

Strengthening  
Legislative  
Capacity in  
Legislative-  
Executive  
Relations

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*Legislative Research Series*

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## 1. THE NEED FOR STRONG LEGISLATURES: INTRODUCTION<sup>1</sup>

Modern democracies are characterized by shared decision-making by the legislative and executive branches. Generally, a country's constitution formally structures this interaction. Practicality, precedent and habit then fill in the gaps to create the political system under which a government operates on a daily basis. Because these circumstances differ considerably in each country, democracies vary widely in how political power is shared and the relative influence each branch of government has over policy formulation.

Accepted practices in one successful democracy may be unimaginable—or even unconstitutional—in another, equally vibrant democracy. The health of a democracy declines dramatically, however, when the executive branch excessively dominates the legislature. A government with a legislature lacking the capacity to effectively oversee the executive or influence policy—a legislature that exists solely to “rubber stamp” executive decisions—cannot be deemed democratic in the modern sense.

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***A legislature can serve as a demonstration of pluralism, tolerance of diversity and dissent—as well as a place for compromise and consensus building***

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The legislature is a fundamental component of democratic government. Indeed, the need for strong legislatures is reflected in the very meaning of democracy: “rule by the people.” In order for the people to rule, they require a mechanism to represent their wishes—to make (or influence) policies in their name and oversee the implemen-

tation of those policies. Legislatures serve these critical functions. A legislature “reflects in its ranks a broad spectrum of a country's political opinion,” and as such is the principal forum for debate on vital issues.<sup>2</sup> A legislature can serve as a demonstration of pluralism, tolerance of diversity and dissent—as well as a place for compromise and consensus building.

Despite the need for strong legislatures, many legislatures are overwhelmingly dominated by the executive branch. This problem is especially prevalent in emerging democracies. While democratic elections

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in these countries may result in multiparty legislatures, they rarely yield strong democratic institutions. Typically, new multiparty legislatures “lack the organization, financial resources, equipment, experienced members and staff to serve as a mature and autonomous point of deliberation in the policy process.”<sup>3</sup> Amid a legacy of executive branch dominance, legislators in these countries are frequently unable to envision, let alone create, a “level playing field” in which the legislature fully participates in lawmaking and checks executive power. Without this level playing field, newly democratic countries risk reverting to exclusive rule by the executive.

In nearly all democracies, leaders of the executive branch (i.e., presidents, prime ministers, cabinet ministers) typically command much of the political power, control the financial resources, possess staff dedicated to developing policies and implementing laws, produce the bulk of legislation, manage government contracts and administer government programs. Despite executive dominance in many countries, the relative balance of power between the

legislative and executive branches in a country can be changed. If new legislatures are going to play a central role in a nation's governance, it is up to legislators themselves to build strong legislative institutions by asserting themselves in the regular law-making and oversight functions, or through specific structural changes via constitutional amendment, legislation or rules of procedure.

This paper attempts to assist legislators in their efforts to assert legislative authority. It describes legislative-executive relations in various democracies, as well as mechanisms and strategies that can be employed to improve that relationship. Specifically, this paper examines:

- \* Structural, political, and traditional factors that help determine the relative level of influence each branch of government exercises, and
- \* Methods that legislators can use to assert their rights and prerogatives and enhance their influence over policy and oversight processes.

Examples of these methods are taken from countries all over the world, at various stages of democratic development.

## 2. LEGISLATIVE-EXECUTIVE RELATIONS IN DIFFERENT GOVERNANCE SYSTEMS

### *Parliamentary, Presidential and Hybrid Systems*

The type of governmental system under which a country operates fundamentally influences the structure and tenor of legislative-executive relations. Each system assigns certain fundamental privileges and responsibilities to the legislature and executive, respectively, while additional fac-

tors encourage cooperation or reward confrontation between the branches.

Each system also contains ambiguities that enable an assertive legislature or ambitious executive leaders to expand their influence. Legislators that desire to have a greater impact on the policy process or enhance oversight of the executive can work within these gray areas to enhance their influence.

Most democracies may be classified as either parliamentary or presidential. Some systems have blended features of both and are known as hybrid systems.<sup>4</sup>

### *Parliamentary Systems—The Westminster Model*

The classic example of parliamentary government is the Westminster system (e.g., the United Kingdom). In this system, the head of government (prime minister) and his or her cabinet are members of the ruling party (or parties in a coalition government) in the legislature. The government is dependent on the support of the legislature and is subject to removal from office by a vote of no confidence. Members of Parliament (MPs), chosen in fair and meaningful elections, select the head of government in a formal parliamentary vote that may follow internal negotiations among party leadership.

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***In the Westminster system, the government is dependent on the support of the legislature.***

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The legislature has the power both to appoint and dismiss members of the government (or cabinet). In addition, while the prime minister in a parliamentary system typically possesses greater political power than his or her fellow ministers, the cabinet as a whole tends to operate in a collegial manner—decisions on overall

government policy are generally reached by consensus.<sup>5</sup> The well-established convention of “collective responsibility” often dictates that a minister who wishes to publicly disagree with fellow cabinet members must first resign from the cabinet.<sup>6</sup> Collective responsibility is further bolstered by standards that protect the confidentiality of government discussions.<sup>7</sup>

***Presidential Systems—The U.S. Model***

The United States is an example of the classic presidential model that separates the legislative and executive into two distinct branches with their own independent electoral mandates. It is therefore possible (and not uncommon) to find situations of “divided government,” where a majority of members in the legislature belongs to a party different than that of the president.

The legislature in this system can remove the president, but only by invoking a rarely used impeachment process that typically requires a super-majority vote by the legislature. Impeachment proceedings usually require that the presi-

dent be found to have acted improperly, whereas a vote of no confidence in the Westminster parliamentary system is a function of political support (or lack thereof).

A president appoints<sup>8</sup> and dismisses members of his or her cabinet. Presidential cabinet members, like their parliamentary counterparts, wield significant power over their respective agencies. Unlike parliamentary ministers, however, they tend to be “advisors and subordinates” to the president, rather than potential successors.<sup>9</sup>

***Hybrid Systems—The French Model***

An increasingly common option combines elements of both parliamentary and presidential systems. France represents the classic case of this mixed or “hybrid” system. There, the electorate directly chooses both the parliament and the president. The president then appoints the prime minister and the cabinet based on proportional party representation in parliament, which may require the president to appoint a prime minister

<b>Parliamentary, Hybrid and Presidential Systems of Government</b>			
<b>Characteristics</b>	<b>Parliamentary</b>	<b>Hybrid</b>	<b>Presidential</b>
<b><i>Executive Selected by:</i></b>	Legislature	Voters	Voters
<b><i>Executive Dependent on Legislative Confidence?</i></b>	Yes	President: No Prime Minister and Cabinet: Yes	No
<b><i>Role of Cabinet</i></b>	Collegial/ Collectively	Collegial/ Collectively	Advisory
<b><i>Cabinet Appointed by:</i></b>	Legislature	Executive	Executive
<b><i>Cabinet Dismissed by:</i></b>	Legislature	Legislature	Executive
<b><i>Cohabitation/Divided?</i></b>	No	Yes	Yes

from a different party than his own. This “cohabitation” increases political competition within the executive branch.<sup>10</sup>

In general, however, the French president controls policy areas such as foreign affairs, while the prime minister and the cabinet manage the day-to-day affairs of the government.<sup>11</sup>

Because the hybrid system incorporates aspects of both presidential and parliamentary systems, “it has been argued that in practice it operates as one or the other, depending on whether the president and the parliamentary majority are of the same party.”<sup>12</sup> For purposes of this paper, legislative-executive relations are examined primarily in the context of either presidential or parliamentary systems, under the assumption that hybrid systems will tend to resemble one or the other depending on electoral circumstances.

### ***The Role of Parties in Parliamentary Systems***

Partisan politics significantly influence legislative-executive relations in both presidential and parliamentary forms of government. However, the blending of executive and legislative branches in parliamentary systems—in contrast to the separation of powers in presidential systems—makes party dynamics especially relevant for legislative-executive relations in those systems. As such, the role of parties in parliamentary systems receives special attention in this section. This analysis is divided into three areas: 1) relations between government leaders and the opposition; 2) relations between party leaders and backbenchers; and 3) relations between parties within a governing coalition.

#### ***Government and Opposition***

The role of a governing party (or parties) in the legislature is to transform government policy into

law. This role is subject to a number of constraints: proportion of seats, intra-party cohesion (and inter-party cohesion in the case of coalition governments), public opinion, and the strength of the opposition. The role of opposition parties in parliament is to challenge legislation advanced by the government. Typically, the opposition will advocate an alternative set of priorities, or a different way to address the issue being deliberated. The opposition can introduce amendments to a bill to bring it closer to its own position,<sup>13</sup> mobilize public support for an issue, and attempt to stall or defeat legislation.

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***Opposition parties can be subject to criticism if they are perceived as obstructionist.***

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Irish MP Jim Higgins notes that a good opposition “should strive to be constructive...this means only challenging legislation that clearly conflicts with opposition policy.”<sup>14</sup> Opposition parties can be subject to criticism if they are perceived as obstructionist.<sup>15</sup>

The most successful opposition parties are those that demonstrate the capacity to govern. In Ireland and the United Kingdom, opposition parties appoint ministers to a shadow cabinet,<sup>16</sup> who act as spokespersons on issues within the jurisdiction of each ministry, formulating alternative policies or critiques based on the party’s platform. According to Higgins:

Essentially, as a shadow minister, you are a minister-in-waiting, ready to work if the government fails. Being ready for office, even anxious for office, is good for morale, but, more importantly, good for government. Opportunity exists to influence the government, if you have the will...you aren’t a shadow, but a vital and capable minister...who, along with opposition



[MPs], is constantly working toward the “prize” of having a bill passed in a house controlled by members who are not of your party.<sup>17</sup>

The shadow minister strives to move government policy toward the opposition position by publicizing and gaining support for its alternative. If the opposition successfully mobilizes public opinion and the government fails to adjust its position accordingly, the government majority can be perceived as arrogant and unrepresentative.

### *Ministers and Backbenchers*

Ruling and opposition leaders can each be constrained by backbenchers—rank-and-file MPs who are not members of the party leadership, and who may be able to articulate public sentiment that the leaders are not alert to. “This is especially the case in many countries in western Europe, where traditional partisan allegiances have begun to erode and party discipline may not be as strong as it once was.”<sup>18</sup> Given this reality, it is increasingly common for cabinet members to consult with backbenchers. “The result of such consultation may well be that the government will not propose the legislation that it would if left to its own devices, but rather that the government will modify its preferences to produce a proposal that will minimize any incipient opposition among its supporters in parliament.”<sup>19</sup>

Such consultations take place in the parliamentary party group, or caucus. Typically, these groups are officially recognized forums in which the party reaches consensus on pending draft bills.<sup>20</sup> During group meetings, members debate their positions on draft laws; consider the opinion of party headquarters and the party platform; consider the likely impact on public opinion; and then vote. The majority decision determines how every member is expected to subsequently vote in the plenary.<sup>21</sup>

On some occasions, serious discrepancies erupt between the preferences of the leadership and backbenchers. While the leadership undoubtedly can exert considerable power to persuade errant MPs to join their cause, backbencher “revolts” are not uncommon. If enough backbenchers unite and threaten to vote against the party line, party leaders have little choice but to modify their proposals. In this way, the parliamentary party group provides a crucial opportunity for ordinary legislators to influence policy or legislation.

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### *Relations Between Coalition Partners*

Coalition governments face the challenge of managing a relationship among parties in the coalition—parties that often have different ideologies and policy preferences. In order to provide coherent structure to these relationships, coalition governments frequently rely on a “coalition agreement.” The coalition agreement is a policy document designed by party leaders, with considerable input from MPs and the research institutes of each party. Another mechanism used to maintain good relations among coalition partners are weekly “Party Bureau” meetings where ministers, MPs and other party leaders debate policy proposals. These discussions build on decisions made by each party within their own parliamentary group meetings. Frequent cabinet meetings among ministers further strengthen inter-party relations.





### Ministerial Dominance in the Namibian National Assembly

Forty-one of 78 seats in the Namibian National Assembly belong to ministers or deputy ministers, leaving less than half for backbenchers and the opposition. As ministers and deputy ministers are leaders of the executive branch, the independence and strength of the Assembly is severely limited. Furthermore, such ministerial dominance decreases the political incentives to remain an MP.<sup>25</sup> However, none of the MPs in Namibia's National Council, which reviews Assembly decisions, are ministers or deputy ministers.

### Membership in Parliament and Government

Governmental systems also differ on the issue of simultaneous membership in both the cabinet and the legislature, although this difference is not strictly divided between presidential and parliamentary systems. In the presidential systems of Brazil and the United States, legislators must resign their seat should they wish to become part of the cabinet.<sup>22</sup> This is also the case in Norway, Belgium and the Netherlands, systems that are described as parliamentary.<sup>23</sup>

Ghana represents another approach. The Ghanaian constitution requires the majority of the cabinet to be MPs. The practice that emerged in the 1990's, however, is that the more influential cabinet positions (e.g., Defense, Finance, Foreign Affairs, and Justice) go to non-MPs. Furthermore, because the constitution allows the president to appoint additional ministers and deputy ministers, MPs occupied fewer than 50 percent of total ministerial posts in 2000. According to an observer of Ghana's legislature:

By using his constitutional authority to establish ministerial posts, the president has bought

off disgruntlement within his own party or kept parliament from fulfilling its role of executive oversight. It is not unusual to see the shuffling of ministerial posts to punish a wayward Minister/MP or to reward another. It is patronage politics at its best. The initial intent, to ensure that a majority of Cabinet Ministers comes from Parliament, has been corrupted.<sup>24</sup>

### The Path to Executive Leadership

Differences in governmental systems also affect legislative-executive relations by dictating the career paths (and thereby political incentives) of legislators and executive leaders. In most parliamentary systems, ministers serve as ordinary members before they achieve their leadership positions and are therefore familiar with the various aspects of an MP's job (campaigning, constituency service, sitting on committees, questioning ministers, amending legislation, etc.). These ministers can relate to many of the issues facing members. This pattern affects legislative-executive relations by creating an "apprenticeship" system. In this environment, a significant proportion of members see their tenure in parliament as a stepping-stone to ministerial posts. They use their positions to "perform" for leaders in both the ruling and opposition par-



### Can Winning Legislative Office be Bad for One's Political Career?

**In certain presidential systems with weak legislatures, serving in the legislature can often impede rather than assist one's career in politics. Aspiring Mexican politicians often have little interest in running for legislative office where they may languish in relative obscurity, and instead opt for positions in the executive branch at the federal or state level.<sup>26</sup> This cycle can become self-perpetuating: the legislature remains weak because it cannot attract talented politicians to strengthen it.**

ties. In turn, party leaders are continually judging members' political and rhetorical skills to gauge their potential for leadership positions.

In presidential systems, legislative and executive politicians often take separate routes to their respective posts. Many U.S. presidents previously served as mayors, state governors, or military officers. Cabinet members in the U.S. are often culled from the ranks of academia, business and civil society. This is not to say that legislators never become presidents or cabinet members (Herbert Hoover did in 1928), only that one does not have to serve in the national legislature before becoming an executive branch leader.

### 3. LEGISLATIVE-EXECUTIVE RELATIONS IN THE LEGISLATIVE PROCESS

The legislative process—whereby laws are developed and adopted, and the appropriate level of taxation and expenditure is determined—is one of the fundamental decision-making mechanisms of modern democracies. Because nearly all of the executive's major policy initiatives must be approved by the legislature via this process, it provides a critical opportunity for legislators to influence policy and check executive power.<sup>27</sup>

Legislators around the world have developed practices, strategies and tools to ensure that they have a say in legislation. The following section outlines the legislative process in parliamentary and presidential systems and highlights the means by which legislators can and do have an impact on the process. In addition, despite the fact that the most visible portions of the legislative process occur with only legislators present (i.e., debates and voting), the legislative process is very much a collaborative exercise between the legislature and the executive in both parliamentary and presidential systems.

#### *Pre-legislative Stage*

Much of the time and effort exerted in shaping legislation occurs before a bill is actually proposed to the legislature. In parliamentary systems in particular, “the pre-legislative stage may be more important than the legislative stages.”<sup>28</sup>

In some parliamentary systems, particularly those in Scandinavia and the Low Countries of Europe, government policy is based on large social contracts between political parties and societal entities such as labor unions, churches, environmental organizations and business groups. The governing parties confer with these entities during the development of policies relevant to their interests.

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***In parliamentary systems in particular, the pre-legislative stage may be more important than the legislative stages.***

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Parliamentary governments often develop legislation by forming a commission to study and report on a particular issue. Although ostensibly designed to craft legislation, a commission also serves a vital oversight role. It investigates current practice regarding the policy in question, specifically any relevant laws, their intended goals and the manner in which they are currently implemented.

Commission findings are generally published in a report known as a “green paper” in many parliamentary systems. Opposition members then comment on the report, along with other interested parties in academia, nongovernmental organizations (NGOs), and the media, as well as the public-at-large.<sup>29</sup> These comments serve to counter potential government bias in policy development, and are sometimes used by the op-

position in parliamentary debate. In some countries, such as Denmark and Sweden, public comments accompany the draft bill throughout the legislative process.<sup>30</sup> Finally, the commission (or the government) introduces its bill to the legislature, along with a “white paper,” a formal statement of the government’s position on the issue.

The composition of these commissions represents a crucial issue for legislative-executive relations because many commissions predominantly comprise civil servants and ministers favorable to the government. This arrangement can severely limit the role of ordinary MPs (and parliament as a whole) in influencing legislation developed through this process. Legislators in some countries, however, have actively sought membership on these commissions.



#### Commission Involvement by Swedish MPs

In Sweden, MPs serve on commissions at a much higher rate than their Western European counterparts. Commission membership allows Swedish MPs to develop their expertise on certain issues, and affords them considerable experience in policy formation. It is also not uncommon for Swedish commissions to include opposition members. Having opposition members on a commission can serve as a signaling device for the government of divisive inter-party issues that may require resolution at some point in the legislative process.<sup>32</sup>

While the government dominates the development of most legislative proposals, the opposition can play an indirect role by being an active and informed adversary. Although the opposition can rarely defeat government bills, it can

focus public attention on government inconsistencies and unintended consequences of the proposed legislation. Resulting negative publicity can reflect poorly on the government in the following election. “Faced with this prospect, governments may well work to shape what they propose so as to blunt some of the anticipated opposition criticism,” before a bill is officially submitted.<sup>31</sup>

#### *Initiation of Legislation*

In most democratic legislatures, the executive branch introduces 90 percent of the legislation, of which 90 percent is passed.<sup>33</sup>

From the first stage of initiation onwards, the legislative monopoly of [legislation] is markedly encroached upon, and the theoretical division of powers between the Legislative and the Executive tends to give way to the practice whereby the government takes the initiative in drafting and introducing legislation.<sup>34</sup>

One major explanation for executive dominance in initiating legislation is that the government has an electoral mandate for its platform.<sup>35</sup> The complexity of modern-day governance also contributes to executive domination. Comprehensive policies require overall knowledge of the situation in a country and a great deal of skill and knowledge of a variety of specialized areas including, law, economics, social science, medicine, physical science and communications technology. As such, legislation often demands the input of specialists to assess national needs in their respective areas and develop legislation accordingly. These experts are frequently members of executive agencies or ministries, and are often employed on a long-term basis.

In contrast, legislators often lack the financial, technical and legal resources necessary to develop and initiate legislation, especially legislation that can match the executive’s in comprehension and expertise. This is especially true in

emerging democracies. In order to help counter this disparity, many legislatures in emerging democracies are trying to develop increased legislative drafting capacity through staff training and development.

MPs rarely initiate legislation because a legislature spends most of its time addressing executive proposals, which derive from the electoral mandate of a winning platform. This is especially true in parliamentary systems where the executive is, by definition, the controlling majority of the legislature and therefore dictates the agenda. In these cases, the legislative majority is typically unwilling to devote time to bills that are not part of the government's overall plan, particularly those that run counter to government policies.

In some cases, although government backbenchers do not have the right to introduce bills, government leaders may do so whether they are members of the legislature or not. In the United Kingdom, for example, backbenchers are prohibited from initiating legislation, unless they receive special permission from the House.<sup>36</sup>

Legislators are often further hampered by restrictions when considering budgetary legislation. In many parliamentary systems, especially those based on the British model, MPs may not initiate legislation with financial consequences (e.g., to increase overall spending), which is exclusively reserved for the government.<sup>37</sup> This restriction "may have the effect of emptying of all meaning [legislators'] right to introduce bills, because many, if not most, items of legislation have financial implications."<sup>38</sup>

Although government leaders typically initiate most legislation, opportunities occasionally arise for government backbenchers or the opposition. For example, former Polish MP Jerzy Wiatr describes a strategy in which the opposition used

the element of surprise to catch the government off guard and take initiative on an issue:

One obvious way used by the opposition was to be faster than the government, to identify a field in which legislative action is necessary and take initiative. If the government is taken by surprise by the opposition, it is in a very uneasy position. It cannot oppose a bill simply because it comes from the opposition. So it has to support it but that would give points to the opposition.<sup>39</sup>

Such a tactic requires opposition MPs to be prepared to act quickly when opportunities arise. Maintaining good relationships with journalists and NGOs can be especially helpful in this area, as they can serve as an early warning system and alert legislators to issues that require their attention.



### Resolutions

A legislative majority can adopt a resolution to express its views on a particular issue. Unlike a law, a resolution lacks binding legal authority. Legislators use them to urge executive agencies or other elements of government to take certain actions or establish a study commission to examine an issue. Legislators occasionally use resolutions as an expression of recognition, commemoration or tribute to an individual or group.

The subjects of resolutions are under no legal obligation to comply with any requests/demands made. Therefore, resolutions must be used judiciously so as not to risk becoming meaningless. Nevertheless, resolutions can effectively raise awareness on an issue, especially if legislators are able to persuade the media and nongovernmental organizations to spread their desired message.

Backbenchers have received procedural support in some parliaments. For example, in the Australian Parliament, most of each Monday is reserved for private member business. On this day, members (of both ruling and opposition parties) are given priority to make motions and introduce bills, and are also provided with a block of time in which to make statements on issues of their choice.<sup>40</sup> Although private member bills rarely become law, their occasional passage has had far-reaching consequences in some countries.<sup>41</sup>

### ***Amending Legislation***

Amendments can change any part of a bill, either by deleting certain words, phrases or sections, or by adding new provisions. The power to amend legislation is a particularly potent tool for legislators. Members can offer amendments in both committee and plenary sessions. The former has become an increasingly important forum, as committee discussion allows bills to be examined in detail by members and staff with specific expertise in that policy area. In contrast, debates on bills in plenary sessions tend not to “lead to significant amendments. Most of the work carried out on bills which leads to amendment takes place in committee or as a result of informal negotiation between parties.”<sup>42</sup>

MPs in Germany and France are increasingly using committees to propose amendments, with the result that few government drafts are adopted without change.<sup>43</sup> In addition to committees, other institutions can influence deliberation of legislation. In the United States, for example, the White House Office of Legislative Affairs serves as a vehicle through which Members of Congress can lobby the president. In turn, the Office is a tool for persuading legislators to see things from the president’s point of view—as well as for recommending trade-offs and compromises.<sup>44</sup>

While the power to amend is critical for legislators, rules frequently restrict its use. These rules significantly affect legislative-executive relations—especially in parliamentary systems—because control over rules (and their interpretation) lies with the majority party. For example, rules that restrict amendments of financial legislation, similar to those that prohibit initiation of such bills, can severely limit the role of members in the legislative process.

Nevertheless, most amendment restrictions are fairly benign, and are intended to keep the process relevant and organized. For example, rules in France, Jordan and the Netherlands dictate that amendments be offered along with a statement of motives. Elsewhere, legislatures require amendments to be supported by more than one member. This stipulation varies: two (of 200) members are required in Finland, five (of 150) in Belgium, 25 (of 513) in Brazil, 26 (of 669) in Germany, and 30 (of 273) in Korea.

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***Rules frequently restrict legislatures’ power to amend, which significantly affects legislative-executive relations***

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Written amendments in many countries must be offered one or two days in advance of formal proposal in order to be placed appropriately on the agenda and to facilitate discussion. Another common rule, as in the United States Congress, prohibits amendments that are not ‘germane’—i.e., that do not bear directly on the subject of the pending bill.<sup>45</sup> Despite such rules, a good deal of latitude is generally left to “proposers” of amendments. Through the use of such latitude, the amendment process can remain a powerful tool for legislators to influence the legisla-



tive process—a process that otherwise lies largely in the hands of executive officials. If amendment powers are severely limited, so too is any meaningful role for legislators in the policy arena.

### ***Approving Legislation***

For a bill to become law, it must first be approved by the legislature. Once a bill secures legislative approval, the executive branch enacts or promulgates it, and it becomes law. In parliamentary systems, government promulgation is automatic after legislative passage because the government had numerous opportunities to make changes during the amendment process. In the case of Germany, “because of stable coalitions and cohesive party voting, important government proposals are hardly ever defeated.”<sup>46</sup>

In presidential systems, the executive retains the final opportunity to reject legislation through the veto process.<sup>47</sup> The United States is the classic model in this regard. The U.S. President possesses three options when presented with bills passed by Congress. First, he may sign the bill promptly, making it law. Second, he may take no action. Two options exist in this case. If Congress is in session, the bill becomes law after 10 days. If Congress has taken its final adjournment during this 10-day period, the bill is, in effect, vetoed. The latter case is known as a “pocket veto.” The third course of action available to the President is to veto the bill and return it to Congress with his objections. From 1997 until it was declared unconstitutional in 1998, the President had the additional option of the “line item veto.” This allowed him to veto a dollar amount of discretionary budget authority, an item of new direct spending, or a tax change benefiting a class of 100 or fewer.

Legislators may set aside the president’s veto and enact legislation without his signature—



### **Knowing the Rules**

In parliamentary systems, rules of procedure can often help legislators challenge executive domination. Many rules give considerable power to MPs, especially in parliamentary debate. Rules frequently guarantee MPs a voice in the proceedings, even MPs from minority parties. As one parliamentary scholar notes, rules are “a far more important protection than generally realized. Procedures constrain government.”<sup>48</sup> However, the inherent power of these rules can be lost if legislators are unfamiliar with them and fail to use them to their advantage.

override a veto—if both chambers vote to do so by a two-thirds majority. This super-majority is frequently difficult to muster, therefore prompting legislative cooperation with the executive.

### ***The Budget Process***

The development, deliberation and passage of a budget with both legislative and executive participation represents “one of the vital checks and balances of democracy.”<sup>49</sup> It is by far the most important piece of legislation addressed by the legislative and executive branches because “all daily operations of any government are inextricably bound up with budgeting. Arguably, what is good for the health of the budgeting system is good for the health of the overall system of governance.”<sup>50</sup> Because of its sweeping consequences, the budget process is often a cause of significant friction between the legislative and executive branches.

The budget provides the legal framework and the income necessary for meeting the financial requirements of government. It serves four basic functions:





### Legislative Influence in Nepal

Once the Nepali government presents its budget, only minor changes to accommodate the backbenchers and the opposition are made after parliamentary discussions. While parliamentary structure and tradition dictate executive domination of the budget, MPs are further hampered by their lack of economic experience. Out of 205 MPs, only 7 to 10 have any formal training in economics, and parliament offers no orientation on economic policy. As such, MPs frequently raise issues that are not economically viable, all but assuring that their ideas are ignored, or out-voted by the government.

1. It enables total income to be compared with total expenditure;
2. It allows expenditure to be classified, and its relative importance and urgency assessed;
3. It enables its effects on the economic situation and on any national plan to be determined; and
4. It facilitates or provides an opportunity for parliamentary oversight (also called “parliamentary control”).<sup>51</sup>

Budget development is typically the domain of the executive branch. The budget is primarily a political statement of government policy expressed in fiscal terms. The Inter-Parliamentary Union argues that “it is only proper that the government should be free to work out the implications of this program.”<sup>52</sup>

The budget also requires technical expertise to design a comprehensive and accurate document that reflects the needs of all executive agencies.

Despite executive dominance over the budget, it is critical that the legislature play a significant part in the process. The necessity of legislative involvement is echoed by the Parliamentary Centre, which found strong evidence that “parliamentary involvement in budget planning can be the basis for economic policies that stress stabilization, and lead to spending and taxation priorities that reflect that goal.”<sup>53</sup>

In most countries, the legislature exerts its influence over the budget through the amendment process. This capacity varies considerably among legislatures. At one extreme is the United States Congress, which possesses virtually unlimited amendment powers in the budget process.

Congress considers the President’s budget proposals and approves, modifies, or disapproves them. It can change funding levels, eliminate programs, or add programs not requested by the President. It can add or eliminate taxes and other sources of receipts, or make other changes that affect the amount of receipts collected.<sup>54</sup>



### Legislative Influence in the U.S.

Members of the U.S Congress have considerable influence over the budget. Both the House and Senate budget committees develop their own budget resolution with the assistance of the non-partisan Congressional Budget Office (CBO). The CBO provides Congress the necessary expertise to assess and often counter the President’s budget. Its staff of economists and public policy experts provide Congress with cost estimates of various policy options, as well as multi-year projections of government income. The CBO is an expensive resource, however. Its fiscal year 2000 appropriation totaled \$26.1 million (of which 87% went to personnel costs).

In contrast, most parliamentary systems allow the legislature to amend the budget to reduce or increase spending and taxes, but often only within specific limits (e.g., that the deficit may not exceed the target proposed by the government).<sup>55</sup> Even more restrictive are some legislatures in the Westminster tradition, which must either approve the budget in its entirety or defeat the government in a no confidence vote.<sup>56</sup>

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***Most parliamentary systems allow the legislature to amend the budget to reduce or increase spending and taxes, but often only within specific limits***

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Legislators can also counter executive domination by maintaining year-round control over the budget. In the U.S. state of Massachusetts, the legislature uses an internal rule of procedure—called a report-in-part—that allows it to reopen any portion of the current budget for revision whenever the executive (governor) requests supplemental funds. Thus, a program is subject to alteration or elimination at any time during the year, which makes executive agencies more responsive to the legislature.<sup>57</sup>

Authorization requirements are a common budgetary oversight tool in the U.S. Congress. Under this system, when Congress must first create the underlying program by passing a law—known as “authorizing” the program. Authorizing legislation commonly contains a description of the program and a ceiling on how much may be appropriated to fund it and for how many years. Then, in an entirely separate action, Congress may (or may not) appropriate funds for the program up to the maximum authorized amount.

When Congress passes a bill that creates a new program, the bill contains a provision such as:

“There are hereby authorized to be appropriated \$1,000,000 for the fiscal year 2001 to carry out the purposes of this act.” According to a Congressional expert, such a provision serves two purposes:

First, the amount authorized by the provision (\$1,000,000 in this illustration) becomes a ceiling on how much Congress can appropriate without violating the rules of the House of Representatives. Second and more importantly, Congress can only appropriate funds to implement the law for the one fiscal year (in this case, fiscal year 2001). When it comes time for Congress to appropriate funds for the next fiscal year, it would violate the House’s rules for Congress to appropriate any funds to implement the law during that fiscal year unless Congress first has passed a law extending the authorization of appropriations through the next fiscal year.<sup>58</sup>

This system requires Congress to pass two bills each year in order to allow a program to continue operating. One law authorizes appropriation for the program—and establishes policy boundaries—while the second specifies the amount of the appropriation itself. The re-authorizing process forces Congress to evaluate programs rather than just blindly appropriate additional funds year after year. Generally, the committee with jurisdiction over authorizing focuses its attention on programmatic oversight issues, allowing the Appropriations Committee to focus more on fiscal issues and maintaining spending restraint. As such, “Oversight becomes an almost inevitable byproduct of the congressional funding process.”<sup>59</sup>

### ***The Role of Committees***

Committees serve a critical function in both the legislative process and legislative oversight of the executive.<sup>60</sup> Committees provide a forum in which current laws, proposed bills, and other important issues can be studied in detail by legislators. Such forums also supply opportunities for legislators to focus their attention on, and im-



### “Sunset” Laws

**Once created, government programs tend to become permanent fixtures of the bureaucracy, occasionally long after the justification for their establishment may have disappeared. Legislators can counter this tendency by including a provision in the law stipulating a date at which the program ends. Programs subject to these “sunset laws” must be re-evaluated by the legislature before they can continue.**

prove their understanding of, one set of complex issues, increasing their ability to participate meaningfully in the legislative process.

A well-developed committee system brings with it an additional resource for the legislature: a competent committee staff. As illustrated in this section and in the subsequent discussion on oversight, committees and committee staff play a crucial role in the legislative-executive relationship.

Permanent committees typically oversee portfolios that parallel executive agencies or ministries. Sometimes they cover policy issues that span multiple agencies. Issue-based committees (or more narrowly-focused subcommittees) can be effective forums for enhancing legislators’ understanding of technical and complex issues. With the assistance of committee staff, members can become area specialists in their own right, and can be a trusted resource for their colleagues on policy specifics and nuances.

Committee hearings often act as a primary avenue to inject public opinion into the legislative process, allowing various elements of society and government the opportunity to offer their opinions and expertise on proposed legislation

(in contrast to plenary proceedings that are restricted to legislators). One survey of parliaments finds that public input can be found “principally in the committee stage.” The same survey notes, however, that restrictions on public contributions vary among legislatures:

[Public] involvement ranged from fairly restricted in Denmark, where after members of the public have sent in written submissions, the committee may invite witnesses to appear before it, usually for about a quarter of an hour. Danish committee members query witnesses but there is no “give and take” discussion between the committee and witness. This contrasts with the New Zealand Parliament where witnesses may also appear before committees to give oral evidence designed to supplement their written submissions.<sup>61</sup>

The degree of committee transparency varies from country to country. Swedish parliamentary committees meet in private, and according to the survey, this proves “conducive to a co-operative working environment within the committee, and these private stages are then balanced by the open parliamentary stages.”<sup>62</sup>

While private hearings may help legislators negotiate policy, they deprive the public of opportunities to participate in the legislative process and eliminate an opportunity for other legislators, particularly from minority parties, to raise critical issues publicly.

Committee staff play an invaluable role in developing and analyzing legislation. Like their executive counterparts, committee staff members focus on one policy area, and may work on a particular committee for many years. Their tenure often allows them to develop key relationships with the staff of executive agencies. According to one expert on the Swedish Parliament:



### Parliamentary Party Groups vs. Committees?

Although many parliamentary systems have implemented committee systems to help develop and assess legislation, parties continue to play a major role in this process. Parliamentary party groups provide a forum where fellow legislators can discuss issues and strategy with their colleagues, as well as receive political and technical support. Party groups often provide staff to help legislators draft bills and amendments, prepare for parliamentary questions, and conduct public hearings. Rather than competing with committees, in many cases work in party groups tends to strengthen committee systems.

The importance of informal links between legislature and executive cannot be understated (sic). In particular, there have been increased contacts between departmental civil servants and the well-developed staffs of the [Parliament's] standing committees. These are often at the instigation of the responsible minister with a view to disseminating information and culminate in a luncheon between officials representing Parliament and the political executive respectively.<sup>63</sup>

By developing cordial relationships with executive agencies, committee staff can improve cooperation between the legislature and the executive branch. Committee staff can help counter the enormous personnel advantages of the executive branch and so assist the legislature in analyzing legislation.<sup>64</sup>

Executive leaders may not always appreciate the committee's oversight role, however, given that they examine government programs and oversee their implementation. In parliamentary systems, governments often limit their support of and in-

teraction with committees. In addition, governments may seek to restrict the capabilities of committees through its control of parliamentary resources.

Effective committee systems can be costly in terms of time and resources. For the legislature, committees require sufficient funds for staff, office space and material. The executive branch incurs costs in the form of preparing reports and providing evidence for committee analysis. Therefore, governments may limit the amount they are willing to budget for committee-related items, as well as general parliamentary infrastructure. Therefore, it is imperative that legislatures have some degree of control over their own budgets.

Governments may not always perceive committees as adversarial. They may in fact be seen as an ally in advancing government agendas, particularly in parliaments where the government enjoys a large majority. In this context, committee chairs can manage the committee process to cast the most favorable light on government policies. Therefore, committees may offer a way for governments to delegate some tasks without necessarily risking loss of political control.

In general, legislators can use committees to affect policy and enhance the institution's position in legislative-executive relations. The Nicaragua National Assembly, for example, owes much of its increased capacity to "an active and extensive committee system."<sup>65</sup> And while their significance has long been recognized in presidential systems, committees are beginning to play an increasingly important role in many parliamentary systems as well.<sup>66</sup>

## 4. LEGISLATIVE OVERSIGHT OF THE EXECUTIVE

### *The Need for Oversight*

Oversight of the executive is perhaps the most important function of any legislature.<sup>67</sup> Oversight has become especially critical given the enormous powers wielded by executive leaders. As one expert on the French parliament notes:

The most important role of a modern parliament is, to quote Sir Kenneth Wheare's phrase, 'making the government behave'....The democrat looks to parliament to ensure that the executive is kept under scrutiny and prevented from abusing its power.<sup>68</sup>

Oversight is also the obvious follow-on activity linked to lawmaking. After participating in lawmaking, the legislature's main role is to see whether laws are being effectively implemented and whether, in fact, they address and correct problems as intended by their drafters.

### *Overcoming Political and Structural Disincentives*

Despite the importance of providing effective oversight, legislators often lack the political incentives to carry out this responsibility. Other activities such as policy issues, constituency service or seeking reelection, are frequently higher on legislators' agenda, while oversight is perceived of as "boring."<sup>71</sup> An analysis of legislative-executive relations in South Africa similarly notes that "oversight involves mundane work that provides very little of the public profile to politicians concerned with retaining their seats."<sup>72</sup>

Political incentives for oversight differ in presidential and parliamentary systems. In presidential systems, the constitutionally prescribed separation of powers fosters competition between the



### **Standing Committee on Economics in the Namibian National Assembly**

The Namibian National Assembly's Standing Committee on Economics has made a significant impact on economic policy. According to an expatriate observer there, "in nearly every case the committee's work results in an improved bill."<sup>69</sup> After consultations with the ministry and various stakeholders, the committee recommended 80 separate changes to the Value Added Tax bill in 2000. More than 60 of the committee's amendments were incorporated into the bill.

The committee frequently holds public hearings both in the capitol and the regions, where representatives of the concerned ministries, trade unions, and NGOs provide testimony. Newspapers and radio publicize hearing notices (a procedure practiced by all committees in Namibia). The committee also works very closely with the concerned ministries—"one of the reasons why so many of their amendments are accepted."<sup>70</sup> The committee writes a report after the investigation on each referred bill is completed and an annual report. When the house is in session, the committee meets at least weekly. The clerk of the committee provides administrative and research support for committee members.

legislative and executive branches. Legislators in presidential systems may have a greater incentive to oversee executive actions in order to improve their institution's standing (and by association their individual political reputations). This is especially the case during periods of divided government, an increasingly common phenomenon in the United States and France. As one U.S. congressional expert attests:



In times of divided government, congressional oversight offers a ready-made opportunity for the party controlling Congress to undermine public support for the President and his party, all in the name of satisfying one of Congress' constitutional responsibilities.<sup>73</sup>

Nevertheless, many presidential systems struggle to conduct effective oversight. The Chilean Congress is hampered by the lack of legislative sanctions, executive transparency (i.e., information about programs being reviewed), budgets for investigative committees, and opportunities for citizen participation.<sup>74</sup>

In parliamentary systems, majority control by the government, coupled with party loyalty, limits members' motivation to criticize executive policies. "It is not politically profitable to extend a searchlight upon one's own closest political allies or literally upon one's own party."<sup>75</sup> Pressure from above can further silence members. According to a deputy speaker in South Africa, "Ministers have a tendency to intimidate MPs when they become too inquisitive and ask probing questions about their respective departments."<sup>76</sup>

Parliamentary governments frequently make little effort to encourage oversight, and as noted above, can limit parliament's capacity to do so through their control of parliamentary resources, and of MP's prospects for advancement.

Electoral systems based on party lists can also hamper oversight efforts. In these systems, "when the parliamentary careers of MPs depend on their placement on their party's list, the last thing they want to do is to engage in activity that challenges the policies and actions of their own party's government."<sup>78</sup>

In parliamentary systems, ministers retain considerable control over the oversight process. This arrangement can severely limit parliament's at-

tempts to hold the government accountable. One British expert identifies three motivations for governments to curb oversight efforts:

First, governments simply find it easier that way.... Governments do not want to lay themselves open to wider and possibly more effective scrutiny, thus making life potentially more diffi-



### Oversight in Emerging Democracies

Oversight is particularly important in countries undergoing democratic transition, where authoritarian government has been the norm. As an NDI report on the South African National Council of Provinces notes:

Oversight is not simply a matter of policing government. If it is properly carried out by members of all parties, it will also contribute to the transformation of South Africa by ensuring that:

1. MPs can legislate in the future in a way that is alert to the successes and failures of past legislation;
2. Legislation is implemented as intended and is effective;
3. Government policy remains open to the needs and concerns of the people; and
4. Problematic laws are identified and changed.<sup>77</sup>

Citizens in countries undergoing democratization often have extremely high expectations for their new government. As such, legislative oversight by the legislature is especially critical.



cult... Second, governments do not wish to share power any more widely than absolutely necessary...; Third, and arising in part out of the second point, parties in power (and those who aspire to power) do not wish to see their ability to implement their policies diminished.<sup>79</sup>

A number of observers have found the British Parliament's capacity for oversight lacking. One experienced civil servant asserted that the British government "is not, in any real sense, accountable for the way it works."<sup>80</sup>

While these observations relate specifically to the British case, they may be characteristic of parliamentary systems in general. A Canadian scholar notes that though committees can help play an important oversight role in parliamentary systems, they are disadvantaged by "twin challenges":

In parliamentary systems based on the Westminster model, committees always have to contend with the twin challenges of, on the one hand, strong demands of the Government for control, even monopoly, of the business of Parliament, and, on the other hand, the desire of opposition and Government alike to continue the electoral battle in its committees.<sup>81</sup>

An Irish expert agrees: "Strong select committees do not blend easily with this constitutional model, which sees the cabinet as the center of power."<sup>82</sup> In the United Kingdom, perhaps the archetype of this model, ministers frequently can prevent select committees from debating their oversight reports in parliament.<sup>83</sup>

Nevertheless, some executive leaders are cooperating with legislative leaders to strengthen parliaments, both structurally and financially. The Danish Parliament has enjoyed increasing funding over the last decade. According to one study:

This policy is intended to enhance to parliament's ability to provide effective scrutiny of the execu-

tive. There is little point in parliamentary procedures that allow for parliamentary input in policy making or questioning members of the government if parliamentarians do not have the research and administrative staff to assist them.<sup>84</sup>

Improvements have also been made in New Zealand, where select committees were strengthened in 1985 to more thoroughly oversee government operations. The committees' terms of reference were expanded, enabling them to initiate inquiries, and subpoena persons and records.<sup>85</sup> In addition, rules now require the government to respond to committee petitions within 90 days.

Changes appear to be enhancing incentives for oversight in some cases, though the reasons for this shift are not entirely clear. One cause may be a growing feeling among MPs and others that governments have become overly powerful. After all, governments are supposed to be agents of parliament, not the other way around. Ishmael Roett, a parliamentarian from Barbados, summarizes this view:

Under the present parliamentary system, governments have come to be regarded as elective dictatorships, the public having no influence on the conduct of affairs between elections and Parliament having become powerless to exert any meaningful restraint as long as the government commands a majority.<sup>86</sup>

Diminishing party loyalty may also increase incentives for oversight, especially among MPs who perceive little chance of obtaining a government position.

Coalition governments might also contribute to better oversight, because some parties within the government may want to increase accountability of their partners. This can be particularly true with small or marginal coalition partners, who desire to increase the oversight abilities of parliament knowing that they will return to opposition ranks.



### Parliamentary Reform in Ireland

Ireland provides a dramatic case of parliamentary reform. In 1969, the Irish Parliament was described as “one of the worst organized, equipped and informed parliaments in the democratic world.”<sup>87</sup> MPs were crowded three or four to an office, and there was only one parliamentary secretary for every nine MPs.

After a decade of reform efforts, the Irish Parliament established a select committee system in 1983. According to one expert, “at no other time have [Irish MPs] received such informed research with which to pester the executive, or to form their own opinions on complex issues. Through investigating and interrogating, the new committees produced countless opportunities for future legislative initiatives.”<sup>88</sup>

Also at work may be the increasing acceptance of committees—even in parliamentary systems—as an effective oversight tool. Greater television coverage of oversight efforts, such as question time or committee hearings, may be seen as increasing the oversight leverage of legislators and enhancing political incentives for oversight.

Freedom of information laws—and investigative journalism—have also changed the political landscape, allowing legislators (as well as the general public) access to sensitive government documents.

### *Oversight by Committees*

Committees offer legislators powerful oversight tools. As one expert notes, committees “allow MPs to pursue a line of questioning with ministers in more detail than is possible during ques-

tion time or during debates on the floor of the house.”<sup>89</sup> Generally, committees employ two oversight mechanisms. One allows committees to request written information from the relevant government and expert sources. In some countries, such as the United States, committees enjoy subpoena power to enforce such requests.

The hearing process constitutes another oversight mechanism. Hearings allow various elements of society—business and NGO leaders, scientists, and citizens—to comment on the effectiveness or efficiency of government programs. Hearings may also give parliamentarians, particularly members of the minority, an opportunity to pose direct, policy-related questions to ministers or other government officials. Often, hearings themselves are the result of citizen complaints. In the Republic of Georgia, for example, the Agriculture Committee held public hearings in 1998 on the implementation of a land privatization policy in response to numerous letters from distressed farmers. The hearing led to the dismissal of a local governor (a presidential appointee).<sup>90</sup>

As noted in the discussion on the legislative process, committee hearings may be conducted privately or be open to the public. The choice carries major implications for oversight. Private (closed) hearings have the potential to increase intra-party and inter-party cooperation, and minimize government embarrassment. Hearings held out of public view may foster substantive policy changes over political competition. However, closed hearings reduce transparency and deprive the media and the public of an important opportunity to engage in the process of policy development and implementation.<sup>91</sup>

Open hearings, by contrast, may increase political incentives for oversight. From the U.S. perspective, “At least with oversight hearings open

to public view, members could envision the possibility of reaping some favorable publicity in recompense for their efforts.”<sup>92</sup> General oversight hearings typically receive little attention from the American media. It is only when hearings become investigative inquiries into criminal conduct or gross incompetence that the media are fully engaged.

The United States Congress is the preeminent example of a strong oversight committee system. Both the House of Representatives and the Senate possess approximately 20 permanent committees, specializing in issues ranging from agriculture to transportation to veterans’ affairs. In addition, each committee has a number of subcommittees to focus on more specific issues within the full committee’s broader jurisdiction. Congress also operates numerous temporary commissions and task forces to examine major issues such as security in Europe and tax reform, as well as joint committees of the two chambers.

The committee system of the United States Congress—generally regarded as a model of strong oversight—is nevertheless the subject of significant criticism. Some researchers argue that congressional oversight is conducted primarily in response to “fire alarms” such as scandals and policy crises.<sup>94</sup> This argument makes sense given the normally tedious nature of oversight, for both legislators and the public.

Efforts to improve the situation have had little effect, even by Congress’ own admission. A 1993 congressional report concludes, “the oversight function is more often than not disregarded and needs to be strengthened.”<sup>98</sup> An example of such disregard can be found in the House’s response to reforms enacted in 1974. These reforms encouraged (but did not require) larger committees to create a subcommittee devoted specifically to oversight. However, as of 1998, only five of 13 committees had done so.



### Site Visits

According to a former senior member of the U.S. Congress, “there is just no substitute for staff and members being on site to see how a program is developing.”<sup>93</sup> Site visits have many benefits. They allow legislators (or their staff) to oversee programs and detect problems in their implementation. Visits give executive officials a chance to explain their programs in detail, and perhaps assuage legislators’ concerns. Visits also increase communication between legislators and executive officials, which can help to develop cooperative relationships.

Despite political and structural obstacles, committees remain a promising oversight tool. Committee activity facilitates the development of networks between MPs, civil servants, and interest groups—networks that encourage information flows about policy implementation. Committee also encourage MPs to develop expertise in specific policy areas, which in turn allows them to confront ministers on a more equal footing. One British journalist notes the empowering nature of committees in the House of Commons, as well as their increasing contribution to oversight.

I have sensed a serious underlying shift of political energy and media attention, away from the chamber and into the committees....Reputations are being made and lost there, ministers are squirming there, opposition MPs are able to insist on answers there, everything seems more grown-up there. On the floor of the House they are not. Committees feel important; the chamber does not.<sup>99</sup>

### Public Accounts Committees

Public Accounts Committees, or PACs, are popular oversight mechanisms in Commonwealth



### Oversight Committees

Critics argue that the American committee system leads to fragmented and uncoordinated review of executive policies. In response to such assessments, the House established the Committee on Government Reform, a single committee devoted solely to oversight. House rules empower this committee to “review and study on a continuing basis the operation of government activities at all levels with a view to determining their economy and efficiency.”<sup>95</sup> While the Committee can be a powerful oversight mechanism (especially during periods of divided government), its “extraordinarily broad mandate” limits its focus to only a relatively small number of issues during each two-year Congress.

Sweden also possesses a committee devoted exclusively to oversight, called the “parliamentary auditors.” Unlike the National Audit Office, which is part of the executive branch, the parliamentary auditors are a body of 12 MPs and 25 civil servants. They are empowered to audit “the entire chain from policy development in parliament through to implementation in state agencies. The audit focuses on the whole system and broad policy questions...and is not limited to narrow operational details.”<sup>96</sup>

An NDI report on South Africa’s National Council of Provinces recommends that a similar committee be established for that chamber. The report argues that a “specialized committee is best suited for the tasks of assembling and assessing necessary information and reports concerning implementation results because of the large workload associated with such tasks and the development of expertise that would be needed.” According to the reports’ authors, the expertise required to conduct oversight is different from that in committees dedicated to specific portfolios.<sup>97</sup> The report also asserts that a single committee for implementation review would be the most effective use of scarce staff resources, because it would concentrate review staff in one committee, rather than spread them over the entire committee system.

countries. Generally chaired by a member of the opposition, PACs oversee the integrity, economy, efficiency and effectiveness of government financial management by examining government financial documents; and considering the reports of the Auditor-General or Comptroller.<sup>100</sup>

In Nepal, for example, the PAC has since the mid-1990’s been an increasingly effective oversight mechanism, investigating numerous allegations into government malfeasance. The PAC’s success stems from several factors. One, the PAC develops a year-long calendar of activities to

track government spending. Two, the committee has developed a strong relationship with the Auditor General, and has increased its contact with him from little more than twice a year to regular briefings. And in order to improve their ethical standing, PAC members voluntarily disclose their assets even though Nepali law does not require it.<sup>101</sup> Steps such as these have earned members of the PAC considerable praise. An editorial in *The Katmandu Post* asserted that the Nepali PAC “is helping to instill a confidence in democratic norms and practices.”<sup>102</sup>

Despite the success of PACs, they are frequently hampered in their efforts to complete their primary mission: compiling an annual report on government expenditures. Such a report requires PACs to accumulate an incredible range of information covering an entire fiscal year. As a result, the final PAC report often focuses on events that took place months, even years earlier. Such a delay makes oversight difficult and potentially less effective.

### *Parliamentary Questions*

Parliamentary questions—a mechanism by which legislators can request information from executive leaders and call them to account on policy actions—are the traditional form of oversight in parliamentary systems. Although originally developed in the British House of Commons, this practice can now be found around the world.<sup>103</sup>

Parliamentary questions are best known in their oral form, when opposition members interrogate government leaders on policy issues during a forum known as “question time.” Question time is generally a dynamic and very public process. In Australia, “the importance of question time is highlighted by the fact that at no other time in a normal sitting day is the House so well attended.” The general public and the media also take an increased interest in this aspect of parliamentary proceedings, especially in case of the British House of Commons. This is not the case everywhere, though. In France, broadcasts of question time “have an extremely limited audience and no political effect at all.”<sup>107</sup>

Question time serves essentially two purposes. One purpose is oversight. Forcing parliamentary leaders to answer questions allows ordinary MPs and the public-at-large to examine (and eventually pass judgment on) government policies. The second purpose is political. Parliamentary ques-



### **Parliamentary Questions**

A parliamentary advisor in Ghana reported in 1998 that there were 258 questions pending for the Ghanaian ministries, dating back 16 months. The situation improved somewhat in late 1998 and early 1999, when the media reported allegations about ministers blatantly undercutting the parliament’s authority. Pressure was placed on the government to honor the requests and ministers began appearing in 1999. Though the number of backlogged questions dropped to 60, many MPs remained frustrated:

There are still grumblings from backbenchers that Ministers still do not adhere to the time limits for answering questions [three weeks], avoid answering questions, and make empty promises and assurances.<sup>104</sup>

The Government Assurances Committee is tasked with following-up promises made by ministers during question time.<sup>105</sup> While the Committee rarely met, it has shown increasing signs of asserting its role. During the first two sessions of 2000, the Committee met at least ten times, called two Ministers in for questioning (including the Minister of Finance), requested and received information from various Ministries, and is preparing a report to be laid before Parliament for debate in the last meeting of 2000.<sup>106</sup>

tions offer a forum to both governing and opposition parties to engage in partisan debate, often for the benefit of an interested public.

Members of the opposition focus primarily on issues on which they disagree with the government and believe they can score political points.



To this end, they will often ask follow-up, or “supplementary,” questions in order to further highlight policy differences between the parties. For its part, members of the ruling party will ask questions that highlight government successes and cast opposition policies in a negative light.

In some parliaments, question time dictates that all ministers be present. This is the case in Australia, but British rules only require the presence of those ministers who have been given notice. Australia also differs from the United Kingdom in that questions are put to ministers without notice. As a result, ministers must answer questions on the spot and therefore have less time to fashion a response to the government’s advantage.<sup>108</sup>

In contrast, ministers in Morocco are given 20 days to answer a question. This significant delay permits the government extra time to either craft a politically favorable response, or merely allow the issue to die down and become irrelevant.

Each legislature sets out rules that dictate the procedure for parliamentary questions and answers. Many of these rules appear to organize a strict and orderly process. In practice, however, question time can be quite chaotic, a feature that makes it all the more popular with members and the public.<sup>112</sup>

Oral questions are not the only form of parliamentary questions—written questions have also become an important part of the process. The format of written questions varies. In the United Kingdom for example, some written questions are those left unanswered when question time expired. Others are specifically designed for a written response.

According to some scholars, little distinction exists between the written and oral questions. However, written questions “represent a good and



### Interpellations

Interpellations (or interpolations) are similar to the oral parliamentary questions raised during question time. However, while questions tend to be a brief interaction intended to highlight differences between the government and the opposition, interpellations are designed to provoke comprehensive debate on an issue or a particular case of ministerial neglect.

Interpellations occasionally end with a formal resolution from parliament. In these cases, the legislator who filed the interpellation will make a motion that the minister in question was negligent and should resign. Typically however, government majorities make passage of such a motion unlikely.

In Germany, both written and oral forms of interpellations exist. The latter form, termed “major interpellations,” are concerned with matters of general political importance and are intended to bring about a public debate. In contrast, “minor interpellations” seek detailed information on a specific policy issue. Both forms must be signed by a parliamentary group of at least 34 Members.<sup>109</sup> In Indonesia, at least 10 legislators from two party factions are required to file an interpellation.<sup>110</sup> In Belgium, a single legislator may file an interpellation.<sup>111</sup>

relatively quick way for a member to get authoritative information or a formal, ‘on the record’ statement of government policy.”<sup>113</sup>

Although they offer an opportunity for MPs to engage in political dueling, parliamentary questions may be an ineffective tool for oversight. One problem is that many issues go unaddressed. In other cases, MPs ask irrelevant or inappropriate questions that focus on personal or political





### Question Time in the Canadian House of Commons<sup>121</sup>

In rising during Question Period, a Member should pose a question, be brief, seek information, and address the question to an important matter of some urgency that is within the administrative responsibility of the Government or the Minister addressed. A question should not be a statement, representation, argument, or an expression of opinion; be hypothetical; seek an opinion, either legal or otherwise; suggest the answer; address a Minister's former portfolio or any other presumed responsibility apart from the portfolio he or she currently holds; have been previously answered; be on a matter that is *sub judice*; or anticipate the Orders of the Day.

In response to a question, Ministers may answer, defer an answer, take the question as notice, explain briefly why they cannot give an answer at that time, or say nothing. Supplementary questions should contain no preamble or statement, be precise and be presented directly and immediately to the Minister.

Members who consider the answers they receive unsatisfactory may raise the questions again during the adjournment debate, providing they give written notice to the Table not later than one hour following Question Period on the day the question was raised. If the matter has not been raised on or before the forty-fifth sitting day following the notice, it is deemed withdrawn.

issues rather than on particular policies. Other questions become rambling political speeches perhaps appropriate for another forum.<sup>114</sup>

A common problem with question time is that substantive answers are often avoided.<sup>115</sup> In Australia, the requirement that ministers provide “relevant” answers is only very loosely adhered to.<sup>116</sup> Similarly, in the United Kingdom, “Ministers may give no more information than the precise terms of the question require, and often considerably less. It is impossible to compel a Minister to tell everything he knows on every topic.”<sup>117</sup>

From an executive’s position, at least as expressed by the Yemeni Prime Minister, the parliament summons ministers to testify or answer questions without due notice, and MPs often have no understanding of the formal channels for conducting their affairs with the executive. Yemeni MPs, in turn, asserted that they are totally ig-

nored by ministers, have no recourse when ministers refuse to appear before parliament, and are not given adequate information about ministerial administration and budgets to form proper questions.<sup>118</sup>

In Poland, MPs vote to approve or reject ministerial answers to parliamentary questions. According to a former Polish MP and Minister of Education, while “rejection of the government’s answer has no practical consequence, it is a slap in the face and for obvious reasons the government tries to avoid this.”<sup>119</sup>

#### **Confidence Votes**

One of the most powerful—and explosive—tools a parliament has to oversee the executive lies in its ability to reject it altogether through a vote of no confidence.<sup>120</sup> As two legislative scholars observe, “In a very real sense, one of the main jobs of the legislature in a parliamentary democracy is



### Relations with the Media

Good relations with the media can significantly improve legislative capacity. However, developing and maintaining these relationships requires considerable effort. This is especially true given the natural advantages enjoyed by executive leaders. In addition to wielding more political power, executive leaders are fewer in number and more easily recognized than legislators. Therefore, executive leaders generally receive far more public attention than legislators.<sup>123</sup>

Given this disadvantage, legislators must make every effort to attract attention to themselves and their issues. Good relations with the media do not require exorbitant resources. Instead, good media relations require that legislators make it easy and interesting for journalists to follow their operations. For example, journalists should have access to plenary sessions and committee hearings. The legislature should provide prompt transcripts and, where possible, office space and support.

The U.S. House of Representatives, for example, maintains three rooms, or “galleries,” to assist the media. These galleries serve as a liaison between individual member offices and the media, and are administered by an executive committee of correspondents.<sup>124</sup>

to sit as a court passing continual judgment on the record of the executive, and continuous sentence on its future prospects.”<sup>122</sup> Confidence votes are more frequent in coalition governments, whose fractious nature occasionally causes one or more parties to drop out and vote against the government.

Successful no-confidence votes naturally lead to political upheaval. A succession of confidence

votes can result in considerable instability as governments constantly come and go (Italy is a prime example). To avoid this situation, some countries have followed Germany’s lead and instituted a “constructive vote of no confidence.” This provision, found in article 67 of Germany’s Basic Law, requires that a motion proposing a vote of no confidence also contain the name of the new prime minister (or Chancellor). According to the German Ambassador to India, the constructive vote of no confidence “proved to be the backbone of political stability in Germany. Majorities are easily available to kick a government out of office. However, it is so much more difficult to produce a majority to elect a new man to replace the present office holder.”<sup>125</sup>

In some countries, such as Canada, every policy vote represents a potential confidence vote. In other words, a tradition of strict party loyalty dictates that the majority party will support all government proposals. If not, the government has effectively lost the confidence of parliament. This practice has displeased some government backbenchers, because of its “chilling effect” on parliamentary criticism.<sup>126</sup>

Like Hungary, Poland has the option for a confidence vote on an individual minister, which is not a referendum on overall government policies, but rather on that person’s performance in office. Former Polish MP Jerzy Wiatr describes the procedure as “a very unpleasant experience for a Minister.... His critics take the floor and speak about his shortcomings. He can defend himself but is on the defensive. All this is televised so the people in the country can watch.” According to Wiatr, the final vote is not very important, since the governing majority will inevitably fend off the opposition. “But all this criticism still remains in people’s memories. So it is still important to avoid it. This gives the opposition a certain leverage.”<sup>127</sup>



### Relations with NGOs

Like the media, NGOs can be useful allies for legislators to spread their message. Not only do NGOs frequently possess a membership base, they often maintain extensive networks with other groups. In addition, because NGOs typically know a great deal about their issues, NGOs can provide legislators with valuable information to assist them in their oversight efforts. NGOs can also supplement research efforts in legislatures where lack of resources limits the ability to fund legislative staff. For example, an NDI report recommends that the South African National Council of Provinces look to NGOs (as well as universities and the private sector) to “loan” temporary staff members to parliament to conduct legislative research and other duties.<sup>128</sup>

### External Oversight Mechanisms

Legislators can also establish institutions outside of the legislature to assist them with legislative oversight. Although independent, these entities typically report directly to the legislature. Their work relieves legislators from some of the burdens of oversight, much of which requires continual examination and painstaking attention to detail.

#### *Ombudspersons*

Originally developed in Sweden in 1809, an ombudsperson is an independent and impartial officer who investigates complaints of government malfeasance and reports directly to the legislature. Diverse countries around the world have established such a position—one expert describes the spread of ombudspersons as “a worldwide phenomenon.”<sup>129</sup>

Ombudspersons play a crucial role in strengthening legislatures, especially for “parliaments that have lost ground in legislative and budgetary matters” to the executive.”<sup>130</sup> Ombudspersons are usually appointed by the legislature, and in rare cases by the council of ministers. In Poland, for example, the parliament appoints the ombudsperson to a four-year term, during which the office holder may be removed only if she or he commits a breach of the ombudsperson’s oath.

The highly personalized nature of the institution makes the selection of an ombudsperson especially critical. The office-holder must be recognized as a person of high integrity with strong administrative abilities. In addition, a description of British ombudspersons notes that independence is vital to their effectiveness. “Ombuds[persons] are constitutionally independent of other institutions of the state and government, and cannot be controlled by them; for instance, an investigation cannot be halted because it might embarrass or inconvenience a Minister or the Government.”<sup>131</sup>

Many countries employ more than one ombudsperson. For example, Hungary has four ombudspersons: the Parliamentary Commissioner (general ombudsperson), the Parliamentary Commissioner for Human Rights, the Parliamentary Commissioner for Data Protection and Freedom of Information, and the Parliamentary Commissioner for Ethnic Minorities.<sup>132</sup> In New Zealand, there is a special Parliamentary Commissioner for the Environment.<sup>133</sup>

#### *Auditors-General (or Comptrollers)*

Auditors-General are similar to ombudspersons, except that their responsibilities are limited to matters relating to the receipt and disbursement of public funds. The office of the auditor-general employs a variety of professionals—economists, auditors, lawyers, program evaluators, public



### The U.S. General Accounting Office

The General Accounting Office (GAO) plays a major role in assessing and overseeing executive programs. Many of its reviews are made in response to requests from members of the relevant Congressional committee.<sup>135</sup> The GAO is headed by the Comptroller General, who is appointed to a 15-year term by the U.S. President with the advice and consent of the Senate.

Congress empowers the GAO to investigate cases of bureaucratic negligence. In May 2000, for example, a House Judiciary subcommittee concerned about security in federal buildings commissioned a GAO investigation to probe potential security lapses. GAO investigators masquerading as law enforcement officers found that they could easily enter supposedly secure buildings such as airports, the Pentagon, the FBI and the State Department. The results of the investigation were shared with the agencies in a closed-door meeting so that security measures could be improved. Portions of the report were also made available to the media. In the end, the investigation served two purposes. One, it proved to be a valuable form of legislative oversight that led to significant security improvements. Two, it served a political purpose by allowing Members of Congress to publicly criticize administrative practices and show that Congressional actions were in the public's best interest.<sup>136</sup>

policy analysts, etc.— to assess government spending habits and to report any discrepancies to the legislature. As the Australian Office of the Auditor-General notes:

The Office of the Auditor-General performs a role for which Parliament itself is not well suited.

The Auditor-General has the resources, knowledge and technical expertise needed to assess whether government agencies present financial statements which fairly represent their financial position and which comply with relevant laws and standards.<sup>134</sup>

Like ombudspersons, the auditor-general reports directly to the legislature and usually works closely with the legislature's public accounts committee.

### Legislative Liaison Offices

Another tool that can improve oversight (as well as legislative-executive relations in general) are intergovernmental liaisons. In Georgia, for example, the president has a liaison representative in parliament, while the Scottish parliament has instituted a ministerial position to oversee government business in parliament.<sup>137</sup>

The success of these offices requires the cooperation of both legislators and executive leaders. In 1999, a Yemeni Minister for Labor visited the U.S. Department of Energy's Legislative Liaison Office to learn how to establish such an entity in Yemen. The office director outlined a number of points that helped the office improve relations between the Department and Congress:

1. **The Role of Staff:** Both the House and Senate liaisons had served as staff in Congress for many years and thus enjoyed close relationships they could use to the benefit of the Department. Furthermore, liaison staff plays a key role, in supplying timely (and copious) information to Members of Congress in order to build support for its legislative agenda.
2. **The Importance of Media:** Strategic use of the press was introduced as a way of giving the appearance of momentum behind particular initiatives.

3. Cooperation rather than Contention: Positive relations with Congress are a vital component of any successful initiative. Rather than viewing Congress as a nuisance, the Department saw it as a key source of potential ideas and political support.<sup>138</sup>

## 5. TOOLS TO LEVEL THE PLAYING FIELD: CONCLUSION

Vibrant, active legislatures are an essential component of democracy in the 21st century. Although the executive may enjoy some natural advantages in setting the policy agenda, including better access to information and resources, legislatures have a legitimate and substantial role in meaningfully deliberating and passing legislation and performing oversight of the executive.

While this legislative role is universally recognized and established in most nations' constitutions, it is a frequent source of friction and disagreement between legislatures and executive the world over. Creating a workable, mutually agreed upon balance can be an extremely difficult task.

The relative balance of legislative-executive power in a country is a constantly evolving dynamic. The balance may ebb and flow as personalities, politics, current events and public opinion alter the political landscape. In the United States, for example, many laws extending prerogatives and authorities to the executive branch were repealed in the mid-1970s in response to high-level malfeasance associated with Watergate.

Many emerging democracies with a legacy of strong "top down" executive leadership struggle to determine the proper balance of power between the legislature and executive. In addition to the difficulties posed by a powerful and en-

trenched executive branch, legislatures in these situations are often unsure of their privileges, lacking precedents, and operating under a new, unproven constitution.

This paper has outlined the foundations of legislative-executive relations in parliamentary and presidential systems including:

- \* The fundamental differences in parliamentary and presidential systems; and,
- \* Incentives and disincentives for confrontation and compromise, including paths to executive leadership and the role of backbenchers and opposition.

The paper has also highlighted some of the tools and mechanisms that are used by legislatures in both established and emerging democracies to assert their legitimate rights and exercise their prerogatives in the policymaking and oversight spheres.

In the area of policymaking, legislatures have developed mechanisms to assist them in the following areas:

- \* Participating in the pre-legislative stage of policymaking;
- \* Initiating legislation;
- \* Amending bills;
- \* Debating and approving/rejecting legislation;
- \* Participating in the budget process; and
- \* Strengthening the deliberative role of committees.

To assist themselves in fulfilling their oversight responsibilities, legislatures have developed the following tools:



- \* Oversight by committee, including creation of separate oversight and/or public account committees;
- \* Establishing formal mechanisms for posing oral and written questions to ministers;
- \* Confidence votes; and
- \* External oversight mechanisms such as ombudsmen, auditors general, comptrollers, and legislative liaison offices at ministries.

Legislators in democracies worldwide are using these and other tools to achieve greater balance in legislative-executive relations and enhance their participation the policymaking and oversight process. This ongoing effort requires the commitment from both executive and legislative sides of the relationship, as well as civic leaders, the media and the public at large.

## APPENDIX I : ROLE OF LEGISLATURE IN LAWMAKING AND OVERSIGHT PROCESSES

The following charts summarize various components of legislative-executive relations and draw distinctions between legislatures that are active partners in this relationship and those whose influence is quite limited. As with the text, the charts separate the information into participation of the legislature during the legislative process and participation of the legislature in oversight efforts. These charts roughly describe the issues discussed at length above. For country examples, additional details, explanations and exceptions, please refer to the relevant section(s) in the text.

<b>Participation of Legislature in Lawmaking Process</b>			
	<b>Extensive Participation</b>	<b>Limited Participation</b>	<b>Little or No Participation</b>
<b>Pre-Introduction</b>	Extensive executive consultation with Parliament prior to introduction of major bills, budget (MPs on Green Paper Commissions, MP's comments are incorporated into legislation).	Consultation limited and recommendations seldom incorporated into bills.	Bills introduced with no legislative consultation and input.
<b>Introduction</b>	Individual members, including opposition and backbenchers, may introduce bills with no restriction.	Some limitations on member bills (e.g., bills may not have financial consequences).	All bills initiated by government.
<b>Committee Review</b>	Strong committee system: <ul style="list-style-type: none"> <li>• Active hearing schedule</li> <li>• Ministers testify</li> <li>• Amendment power/Subpoena power</li> <li>• Member/staff expertise</li> </ul>	Committees may have some legislative responsibility, but may be unable or unwilling to aggressively exercise it.	Inactive committee system with no independent authority and limited expertise and resources.
<b>Legislative Capacity</b>	Legislators are sufficiently trained, possess staff and resources to independently analyze proposals and develop alternatives.	Legislature has some ability to develop and promote its agenda, but may be limited by lack of resources and/or political will.	Legislature is untrained, understaffed and under-equipped, giving executive leaders major policymaking advantage.
<b>Budget</b>	Members take active role in debating and amending budget; changes in budget do not undermine government.	Parliament has some ability to modify the budget.	Amendments to budget not permitted; defeat tantamount to vote of no confidence.

<b>Degree to which Legislature Conducts Legislative Oversight</b>			
	<b>Comprehensive Legislative Oversight</b>	<b>Limited Legislative Oversight</b>	<b>Little or No Legislative Oversight</b>
<b>Committee Oversight</b>	<p>Strong oversight by committees:</p> <ul style="list-style-type: none"> <li>• Committee has adequate staff and expertise</li> <li>• Ministers attend oversight hearings and respond promptly to written requests for information</li> <li>• May conduct investigations and/or site visits</li> </ul>	Committees respond solely to issues brought to their attention, but lack comprehensive or proactive approach to oversight; Committees may lack critical expertise or resources.	Lack of committee oversight; Committee hearings seldom include ministers or other high government officials; written requests for information are ignored.
<b>Public Accounts Committee</b>	Separate, well-staffed and funded Public Accounts Committee conducts coordinated oversight of government expenditures; coordinates efforts with Auditor General.	Existing Public Accounts Committee, but may be understaffed or under funded.	No Public Accounts Committee; Legislative oversight of financial policy is under-resourced or non-existent.
<b>Parliamentary Questions</b>	Frequent use of parliamentary questions; ministers are required to respond appropriately and promptly; Prime Minister and other Ministers attend public “Question Time.”	Legislature uses parliamentary questions, ministers often evade questions and/or give insufficient responses; opposition may be given adequate opportunity to raise issues.	Limited or no use of parliamentary questions; ministers ignore written questions and do not attend “Question Period.”
<b>Independent External Oversight</b>	Existence of independent, well-staffed external oversight entities such as Auditor General, Comptroller, Ombudsman.	Some institutions exist, may be underfunded, understaffed, or underutilized by legislature.	No independent external oversight entities; parliament must identify and pursue oversight issues on its own.

## APPENDIX II: SHOULD MINISTERS SERVE ON PARLIAMENTARY COMMITTEES?

COUNTRY	Can Ministers Serve on Committees?
Argentina	No
Bangladesh	Yes, although not as chairs
Belgium	No
Bosnia-Herzegovina	No
Bulgaria	No
Canada	Minister: No Parliamentary Secretaries: Yes
Costa Rica	No
El Salvador	No
France	No
Germany	No
Ghana	Yes
Hungary	No
India	No
Ireland	No

COUNTRY	Can Ministers Serve on Committees?
Japan	No
Jordan	No
Malawi	Yes
Morocco	No
Namibia	No
Portugal	No
Romania	No
Russia	Duma: No Council of the Federation: Yes, if the minister is a Council deputy
Senegal	No
Thailand	Senate: Yes, by Senate Resolution House: No
Turkey	No
United Kingdom	No
United States	No

The question of whether ministers should serve on committees has been particularly controversial, and has a major effect on legislative-executive relations. In a few cases, governments have attempted to control committee activity by placing ministers on committees, occasionally as chairs. However, this practice severely limits committees' independence from the executive branch. Consequently, the vast majority of legislatures do not allow ministers (or other executive leaders) to serve on permanent committees.<sup>139</sup>

The table above compares the rules regarding ministers sitting on committees in 26 established and developing democracies. Only five of the selected countries—Russia, Thailand, Bangladesh, Ghana and Malawi—allow ministers to sit on committees. However, the Russian and Thai cases are limited to the upper chamber. In the Thai case, a Senate resolution is required, and in Russia, ministers may sit on Council of the Federation committees only if they are already members of that chamber.

In Bangladesh and Ghana, ministers serve on committees related to their portfolio, but typically not as chairs. This practice effects legislative-executive relations both positively and negatively in Bangladesh. According to NDI officials there, MPs are not intimidated by the ministers' presence. Indeed, MPs appreciate that the structure nearly guarantees that ministers participate in committee activities. In contrast, this arrangement does not always sit well with committee chairmen, who are appointed by the government. Fearing political repercussions, chairmen rarely confront ministers aggressively, and worry that committee demands will prove overly burdening for ministers.

In Malawi, ministers serve on committees, but not (with one exception) on committees related to their portfolio. The presence of ministers on committees has been ruled unconstitutional, but the practice continues nonetheless. According to NDI sources there, this custom is problematic for committee members from both ruling and opposition parties. In the case of members from the ruling party, their ability to speak freely is often compromised because of party interests. Likewise, committee members from the opposition do not trust ministers, thereby restricting the level of debate and cooperation between members that exists when ministers are not present.

The Canadian case also deserves special attention. There, ministers do not serve on committees, but their parliamentary secretaries do. Although they are not formal cabinet members, parliamentary secretaries serve as "eyes and ears" for ministers and help guide committee discussion based on the Government's policy wishes. Although parliamentary secretaries possess the same voting power as other committee members, their close relationship to their minister gives them considerable political power. Parliamentary secretaries affect committees in two ways. On the one hand, their presence increases communication between ministries and committees, and therefore may aid legislative development. On the other hand, their presence also decreases committee independence from the executive branch, and therefore may reduce the ability of committees to conduct oversight.



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## Endnotes

- 1 Terminology note: this paper employs the term “legislature” (rather than assembly, parliament, or congress) while acknowledging that in many countries, the majority of lawmaking occurs in the executive branch. According to Webster’s Third New International Dictionary, a legislature is “an organized body having the authority to make laws for a political unit.” For this reason, we use the term “legislature.” In addition, the terms “government” and “executive branch” can be confusing depending on whether one’s perspective originates in a parliamentary or presidential system. For the most part, this paper employs the two terms interchangeably, with greater use of “government” when referring to parliamentary systems. For a discussion on the use of the term “legislature,” see Winfried Steffani, “Parties (Parliamentary Groups) and Committees in the Bundestag,” in *The U.S. Congress and the German Bundestag: Comparisons of Democratic Processes* (Boulder, CO: Westview Press, 1990), pp. 273-274; and Matthew Soberg Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992), p. 3, nt. 2.
- 2 Parliamentary scholar Philip Norton remarks, “parliament is the essential link between citizen and government.” “Strengthening Parliament” (London: Commission to Strengthen Parliament, 2000), p. 4. While acknowledging the lawmaking and oversight functions of legislatures, Secretary General of the Inter-Parliamentary Union Anders B. Johnson notes, “the very essence of parliament is representation.” “Key-Note Address,” Second International Conference on Legislative Strengthening, Wintergreen Resort, Virginia, 5 June 2000, p. 1.
- 3 Larry Diamond, *Developing Democracy: Toward Consolidation* (Baltimore: Johns Hopkins University Press, 1999), p. 98.
- 4 Additional information on differences in governmental design can be found in a United Nations Development Programme document entitled, “Governing Systems and Legislative-Executive Relations.” Available at: <http://magnet.undp.org/Docs/parliaments/governing%20system.htm>.
- 5 *Ibid.* For additional information on the collective nature of ministerial decisions, see Michael Laver and Kenneth A. Shepsle, eds. *Cabinet Ministers and Parliamentary Government* (Cambridge: Cambridge University Press, 1994), pp. 298-300.
- 6 For a simple description of “collective responsibility” in cabinet decision-making, see the New Zealand Parliament website at <http://www.dpmc.govt.nz/cabinet/guide/1.html#1>. See also, John P. Mackintosh, *The British Cabinet* (London: Stevens and Sons, 1997), pp. 531-536.
- 7 In Ireland, the Constitution provides that “the confidentiality of discussions at meetings of the Government shall be respected in all circumstances save only where the High Court determines that disclosure should be made.” [Art. 28§4.3] Available at: <http://www.irlgov.ie/taoiseach/publication/constitution/english/contents.htm>.
- 8 In the presidential systems of South Korea, Nigeria, the Philippines, and the United States, the legislature plays a role in executive appointments. Legislative authority varies, from the power of outright rejection, to an advisory role (for example, the U.S. Senate’s “advice and consent” on presidential appointments). Legislatures in some presidential systems (primarily in Latin America) possess the ability to censure cabinet members, a process which leads occasionally to their dismissal by the president. For additional information, see Shugart and Carey, *Presidents and Assemblies*, pp. 106-130; and David Close, ed., *Legislatures in the New Democracies in Latin America* (London: Lynne Rienner Publishers, 1995).
- 9 Arend Lijphart, ed., *Parliamentary Versus Presidential Government*, (New York: Oxford University Press, 1992), p. 3.
- 10 The result of cohabitation in the French case was the division of policy arenas; the president traditionally assumed primary responsibility for foreign affairs and the prime minister assumed control over domestic issues. Such a strict division is not the case today, however, as Prime Minister Lionel Jospin (of the Socialist Party) and President Jacques Chirac (of the Neo-Gaullist party) have come to a bipartisan agreement on French foreign policy. “Background Notes: France, June 1999,” U.S. Department of State, Bureau of European Affairs. Available at: [http://www.state.gov/www/background\\_notes/france\\_9906\\_bgn.html](http://www.state.gov/www/background_notes/france_9906_bgn.html).

- 11 UNDP, "Governing Systems and Legislative-Executive Relations," p. 2.
- 12 Michael L. Mezey, "Legislative-Executive Relations," in George Kurian, ed., *World Encyclopedia of Parliaments and Legislatures* (Washington, DC: Congressional Quarterly Books, 1998), p. 781. Also, see Arend Lijphart, "Theoretical Observations," in Juan L. Linz and Arturo Valenzuela, eds., *The Failure of Presidential Democracy* (Baltimore, Md.: Johns Hopkins University Press, 1994).
- 13 Paradoxically, amending government legislation can prove to be counterproductive for the opposition. An opposition-inspired amendment may improve a bill, but the government still receives primary credit for its passage. Therefore, the opposition may choose to leave a "problematic" bill as is, and then use it as an example of government ineptitude once the bill becomes law.
- 14 NDI, "Party Caucus Workshop Report: The Role of the Groupe Parlementaire Workshop," 27 February to 1 March 1998 in Rabat, Morocco, p. 3.
- 15 Dr. Jerzy Wiatr, former Polish Minister of Education concurs:  
"More than 60% of government-sponsored bills received support from at least some part of the opposition. This is a good phenomenon because it shows that opposition in Poland doesn't take a simply negative stance, saying no to anything from the government. If the opposition had taken such a negative stance it would have backfired. The voters are not stupid, and they would realize the opposition made decisions not on the basis of the strength of the bills." "The Role of Intra and Extra-Parliamentary Opposition," NDI Program on the Role of Opposition in Parliament, 29 August 1998, Sana'a, Yemen.
- 16 Shadow ministers are called "critics" in Canada.
- 17 NDI, "Party Caucus Workshop Report: The Role of the Groupe Parlementaire Workshop," p. 4.
- 18 Mezey, "Legislative-executive Relations," p. 784.
- 19 *Ibid.*
- 20 The threshold for designating a legal caucus varies from country to country. In Morocco, a party must have 12 seats out of 235; in Canada, 12 seats out of 301; in Ireland, 7 seats out of 166.
- 21 While this description illustrates how party groups should work in theory, reality is often very different. In Romania, for example, whose democratic culture has just been emerging in the 1990s, older generation MPs tend to ignore younger MPs while demanding their respect. The two groups rarely communicate. As a result, younger MPs feel disillusioned, lack motivation and take little interest in parliamentary work. Terms of Reference for NDI workshop "The Role of the Parliamentary Group in the Legislature," 21 April 1999.
- 22 This practice is also the norm in France.
- 23 It has been argued that while this practice does lead to greater separation of powers, it also severs a potential link between the two branches, a link that could be employed to improve legislative-executive relations. In contrast, other parliamentary systems such as the United Kingdom, Ireland and Japan require cabinet ministers to be members of the legislature (or to become members within a certain time period). Inter-Parliamentary Union, *Parliaments of the World*, vol. II (New York: Facts on File Publications, 1986), p. 1121.
- 24 Email from Stephen Terravecchia, NDI-Ghana Resident Director, 1 Sept. 2000.

- 25 Granted, cabinet positions bring greater prestige no matter what the institutional strength of a legislature. Importantly, the issue of ministerial dominance is not limited to emerging democracies. The British Commission to Strengthen Parliament, in an effort to make a “more lean and accountable government,” recommends reducing the size of Cabinet from 50 to 20. Norton, “Strengthening Parliament,” p. 48.
- 26 Other political obstacles to serving in the Mexican Congress include strict term limits and the traditional dominance of one party. Roderic Camp, “Mexico’s Legislature: Missing the Democratic Lockstep?” in Close, ed. *Legislatures and the New Democracies in Latin America*, p. 21. However, given the sweeping elections of July of 2000, the Mexican Congress may greatly improve its standing in the years to come. See “Mexican Congress Set to Discard Rubber Stamp,” *Washington Post*, 1 August 2000, p. A1.
- 27 Although this paper examines legislation and oversight separately, they are in fact frequently intertwined. For example, the development of legislation must be based on an assessment of the design and implementation of existing laws. One expert on the United States Congress notes that, “in practice legislative and oversight activity are inseparable and that the best oversight often takes place during committees’ legislative hearings.” Stanley Bach, “Incentives and Opportunities for Oversight: Comparative Implications of the American Congressional Experience,” paper presented at the 2000 World Congress of the International Political Science Association, Quebec, Canada, August 2000, p. 11.
- 28 David M. Olson, *Democratic Legislative Institutions: A Comparative View*, (Armonk, NY: M.E. Sharpe, 1994) p. 87.
- 29 The South African “Telecommunications Green Paper” of 1995 provides a concise discussion on the purposes of green papers, and also serves as a general example. Available at: [http://www.polity.org.za/govdocs/green\\_papers/telecomms.html](http://www.polity.org.za/govdocs/green_papers/telecomms.html).
- 30 Unit for the Study of Government in Scotland, “Checks and Balances in Single Chamber Parliaments: A Comparative Study: Stage 2” (Edinburgh: University of Edinburgh/The Scottish Office, 1998), § 2.5.
- 31 Mezey, “Legislative-executive Relations,” p. 784.
- 32 David Arter, “The Swedish Riksdag: A Strong Assembly,” in Phillip Norton, ed. *Parliaments of West Europe*, (London: Frank Cass & Co., 1990) pp. 125-130.
- 33 Olson, *Democratic Legislative Institutions*, p. 84. In the United Kingdom, Parliament passed 95% of legislation initiated by the government from 1987-1992. In contrast, only 11% of private member bills were passed in the same period. Norton, *Does Parliament Matter?*, pp. 54-55. Bangladesh provides a particularly stark example: out of 174 laws enacted from 1991-1997, the government initiated all but one. Ahmed, “Parliament-Executive Relations in Bangladesh,” p. 76. The United States, however, is a major exception to the “90 percent” rule.
- 34 *Parliaments of the World*, p. 859.
- 35 John Frears, “The French Parliament: Loyal Workhorse, Poor Watchdog,” in Norton, ed. *Parliaments in Western Europe*, p. 34.
- 36 In the United States, where the Constitution limits the introduction of bills solely to members of Congress, it is common practice for Congress to consider draft bills received from the administration and introduced “by request.” Charles W. Johnson, “Sources of Legislation,” in *How Our Laws Are Made* (Washington, DC: U.S. House of Representatives, 1999), available at: <http://thomas.loc.gov/home/lawsmade.bysec/sourcesofleg.html>.
- 37 *Parliaments of the World*, p. 862.

- 38 *Ibid.*, p. 864.
- 39 Wiatr, "The Role of Intra and Extra-Parliamentary Opposition," p. 4.
- 40 "Opportunities for Private Members: House of Representatives Factsheet No. 6" (Chamber Research Office, Dept of House of Representatives, Commonwealth of Australia, 1998). Available at: <http://www.aph.gov.au/house/info/factsht/fs06.htm>.
- 41 For example, a law to protect British employees who report wrongdoing or malpractice was originally introduced by a private member of the opposition. It received considerable support from the government, and has been hailed as "the most far reaching whistleblower law in the world." Clare Dyer, "UK introduces far reaching law to protect whistleblowers," *British Medical Journal*, 3 July 1999, p. 7.
- 42 Unit for the Study of Government in Scotland, "Checks and Balances in Single Chamber Parliaments."§ 2.32.
- 43 Olson, *Democratic Legislative Institutions*, p. 85.
- 44 Kenneth E. Collier, *Between the Branches: The White House Office of Legislative Affairs* (Pittsburgh, PA: University of Pittsburgh Press, 1997).
- 45 Johnson, "Amendments and the Germaneness Rule," in *How Our Laws Are Made*.
- 46 Thomas Saalfeld, "The West German Bundestag After 40 Years: The Role of Parliament in a 'Party Democracy,'" in Norton, ed. *Parliaments in Western Europe*, p. 68.
- 47 For additional issues surrounding vetoes, see Johnson, "Presidential Action," in *How Our Laws Are Made*."
- 48 Norton, "Strengthening Parliament," p. 8.
- 49 "Anatomy of an Expenditure Budget." (Paris: OECD/Support for Improved Governance and Management in Central and Eastern European Countries (SIGMA), undated, available at: <http://www.oecd.org/puma/sigmaweb/pubs/PBNO1.HTM>).
- 50 *Ibid.*
- 51 *Parliaments of the World*, p. 1049.
- 52 *Parliaments of the World*, p. 1051.
- 53 Steven Langdon, "What Stronger Parliaments can achieve in the Budget Cycle," World Bank Development Forum, 18 April, 2000. Available at: [http://www.worldbank.org/devforum/forum\\_parliaments.html](http://www.worldbank.org/devforum/forum_parliaments.html).
- 54 U.S. Office of Management and Budget, "The Budget System and Concepts: Budget of the United States Government, Fiscal Year 1999" (Washington, DC: U.S. Government Printing Office, 1998), p. 2.  
Available at: [http://www.access.gpo.gov/su\\_docs/budget99/pdf/concepts.pdf](http://www.access.gpo.gov/su_docs/budget99/pdf/concepts.pdf).
- 55 See, for example, Lance T. LeLoup and Bogomil Ferfila, "Have Parliaments Influenced Budget Policy During Democratization? A Comparison of Hungary and Slovenia," Paper presented at the International Political Science Association XVIII World Congress, Quebec, Canada, 1-5 August 2000.
- 56 "Anatomy of an Expenditure Budget," p. 2.

- 57 NDI, "Study Mission on Legislative Oversight for Georgian Parliamentarians," 1998, p. 3.
- 58 Bach, "Incentives and Opportunities for Oversight," p. 18.
- 59 *Ibid.* Bach notes the reauthorizing process is occasionally ineffective as an oversight mechanism because it is a product of House rules rather than the U.S. Constitution or law. Therefore, Congress can ignore reauthorization requirements should it choose to do so and continue funding programs with little or no evaluation of their necessity or performance.
- 60 Comprehensive information on committees can be found in NDI's second *Legislative Research Series* paper, entitled "Committees in Legislatures: A Division of Labor." Available at: <http://www.ndi.org/ndi/resources/archives/archives.htm#governance>.
- 61 Unit for the Study of Government in Scotland, "Checks and Balances in Single Chamber Parliaments," § 2.3.
- 62 Unit for the Study of Government in Scotland, "Checks and Balances in Single Chamber Parliaments," § 2.30.
- 63 Arter, "The Swedish Riksdag," p. 133.
- 64 Many legislatures in emerging democracies cannot afford to hire legislative staff. South Africa has tried to circumvent this problem by using ministerial staff, party staff, or making use of NGOs to gather research. NDI Report, "Building Strong Committees: Legislation, Oversight and Public Participation in the Northern Ireland Assembly," 29 April-1 May 1999.
- 65 "David Close, "Nicaragua: The Legislature as a Seedbed of Conflict," in Close, ed., *Legislatures and the New Democracies in Latin America*, pp. 53-54.
- 66 See, for example, Bruce George (chairman of the UK House of Commons Defence Committee) and J. David Morgan, "Parliamentary Scrutiny of Defence," *Journal of Legislative Studies*, vol. 5, no. 1 (Spring 1999), p. 2. Also, British parliamentary expert Malcolm Shaw notes "while it needs to be stressed that committees cannot make the government do what it does not want to do, anything that significantly enhances the ability of the House to exercise influence and scrutiny, as these committees do, is of vital importance. "Non-ministerial Leadership in the British House of Commons," in Lawrence D. Longley, Attila Agh, and Drago Zajc, eds. *Parliamentary Members and Leaders: The Delicate Balance* (Appleton, WI: Research Committee of Legislative Specialists of the International Political Science Association, 2000), p. 506. For additional country examples, see the subsequent section on oversight.
- 67 According to Congressional expert Stanley Bach, oversight has two primary functions: First, it enables the citizenry, acting through its elected representatives, to hold the government accountable for its actions and inactions, for its successes and failures. And second, it assists those representatives in determining how well current laws are working, which is a necessary prerequisite for determining whether new laws are needed. "Incentives and Opportunities for Oversight," p. 2.
- 68 Frears, "The French Parliament: Loyal Workhorse, Poor Watchdog," in Norton, ed. *Parliaments in Western Europe*, p. 34.
- 69 NDI staff member Maryam Montague, email 31 August 2000. While not obligatory, most of the important or controversial finance bills are referred to the committee.
- 70 *Ibid.*
- 71 Bach, "Incentives and Opportunities for Oversight," p. 9.
- 72 Christina Murray, Don Bezruki, Lisa Ferrell and Julie Hughes, "Speeding Transformation: NCOP's Role in the Oversight Process," (Cape Town: National Democratic Institute, 2000), p. 8.



- 73 Bach, "Incentives and Opportunities for Oversight," p. 6.
- 74 "Authoritarian enclaves" in which senators are not popularly elected, but designated by the President, also affect the Chilean Congress. Source: former president of the Chilean Congress, Carlos Montes. "Report on NDI Legislative Seminar at the Mexican Congress," NDI memo, April 18, 2000.
- 75 Matti Wiberg, "Parliamentary Questioning: Control by Communication?," in Herbert Doring, *Parliaments and Majority Rule in Western Europe* (New York: St. Martin's Press, 1995), p. 218. Quoted in Bach, "Incentives and Opportunities for Oversight," p. 36.
- 76 Hon. Lindiwe Zulu, presentation at the 9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 October 1999, p. 6.
- 77 Murray, Bezruki, Ferrell and Hughes, "Speeding Transformation," p. 7.
- 78 Bach, "Incentives and Opportunities for Oversight," p. 37.
- 79 Michael Rush, *Parliaments and the Public* (London: Longman Press, 1996), quoted in Joel D. Aberbach, "Relations between Organizations: Institutions, Self-Interest and Congressional Oversight Behavior in the United States," in John E. Jackson, ed., *Institutions in American Society: Essays on Market, Political and Social Organizations* (Ann Arbor, Mich.: University of Michigan Press, 1990) p. 157.
- 80 Clive Ponting, *Whitehall: Tragedy and Farce* (London, Sphere Books, 1986), quoted in Aberbach, "Relations between Organizations," p. 157. The stark distinction between this more skeptical observation and Lord Jenkin's may be the result of the public nature of the Jenkin's interview.
- 81 C.E.S. Franks, "Constraints on the Operations of Parliamentary Committees in Canada," prepared for the Conference on Changing Roles of Parliamentary Committees," Budapest, June 1996, p. 1.
- 82 Arkins, "Legislative and Executive Relations in Ireland," p. 96.
- 83 Pending reforms are hoping to alleviate this problem. See, the Select Committee on Modernisation of the House of Commons, "Work of the Committee: Special Progress Report," 1999, § 8. Available at: <http://www.publications.parliament.uk/pa/cm199899/cmselect/cmmodern/865/86503.htm>.
- 84 Unit for the Study of Government in Scotland, "Checks and Balances in Single Chamber Parliaments," § 4.7.
- 85 "Governance Structures and the Democratic Process," Report of the Round Table on Managing Parliament Executive Interface and the Commonwealth, Cape Town, South Africa, 1998 (London: Commonwealth Parliamentary Association, 1999), p. 6.
- 86 Hon. Ishmael Roett, "Good Governance or Collusion?" *The Parliamentarian*, vol. 81, no. 2 (April 2000), p. 127.
- 87 B. Chubb, "The Republic of Ireland," in S. Henig and J Pinder, eds. *European Political Parties* (London: Allen & Unwin, 1969), p. 458. Quoted in Arkins, "Legislative and Executive Relations in Ireland," p. 94.
- 88 One of the main obstacles to reform were the MPs themselves, because most MPs remained focused primarily on constituency service that could help them win reelection. Arkins, "Legislative and Executive Relations in Ireland," p. 95. *Ibid.*, pp. 95, 99.
- 89 Shaw, "Non-ministerial Leadership in the British House of Commons," p. 506.
- 90 Former NDI Legislative Expert in Georgia, Johan Hamels, email, August 2000.

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- 91 Another option combines public hearings with private briefings between legislators and key executive officials. According to former members of U.S. Congress Lee Hamilton, “the exchanges in briefings can be more important than those in a public hearing.” Heritage Foundation Symposium, “Assessing the Effectiveness of Congressional Oversight,” p. 4. December 3, 1999. Available at: <http://www.heritage.org/library/testimony/test120399.html>.
- 92 Bach, “Incentives and Opportunities for Oversight,” p. 8.
- 93 Hon. Lee Hamilton, Heritage Foundation Symposium, “Assessing the Effectiveness of Congressional Oversight,” p. 4.
- 94 Matthew McCubbins and Thomas Schwartz, “Congressional Oversight Overlooked: Police Patrols and Fire Alarms,” *American Journal of Political Science*, vol. 28 (1984).
- 95 This committee was originally established in 1927 as the House Committee on Expenditures in the Executive Departments. Rules of the House of Representatives, 106th Congress, Rule X, §3(e). Available at: <http://clerkweb.house.gov/106/docs.rules.RX.htm>.
- 96 Unit for the Study of Government in Scotland, “Checks and Balances in Single Chamber Parliaments,” § 3.8.
- 97 Murray, Bezruki, Ferrell and Hughes, “Speeding Transformation,” p. 7. According to the report: “All members must develop a working knowledge of the concepts the committee will be working with repeatedly. For example, members of a finance committee must understand terms such as debits, credits, assets and liabilities . . . Similarly, members of an implementation review committee must develop understanding of concepts such as criteria, conditions, effects and causes. They must be able to assess whether or not the types of performance measures suggested by a department actually measure the most important factors.” *Ibid.*, p. 36.
- 98 Joint Committee on the Organization of Congress, “Final Report—Organization of the Congress,” Senate Report 103-215, vol. 2, and House Report 103-413, vol. 2; 103rd Congress, 1st Session; December 1993, p. 27. Quoted in Bach, “Incentives and Opportunities for Oversight,” p. 5. A 2000 assessment notes that “fire alarm” and partisan-based oversight continues to plague Congress. “In Congress, GOP [Republican] Leaders Take On Oversight,” *Washington Post*, 28 July, 2000, p. A23.
- 99 Matthew Parris, “The Corridor of Power: Parliamentary Committees Are At Last Setting the Westminster Agenda,” *London Times*, 26 June 1998, p. 32. Quoted in Shaw, “Non-ministerial Leadership in the British House of Commons,” p. 507. While acknowledging the importance and necessity of committees, Norton warns that they may draw attention from the equally important chamber. Therefore, he advises that efforts to strengthen committees should not be done at the chamber’s expense. “Strengthening Parliament,” pp. 20-21.
- 100 See for example, “Functions of the Committee of Public Accounts,” House of Oireachtas, Ireland. Available at: <http://www.irlgov.ie/committees-99/frame.htm>.
- 101 Susan R. Benda and Allan Green, *Guidebook for Implementing Legislative Programs*. Washington, DC: National Democratic Institute for International Affairs, 2000, p. 38.
- 102 April 5, 1996.
- 103 Philip Norton, “Introduction: Parliament Since 1960,” in Mark Franklin and Philip Norton, eds., *Parliamentary Questions* (Oxford: Clarendon Press, 1993), p. 2. Even in Bosnia and Herzegovina, a country whose governmental struggles are well known, parliamentary questions are allowing aspiring MPs an opportunity to question government action. NDI observers noted in April 2000 that the Social Democratic Party in particular was “obviously prepared with research and was able to question the government’s report.” “Sarajevo Parliamentary Program Report,” 16 April 2000.
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- 104 Stephen Terravecchia, NDI-Ghana Resident Director, "Democracy and Governance Performance Monitoring; Ghana Parliament Third Session, 1999," Memo to USAID, February 29, 2000, pp. 4-5.
- 105 The Committee has 25 members, and is chaired by a majority party member (a fact which, according to the chair, hampers its efforts). The vice chair is from minority parties. The members are nominated to the Committee by a selection committee chaired by the Speaker. According to standing orders, any member of the House is entitled to ask for an assurance from a Minister during questioning. The committee compiles all assurances. Notice is given to Ministers of questions to be asked by the committee. The relevant Minister is invited to attend the meetings and give oral reports on the progress made on assurances given. All questions must be answered within three (3) months. The committee then delivers a report to parliament before it rises at the end of the year. Source: Report of NDI Parliamentary Study Mission to Ghana, 12-16 June 2000. The Indian House of the People also possesses a government assurances committee. A description is available at: <http://alfa.nic.in/committeee/p33.htm>.
- 106 Stephen Terravecchia, NDI-Ghana Resident Director, 1 September 2000.
- 107 Frears, "The French Parliament," p. 34.
- 108 "Questions: House of Representatives Factsheet No. 1," (Canberra, Australia: House of Representatives Chamber Research Office, 1998), p. 1. Available at: <http://www.aph.gov.au/house/info/factsht/fs01/htm>.
- 109 "Questions to the Federal Government." Available at: <http://www.bundestag.de/btengver/orga/itembus5.htm>.
- 110 "House Members seek to Question President," *Jakarta Post*, May 20, 2000.
- 111 Johan Hamels, NDI field representative, former Belgian provincial legislator, and founding member of Green Party in Flanders-Belgium.
- 112 "Canada," in George Kurian, ed., *World Encyclopedia of Parliaments and Legislatures*, p. 127.
- 113 Helen Irwin, Andrew Kennon, David Natzler and Robert Rogers, "Evolving Rules," in Franklin and Norton, eds., *Parliamentary Questions*, p. 63.
- 114 The Canadian parliament has attempted to make questions and answers more precise by limiting the former to 30 seconds and 35 seconds to the latter. This also allows for more questions to be asked within the time period. Hon. Sue Barnes, "Governance Structures and the Democratic Process," p. 5.
- 115 Hon. Sheryl Gillan, "Governance Structures and the Democratic Process," p. 5.
- 116 "Questions: House of Representatives Factsheet No. 1," p. 4.
- 117 J.A.G. Griffith, Michael Ryle and M.A.J. Wheeler-Booth, *Parliament: Functions, Practice and Procedures* (London: Sweet & Maxwell, 1999), p. 374.
- 118 NDI Memorandum, "Report on Legislative-Executive Seminar," 22 April 1999, Yemen House of Representatives.
- 119 Wiatr, "The Role of Intra and Extra-Parliamentary Opposition," p. 2.
- 120 The use of confidence votes is not limited to parliament. On occasion, prime ministers use them for their own purposes. See, John D. Huber, "The Vote of Confidence in Parliamentary Democracies," *The American Political Science Review*, Vol. 90, No. 2, (June 1996), pp. 269-282.

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- 121 Taken directly from *Daily Proceedings of the Canadian House of Congress*, §6(c).
- 122 Laver and Shepsle, *Cabinet Ministers*, p. 3.
- 123 Research confirms this discrepancy—media coverage of parliament has decreased over recent years as executive powers have grown. See Ralph Negrine, *Parliament and the Media: A Study of Britain, Germany and France* (London: Cassell/RIIA, 1998).
- 124 Gallery details available at: <http://www.house.gov/house/mediagallery.htm>.
- 125 Frank Elbe, “Art. 67—The Constructive Vote of No Confidence: How Do Coalition Governments Survive?” *German News* (May 1997). Available at: <http://www.germanembassy-india.org/news/may97.04gn05.htm>.
- 126 Olson, *Democratic Legislative Institutions*, pp. 51, 80.
- 127 In Poland, fifteen percent of MPs are required to submit an individual confidence vote. Wiatr, “The Role of Intra and Extra-Parliamentary Opposition,” p. 3.
- 128 However, the report cautions that such a program should not replace the need for full-time staffers dedicated exclusively to the NCOP. Murray, Bezruki, Ferrell and Hughes, “Speeding Transformation,” pp. 70-71.
- 129 Gavin Drewry, “The Parliamentary Ombudsman,” in *World Encyclopedia of Parliaments and Legislatures*, p. 829. Interestingly, the United States federal government does not possess a general ombudsperson. However, various federal agencies and many American states have established an ombudsperson of some type. For additional information, see the United States Ombudsman Association. Available at: <http://www.usombudsman.org/>.
- 130 *Parliaments of the World*, p. 924.
- 131 Christopher Pick, “Ombudsmen in Britain” (London, Foreign & Commonwealth Office, 1994), p. 3.
- 132 Iván Székely, “Hungarian Official Promotes Access to Government,” *Public Management Forum*, vol. 2, no. 1 (1996), p. 8.
- 133 “How Parliament Works: Checks and Balances” (Auckland, New Zealand: Decisionmaker Publications, 1997). Available at: <http://webnz.com/finalert/decisionmaker/parliament/page13.html>.
- 134 “Review of Auditor-General’s Reports,” Joint Committee of Public Accounts and Audit (Canberra: Parliament of Australia, 1998). Available at: [http://www.aph.gov.au/house/committee/jpaa/auditor\\_generals/audrev.htm](http://www.aph.gov.au/house/committee/jpaa/auditor_generals/audrev.htm)
- 135 The GAO has a policy to respond equally to members, regardless of party affiliation. “About the U.S. General Accounting Office: Organization and Mission: Audits and Evaluations” (undated). Available at: <http://www.gao.gov/about.gao/aboutgao.htm#1>.
- 136 Statement of Bill McCollum, Chairman, House Subcommittee on Crime, “Hearing on Security Breaches at Secure Federal Agencies,” May 25, 2000 (<http://www.house.gov/judiciary/mcco0525.htm>). “Probe Finds Security Lapses at Airports, Pentagon, FBI: GAO Testers Used Fake Law Enforcement IDs,” *Washington Post*, May 25, 2000, p. A2. The executive branch also conducts numerous checks on its own operations. For example, many executive departments in the United States have an inspector general’s office, which investigates allegations of fraud, waste or abuse in departmental programs. These offices submit annual reports to Congress, or special reports in response to particular issues or scandals. See, for example, “Audit of Allegations Concerning the Veterans’ Affairs Office of Congressional Affairs” [Report # 99-00055-12], available at: <http://www.va.gov/foia/err/standard/requests/ig.html>. See also, “VA’s Congressional Office Assailed,” *Washington Post*, 19 January 2000, p. A21. In a similar case, Australia has set up an additional inspector general to monitor the intelligence and security divisions, primarily due to the secretive nature of their work. “The Inspector-General of Intelligence and Security (IGIS).” Available at: [http://www.igis.gov.au/fs\\_about.html](http://www.igis.gov.au/fs_about.html).
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- 137 For information on the Scottish Minister for Parliament, see: <http://www.scotland.gov.uk/who/whip.asp>.
- 138 NDI Memo, 22 April 1999. Another example of a liaison between the executive and legislative branches can be found in the Canadian Department of Defence's Directorate for Parliamentary Affairs. Available at: [http://www.dnd.ca/admpol/org/dg\\_coord/d\\_parl\\_e.htm](http://www.dnd.ca/admpol/org/dg_coord/d_parl_e.htm).
- 139 Many Westminster-based legislatures place the relevant minister on ad hoc committees ("Standing" committees in the United Kingdom). These committees are temporary and are created to deal with a specific piece of legislation.



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