, and despite the fact that the UDF has supposedly always been a democratic party (unlike the MCP and KANU), like Moi he managed to trigger the resignations of four major UDF ministers with presidential ambitions of their own (the hand-picked successor problem or downside.) Unlike the failed Moi scenario, however, these UDF defectors did not maintain cooperation amongst themselves, nor did they encounter a unified opposition to join once they exited the UDF. This abundance of political ambition and the inability of supposedly democratic, but in fact highly personalist political parties to contain it suggests that hypothesis D7 on regime cohesion does not fully capture the mechanisms and dynamics within either authoritarian single-party regimes or the personalist parties that can succeed them under multipartyism. On the one hand, the basic logic of the hypothesis seems sound: the cases provide modest evidence that Moi, whose regime relied more heavily on clientelism, responded to the imposition of conditionality more quickly, in fact virtually without hesitation, given the signal of future economic problems with regime cohesion and control should he choose not to comply. Banda, on the other hand, relying on a non-democratic legitimacy to a greater extent, waited until the economic consequences of the aid freeze began to be apparent before deciding to comply.

On the broader issue of cohesion, the defecting leaders and would-be successors from KANU and the UDF seem unwilling to subordinate their ambition for the top post to maintaining a relatively secure and lucrative position within the clientelist institution of the party. It appears there must be powerful motivations and expectations beyond a simple economic utility calculus that leads

these actors who have been almost at the center of a party, in the inner circle in any case, to gamble on defection rather than support a successor other than themselves. Outside the sphere of parties in power and of presumably enjoying clientelist benefits, the epidemic of splits in virtually all the opposition parties in Kenya and Malawi suggest the problem of personalist ambition is rooted in elements of the political culture that continue from authoritarian rule and even become exacerbated under multipartyism. The broader issues of transition of party leadership, succession and cohesion deserve further exploration across a broader set of cases than considered here, but the following generalization is suggested by the evidence in these cases: like economic crisis, succession crises in authoritarian regimes provide moments of weakness that are special opportunities for regime transition and for interventions such as aid conditionality, but the same kinds of succession crises and leadership struggles within personalist political parties after the transition to multipartyism cause problems for democratic consolidation by preventing the institutionalization of a system of established and at least somewhat internally democratic parties.

Hypothesis D8 is not well tested in these cases because neither case exhibits a clear “statist-nationalist-confessional” or protectionist coalition: in these aid dependent economies, elites seem to be trade internationalists, aid internationalists and to some degree anti-liberalizers and statist simultaneously, arguably a legacy still of the colonial era and its economic model.

## **B) Policy & Implementation Variables**

- S4. Intensity of commitment, Threat of escalation and/or Deployment of a "Companion Policy."**
- S5. Intensity of commitment and "Crafting."**
  - S5a. Appropriateness of the Democratic Model & Strategic and Tactical Integration.**
- S6. Intensity of commitment and Patience/Duration of Sanction.**

A coherent donor policy involves not simply the multilateral consensus and coordination among donors to freeze aid, but also a larger consensus on foreign policy priorities in relation to a target regime and country. Such a consensus would place democratization above short-term economic or strategic interests, override or at least manage the inevitable multiplicity of foreign policy objectives and their attendant bureaucratic divisions, and avoid sending mixed signals and using double standards - pressuring for democratization in some respects, but supporting the status quo in others. Donor policy also needs to anticipate the threats of political instability that a conflict over democratization can produce and the fact that target regimes may play "the instability card" in an effort to make donors back-off in their efforts at pressure and influence. Finally, donors need to avoid an inordinate focus on elections to the exclusion of other key elements of democratization, such as constitutional reform. Where elections do take place, they need to avoid falling into an electoral policy cycle in which they emphasize pressure for democratization in the runup to elections, but normalization of relations and economic objectives after elections are past, regardless of the democratic quality of the elections or the overall progress towards democratization.

Donor policies in 1991 and '92 were largely reactive in that they responded to human rights abuses, NGO and Congressional attention, and the lobbying of the prodemocratic movements directly and via transnational NGO alliances. Conditionality was thus responsive to a situation in which continued aid was difficult to justify back home given media exposure of the repression of democratic movements. This is true even if the policies in Kenya and Malawi were proactive in the sense of challenging established authoritarian regimes. In the early 1990s, the donors had only

begun to try to institutionalize special capacities to analyze and promote democratization. Donor strategies were not thought through to any great extent and were not tailored to any in-depth analysis of the specific requirements for effective democratization in the two countries. Such an analysis would have steered attention to more fundamental constitutional and institutional questions that logically precede elections, even if such a logical sequence is not always politically practical. These questions involve the form of democracy appropriate for ethnically divided societies and for overcoming the legacy of patrimonial monopolization of power.

Donors' policy implementation fell short when it came to working to maintain leverage and pressure for democratization beyond elections. In Kenya, after having accepted the 1992 elections, donors lacked much of a focus for demands on the government, and instead focused on the economic structural adjustment agenda, non-political development projects and on funding civil society organizations in the hope that this would build the non-partisan civic movement for democracy and create a better context for democratization. The donors then failed to support the very movement they had funded in its demand for constitutional reform before elections in 1997. By the end of 2000, there was still no constitutional reform, and little had changed politically except that a major opposition party had been effectively co-opted by Moi and was talking about merging with his KANU party. In Malawi, donors spent the better part of two years drawing up a detailed plan for democratic consolidation with the new government, but then failed to demand it be implemented or to adequately assist with funding when the Muluzi government used lack of resources as its excuse for inertia.

In both cases, a more cohesive and focused conditionality policy could arguably have been more effective. Such a policy would combine negative conditions with positive incentives wherever possible, be capable of being graduated or escalated to respond to emerging contingencies, and would address the opposition as well as the state. It would also be based on a deeper analysis of the long-term requirements for consolidated democracy in specific transitional countries and on a greater dialogue with a broad cross-section of their societies. Even if the number of candidates for the type of proactive conditionality used in Kenya and Malawi may have been greatly reduced as the

Third Wave has proceeded and as the overall aid regime has shifted away from Cold War patterns, donor learning from such hard cases can have applications to other prodemocracy policies.

### **5. Weighting the Hypotheses**

Which of these hypotheses are supported by the historical evidence of the case studies, and which are not? Which prove most useful in understanding these cases and what if any new or modified hypotheses are suggested by the cases? In considering these hypotheses back in Chapter 3 in order to make predictions for some of the variables' likely impacts on democratization in general or the impact of conditionality in particular, it was noted that no attempt was made to weight the variables according to relative importance. Given the historical case studies and theoretical considerations above, such an attempt can now be made. Following the pattern already laid down in Chapter 3, the general hypotheses from comparative democratization will be considered first, followed by those that were posited to affect the impact of conditionality, but this pattern is in some ways arbitrary and alternatives and interactions between variables should also be considered.

The first variable to consider as the most salient in these cases is that of social cleavages, which here refer primarily to ethnic and regional cleavages with religious cleavages being somewhat secondary. When an authoritarian regime undergoes a political opening and a new competitive multi-party system begins to emerge, new political mobilization and new parties often form along pre-existing cleavage lines. This is to be expected whether we view the process as the "natural" expression of primordial identities or the successful construction of new political identities out of conveniently available history and culture. The salient political point for democratic transitions as seen in these two case studies is what has been referred to as "ethnic arithmetic" which is the relationship of largely static (at least in the short-run) ethnic cleavages to the more flexible possibilities of political and electoral coalition-making. Ethnic or regional arithmetic matters: the patterns and possibilities in such demographics are crucial factors for winning elections and for the

progress of democratic transition once the threshold of electoralism has been crossed. At that point, a prodemocracy movement no longer simply wants elections to be held, but also wants to win them in order to displace an incumbent authoritarian regime which has now “converted” into a democratic electoral party. The perhaps obvious point here is that opposition unity across largely ethnic cleavage lines was required in Kenya to beat the incumbent Moi and his relatively stable ethnic coalition in 1992 or 1997, but it was not forthcoming until 2002, whereas opposition unity across regional cleavage lines was not required to beat Banda in Malawi in 1994. This was an undeniably crucial factor in determining what the actual outcome of the donors’ conditionality policies were in each country, yet the pattern of mobilization in each case was arguably a variable that the donors had little or no control over. The eventual difference in Kenya in 2002 seemed to be largely a matter of learning and a declining value to being an ethnic leader but a losing Presidential candidate, because it was essentially the same candidates who failed to unite in 1997 who then forged the NARC coalition in 2002 (plus some extra KANU defectors.)<sup>384</sup>

The second key variable from the democratization set for these particular cases is regime type and particularly the question of cohesion for personalist regimes and parties when faced with a leadership succession. Granted that only two cases are under consideration here, but an obvious pattern linking the two and the question of democratization is that both “formerly authoritarian” parties were ultimately defeated when they suffered a succession crisis involving the attempt of the long-term personalist leader to hand-pick a successor.<sup>385</sup> This played out a bit differently in each country, for Banda remained the MCP presidential candidate in 1994 and even took a second try at picking a successor by drafting Chakuamba after Tembo proved so unpopular, while Moi stepped aside for Uhuru Kenyatta as he had to in 2002. The succession crisis in the MCP’s case arguably played out over a longer period of time during which Tembo’s ascendancy led many members of

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<sup>384</sup> Looking back to 1992, it is surprising that the combination of the Kenyan churches and the aid donors (particularly the U.S.) had the influence with the opposition to convince the three main candidates first to go through with the election when they cried foul during the voter registration stage, then to accept the results (except for Matiba) when they again cried foul after the vote, but did not seem to have the influence to get even two out of the three to unite.

<sup>385</sup> It remained to be seen if the “formerly democratic” UDF will suffer the same fate in May 2004. In Banda and Moi’s cases, the pattern seemed to operate whether they were facing natural or constitutional term limits.

the party elite (like Muluzi) to “retire” lest they end up in prison or worse like other Tembo rivals, although some of the retirees then later organized the UDF in Malawi’s South. The more dramatic defections from KANU and from the UDF after those parties succession battles, as well as the numerous splits in opposition parties not in power, and the inability of personalist party leaders to form opposition coalitions despite obvious electoral and strategic incentives – all these appear to be manifestations of a culture of personalist politics that is an unavoidable and central feature of many countries in the world, but especially in Sub-Saharan Africa. This personalist politics can work for democratic consolidation when it causes authoritarian parties to split, but against democratic progress when it causes oppositions to splinter into ineffectiveness rather than unite for a common end. While grappling with personalist politics may be an unavoidable necessity for democratic transition in many countries, the status of succession crises is more nebulous. They are neither necessary nor sufficient for democratic transitions: opposition unity might have been sufficient to defeat KANU in Kenya, and the MCP in Malawi. A political culture of personalist leadership and ambition also is linked to an instrumental approach to democracy, one of the most salient variables from the political conditionality impact list.

Of the other hypotheses and their variables from the democratization set, civil society and then the military factor can be ranked as next most important, while the least important are arguably having a democratic history or legacy and whether an economic crisis accompanies the transition attempt. Civil society, with the churches and mosques being key components of that social realm in both Kenya and Malawi, stands out as the realm of moral authority that can provide some counterforce and critique against authoritarianism and against the political culture of personalism, instrumentalism and ethnic clientelism (although there are undoubtedly cases where religious institutions have supported all of these.) While its key role as incubator of democratic movements in these cases cannot be disputed, and the resurgence of civil society struggling for democratic change in Malawi in 2004 is in many ways a welcome sign, democratization requires not simply activist churches and incubators but the actual mass movements those incubators may succeed in producing and actual democratically committed political parties to advance the democratic agenda at

the ballot box rather than some personalist or clientelist agenda. The potential downside of the new activism shown by Church leaders in Malawi is that in being drawn into partisan politics (and urging people to vote for former MCP leader Chakuamba), they may lose some of their valuable moral authority.

The military factor appeared to be an issue only in Malawi, where the destruction of the MYP by the Army provided very dramatic punctuation to the unfolding transition in 1993-1994. These two cases have almost nothing to tell about transitions in countries where the military is an active political player (i.e. cases of military dictatorship, “guided” democratization, etc.), and where the attitude of the military to a transition (and to external pressure) may be decisive. How crucial Operation Bwezani was to the transition in Malawi is not completely clear: it does not appear that the single factor preventing Banda or Tembo from derailing the transition and instead causing them to acquiesce to the referendum and the election was the lack of a force of repression in the form of the MYP. The strength of the MYP based on their alleged size (60,000) also seems to have been inflated given the speed of their defeat and the fact that they have yet to conduct the guerilla campaign from their exile bases in Mozambique that was long feared and rumored after their defeat. The final factors considered from the democratization set – economic crisis and previous democratic history- are ancillary factors for democratization in these cases, neither necessary nor sufficient.

Turning to the conditionality set of hypotheses, the strongest and most obvious is the requirement for aid dependency if conditionality is to involve sanctions (sticks) as opposed to simply incentives based on new aid (carrots or positive conditionality) or perhaps on access to foreign investment as an alternative conditional financial flow. The aftermath of the Debt crisis of the 1980s is that many of the poorer countries in the world are aid dependent to some degree if they want to remain engaged in the world economy, service their debts and hopefully develop economically in the process. As long as dependent regimes maintain that hope and that internationalist stance, then aid dependency provides some leverage to donors. The second most salient factor is arguably international norms that provide the context of the legitimacy and

desirability of democracy and that support interventionist policies like conditionality being deployed and help prodemocratic movements find key transnational allies. Without the degree of international normative consensus that took major steps forward with the end of the Cold War, both the signaling and legitimacy effects of conditionality policy would not function. Even stronger international norms embodied in more international institutions might have an even greater impact, but the current strength of this factor seems sufficient to support the policies considered in these cases.

The third most important factor is the presence of instrumentalist approaches to democracy and democratization that in important ways run against the normative factor just discussed, but also seek to benefit from it, especially in the short run. While instrumentalism is linked in important ways to personalist and ethnic clientelist political culture and arguably deserves to be on the general democratization factors list, it is on the conditionality list due to the salience of the logic that it is hard to promote democratization in countries with no or too few democrats, especially if nominal leaders of the prodemocratic movement end up being more instrumentalist than committed. Instrumentalism among leaders of political parties who were once members of the prodemocratic movement appears as a major obstacle to the successful impact of conditionality in both these cases, but one that arguably is overcome with time as instrumentalists lose their legitimacy and support (Chihana & Muluzi? Chakuamba?) or realize they are more bound by democratic norms and logics than they thought (Raila? Other NARC leaders?)

The remaining factors from the conditionality impact set appear to be less important or salient for these cases in that they pose no problems or do no obvious work. The extent of the donor coalition (our nominal case selection variable) does important work, but poses no particular problems in these cases: collective action issues seem to be sufficiently dealt with even through a fairly loose network of coordination supported by a sufficient normative consensus. Likewise competing donor interests exist and may limit the impact of conditionality somewhat, but not enough to prevent the general effectiveness of conditionality, especially on the issues of corruption and anti-backsliding. International investors do appear to follow signals from the IFIs enough to

work with and not against conditionality. Finally nationalist backlash, while a real concern overall and serious obstacle in some cases (e.g. Iraq), is not present in either of these cases (at least not yet.)

## 6. Conclusion

Political conditionality still shows promise as a tool that can urge democratizing countries along what is at times a meandering or idiosyncratic path towards consolidation and a point where such policy tools will no longer be necessary or useful. Although the cases considered here are important historical cases of policy innovation that appeared to produce relatively quick and dramatic results in inducing or compelling the holding of multiparty elections (or a referendum and then elections in Malawi's case), on closer examination they proved to be iterated cases of ongoing engagement by donors and repeated aid freezes or slow-downs, much as economic policy conditionality is also practiced. They next need to be examined alongside other cases where donor aid policy and elements of a political conditionality agenda appear to have produced just the type of quagmire of unintended results that critics predicted.<sup>386</sup> This study has made also numerous references to donor programs of political aid (which can also be conceived of as positive conditionality or the use of incentives), but has not examined this policy in any detail: ultimately in-depth case study analysis of both types of donor prodemocratic policy together should be conducted. One of the major analysts of political aid who largely ignores negative conditionality in his analysis, reaches the following conclusion:

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<sup>386</sup> Peter Uvin's *Aiding Violence: The Development Enterprise in Rwanda* (West Hartford, CT: Kumarian Press, 1998) Uvin is very critical of a misguided policy of generic democracy intervention through the Arusha Accords process that he (along with others) argues had the effect of radicalizing the extremists who then led the genocide in Rwanda. But he also calls for political aid (positive conditionality) and a much more informed use of negative conditionality or pressure as important tools that could have been used in Rwanda to help prevent the genocide: see especially Ch. 11. See also, Amy Chua, *World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability* (New York: Doubleday, 2003).

(N)o dramatic results should be expected from democracy promotion efforts. Democracy aid, as well as the complementary tools of diplomatic and economic carrots and sticks, can do little to change the fundamental social, economic, and political structures and conditions that shape political life in other countries.<sup>387</sup>

While more recent examples such as the passage of an anti-corruption bill are not as dramatic as earlier ones like the legalization of opposition parties and a commitment to hold the first multi-party elections in decades, this study has offered some evidence that political conditionality can produce some dramatic results even as it also confronts and is limited by deeper social realities over which it can have little effect. Even if used sparingly only to break through particular and suitable bottlenecks on the path to greater democracy, it is a policy tool that deserves greater attention and study.

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<sup>387</sup> Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington, DC: Carnegie Endowment, 1999) (For one counterpoint, see the quotation from Gideon Rose cited in Chapter 1, fn. 46.)

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