

HELPING PARLIAMENTS AND LEGISLATIVE ASSEMBLIES TO WORK FOR THE POOR

*A GUIDE TO THE REFORM OF KEY FUNCTIONS AND
RESPONSIBILITIES*

**Policy Division
Department for International Development**

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Helping Parliaments and Legislative Assemblies to work for the Poor

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Related DFID publications include:

Elections and the electoral process: a guide to assistance *DFID and FCO, 2003 (2nd edition)*

The Media in Governance: a guide to assistance *DFID 2001*

Understanding and reforming public expenditure management *DFID 2001*

Meeting DFID's Fiduciary Requirement when providing Direct Budget Support *DFID 2002*

Poverty and the Security Sector *DFID 2002*

Safety, Security and Accessible Justice: putting policy into practice *DFID 2002*

Understanding and Supporting Security Sector Reform *DFID 2002*

Promoting Institutional and Organisational Development *DFID 2003*

FOREWORD

These Guidelines are designed to be part of the international effort to make legislatures/parliaments better at helping development and poverty reduction, through improvements in the way they perform their key constitutional roles. These roles vary from place to place, depending on the type of political system (parliamentary, presidential, mixed), electoral system (proportional representation, “first past the post”, or something in between), and party system, and the way all these have interacted and evolved from their particular local context - history, experience and political choices. But the key roles should always be:

- representation of the people and their interests
- passing effective legislation especially to support development
- oversight of government - its effectiveness and its responsiveness to the needs of all, and especially the poor.

To fulfil these functions, parliaments need in particular:

- **information** – from a variety of sources, not just the government - to enable them to make a proper assessment of government proposals, to scrutinise government action and to instigate policy debates
- **skilled parliamentarians** who are able to use information to good effect and play their intended roles
- **professional support** eg to undertake research into particular issues
- **administrative support** to run the parliamentary machine
- **adequate facilities and equipment**

The Guidelines deal with these various issues. But assistance to legislatures has to be set in a wider context. External factors and institutions can be just as if not more important to parliamentary effectiveness than the internal machinery; and effectiveness has to be measured not by the quality of internalities such as parliamentary debates but by the impact the legislature has on the world outside, ie on poor people's lives

Constitutional structures matter; they determine the legislatures powers, affect relationships with the executive and the public, and create different patterns of cooperation or competition between representatives. The electoral system adopted determines the representativeness of the members and often their calibre and objectives. In a democracy there is a close correlation between the effectiveness of the legislature and that of the party system, and strengthening the capacity of political parties may be a prerequisite for an effective parliament. If the legislature is to help the poor and disadvantaged, it needs to understand their problems and their needs. Helping the relevant civil society organizations to put the case more effectively can be another way of improving parliamentary performance.

Helping Parliaments and Legislative Assemblies to work for the Poor

Parliaments need 'political will'. Section 2.5.1 of the Guidelines touches on this, but readers should also consult with recent DFID work on "Drivers of Change", or the political economy of elite interests in pro-poor reforms. This work suggests ways of understanding and influencing the political processes behind 'political will', helping to illuminate the issues and suggest how legislatures can become key players in guiding development outcomes¹.

Public financial management is at the heart of development and may provide legislatures with a significant opportunity to influence events: they are normally responsible for examining and approving budgets, and for holding governments to account after the event. Their role in approving the budget is a key opportunity to ensure that governments are serious about poverty reduction, their PRSP, or development aims generally. Their role as representatives of the electorate should enable them to influence taxation as well as expenditure policies. Effective scrutiny of the public accounts can ensure that money was used for the intended purposes, and should bring to light any misuse, or abuse. All this can add to the transparency of government processes, important to citizens' right of accountability, and essential to donors especially if they are providing direct budgetary support.

One particular contemporary example of the importance of scrutiny is the security sector. Parliamentary scrutiny of defence/security budgets and expenditure can help to ensure that they meet the needs of the population, are not misused corruptly, and do not threaten development aims either nationally or regionally².

Similarly but even more broadly, the PRSP process represents a major opportunity for parliaments/legislatures to influence governments' policies. Above all, Parliaments by expressing the needs of the people, including the poor, should be able to hold governments to account for their effective responses to the needs of their populations.

¹ DFID readers will find further information on [InSight: Policy Division, Drivers of Change team](#). Readers outside DFID should refer to either DFID websites or the Governance Resource Centre website. Eg <http://www.dfidbangladesh.com/publications/DriversStudyFullVersion.pdf> on strengthening parliament in Bangladesh; or [Drivers of Change Public Information Note](#) at http://www.grc-exchange.org/q_themes/politicalsystems.html. For queries, please contact Ann Freckleton (A-Freckleton@dfid.gov.uk)

² See "Understanding and Supporting Security Sector Reform" *DFID 2002*

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LIST OF ACRONYMS AND ABBREVIATIONS

DFID	Department for International Development
AV	Alternative Vote
CML	Legislative Modernization Commission
CSN	Civil Society Networks (?)
CSO	Civil Society Organisation
FCO	Foreign & Commonwealth Office
FPTP	First-Past-The-Post
IMD	Institute for Multiparty Democracy
IRI	International Republican Institute
MP	Member of Parliament
NDI	National Democratic Institute for International Affairs
PAC	Public Accounts Committee
PR	Proportional Representation
PSRP	Poverty Reduction Strategy Paper
SNTV	Single Non-Transferable Vote
SUNY	State University of New York
TRS	Two-Round System

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PART I: THE PARLIAMENTARY CONCEPT

1 INTRODUCTION

Governments should be accountable to parliaments...

If government is to work for poor people it must be accountable: the three main pillars of the state - executive, legislature and judiciary – should each be strong enough to hold the others to account; and everyone, including the poor and disadvantaged, should have the opportunity to influence state policies and practices.

...who oversee their activities and provide a bridge between them and the people.

Parliament should act as a bridge between the people and the executive, both by overseeing the executive – its actions and policies, its stewardship of public funds, its legislative proposals - on behalf of the people; and by keeping the public in touch with major issues, encouraging public participation in debate, and helping to develop a well-informed electorate. MPs should be able to raise specific concerns of their constituents, or the wider electorate, with the executive.

Parliaments need adequate powers and the capacity to use them...

This requires parliaments with appropriate powers, with members committed and equipped to exercise them and to meet the needs of their constituents, and with sufficient resources (human as well as physical and financial) to organise efficiently. It also requires people, including the poor, to have rights – freedom of speech, freedom of association – and to be aware of them, and able to engage with their political representatives.

...and a civil society ready to engage.

Often parliaments are weak, popular participation in government occurs only on election day, and election winners monopolise power and use parliament as a rubber stamp.

1.1 The purpose of the guidelines

The guidelines are not a manual.

This guidance is intended for programme managers and advisers in DFID who are helping to strengthen parliaments in developing and transition countries. It should also be of interest to concerned individuals and organizations in those countries, and to others including other donor agencies. It does not pretend to be a comprehensive manual: assistance to parliaments in this broader context is fairly new, and we still have a lot to learn.

They look at parliamentary assistance in a broad governance context.

The guidance identifies potential entry points for initiatives to support parliaments. But in the broader governance context - obstacles to parliamentary effectiveness often originate in the outside institutional environment rather than in parliament itself.

Although the guidance is written in the context of national

They can apply to state, regional and local assemblies ...

...in countries with or without multi-party systems.

assemblies, much of it will apply to assemblies at state, regional or local level. And although it is written in the context of multi-party democracy, this is not to rule out assistance to parliaments in partner countries operating different systems; their parliaments may have less potential but they can play an important democratising role. In one-party states it may be particularly useful to establish the respective roles of parliament and party, and to encourage the former to question the executive and hold it to account.

BOX 1.1: VIETNAMESE NATIONAL ASSEMBLY

Vietnam is a one-party state based on principles of consensus. The National Assembly (NA) does not contain an opposition, and is only nominally independent of government. The NA has nevertheless taken ministers to task over their policies and the way they are implemented. Constitutional changes in 2001 gave the NA and the provincial assemblies (People's Councils - PCs) greater responsibility for budget oversight. UNDP, with assistance from several bilateral donors including DFID, is helping to strengthen the NA and 10 of the 81 PCs through (a) general training and support for Deputies and (b) support aimed specifically at strengthening budget oversight capacity.

1.2 What do we mean by parliament?

In this guide the term “parliament” means an assembly of elected representatives with some or all of the following statutory duties:

- passing and in some cases initiating legislation
- conducting oversight of the executive
- representing the views and concerns of the electorate

Don't forget the second chamber, where there is one.

A parliament may have one chamber – New Zealand - or two – France, UK, USA. Assistance to bicameral parliaments should take account of both chambers.

1.3 Why do parliaments matter?

If parliament is weak government is unaccountable...

The state typically rests on three pillars: the executive; the judiciary; and parliament. For the system to work properly, each pillar must be strong enough to provide checks and balances against excesses by the others. All too commonly the executive (sometimes with a strong military presence) is overwhelmingly strong, and the judiciary and parliament very weak. This leaves the executive virtually unchecked - a recipe for autocracy, inefficiency, and corruption. It can leave people feeling alienated from government, and inclined in extreme cases to resort to extra-legal mechanisms to have their voices heard.

And liable to become autocratic, out of touch and corrupt.

Parliament can help to improve governance in a number of important ways:

A strong parliament can tell government what people think...

- by representing the views and concerns of the electorate to the executive, including during discussions of legislation and government policy - for example in the consultative process leading to the development of a Poverty Reduction Strategy³

...ensure laws are fair...

- by ensuring that the laws which govern the country are effective and just
- by vetting the government's revenue-raising and expenditure plans to ensure feasibility, equity and conformity with policy objectives

... scrutinise government's plans and actions...

- by holding the government to account for its policies and actions, including its stewardship of public funds – more important than ever (to citizens as well as donors) as increasing volumes of development assistance are channeled directly into budgets rather than discrete projects

...promote public debate...

- by promoting debate on major issues eg via the media.

...and stop conflicts turning violent.

In countries where there is potential for conflict between different groups, parliament can provide an arena for peaceful and constructive debate and consensus, reducing the likelihood of the conflict turning to violence

1.4 How representative is parliament? And how representational?

Parliament should broadly represent the population...

Parliaments can never be exact microcosms of society – there are usually no child members for example (though unofficial youth parliaments are often an effective form of civic education for young voters). But they need to be broadly representative, and can achieve this in various ways:

...by domicile...

- geographically, with members to represent each region, town, etc, chosen by and accountable to the respective electorates

...by political allegiance...

- politically, by mirroring the party/political/ideological situation in the country, with a good correlation between

...by gender,

³ "The role of parliaments in the PRSP process has generally been limited, although individual parliamentarians have been involved in some countries. Real and effective country ownership requires recognition of and adequate space for domestic political processes, as part of the participatory mechanism in each country. Involving parliaments in the participation can often provide a means to achieve this aim and to lay the ground for such participation to become an enduring element of the process." World Bank

"Deputies are well positioned to communicate the perceptions of citizens and citizen groups in their home districts. In many places, MPs' direct contact with constituents or personal experience in their electoral district provides them with a more accurate sense of how poverty is felt in specific regions and among specific demographics." (Hubli and Mandaville, NDI)

**age, ethnicity,
religion etc.**

- votes cast and parliamentary seats won
- descriptively, by mirroring the nation in demographic terms - men and women, young and old, rich and poor, and different religious, ethnic and linguistic groups.

The balance between geographical and political representation, and the degree of descriptive representation, will be determined largely by the electoral system.

**...and should
actively
represent
people's
interests.**

Being representative is not much use unless members actively represent. They may not, for a variety of reasons: lack of resources; lack of opportunity, eg in a "rubber stamp" parliament; lack of demand from an electorate unaware of its rights - or aware of the limitations of its parliamentarians; lack of incentive if members expect to be re-elected whether they do anything useful or not, or if most of them belong to the ruling party and many of them are or hope to be ministers.

1.5 What sort of help?

**Avoid narrowly
focused
assistance ...**

Parliaments do not exist in isolation: like any other organisation they live in a wider institutional environment, which is where many of their more fundamental problems can originate. To focus narrowly on the internal workings of parliament while ignoring the wider picture can be counter-productive. For example if an autocratic executive maintains power by manipulating the electoral system to produce a "rubber stamp" parliament, providing this parliament with a veneer of greater efficiency and/or increased activity will not make it more useful; it will just help to perpetuate a bad system by making it look more respectable. The underlying problems in the institutional environment have to be addressed if anything useful is to be achieved.

**...when the real
problems may
lie in the wider
environment.**

**Link assistance
with wider
governance
reforms.**

In any event legislative assistance programmes work best as complements to other governance improvements such as efforts to promote participation, protect human rights or reform the law/judicial system.

1.6 Some words of warning

**Helping
parliaments is
difficult...**

Assisting parliaments is difficult because it is highly political⁴:

**...key players
may not
welcome
reform**

- leaders in both the executive and in parliament may have reason to oppose it - but reform cannot proceed without their support
- governments may not appreciate help to strengthen

⁴ "The political difficulties in changing political institutions are well documented. For example, the major deliberate reform of legislatures is rare, and virtually unknown in many Western democracies" *Rediscovering Institutions* James March and Johan Olsen 1989

reform... oppositions, or make backbenchers more effective

...or may have different agendas.

- parties may be reluctant to share information with donors if they think it will be passed to rivals
- some, in and out of government, may want to hijack the reform agenda for their own purposes
- efforts can be blown off course or sunk by changes in leadership (changes might follow an election, or occur for reasons of national politics, or because powerful opponents of reform want to remove pro-reformers from key positions).

They may lose office, or move.

So build, and maintain, a wide consensus...

...be diplomatic, alert, flexible...

...and patient...

This makes it especially important not only to achieve a consensus among key stakeholders at the outset, but also to take care that the consensus is preserved and strengthened as work progresses. Donors need to be even-handed, to avoid becoming embroiled in local politics, and to keep all sides on board (including politicians not in parliament but who have parliamentary aspirations). Flexibility is needed; for example if elections are imminent, some types of assistance can be inappropriate – eg training on constituency relations might be construed as helping incumbents – while others – eg candidate training for all - would be well-timed. So is patience; democracy took centuries to develop in the industrialised world, and it will not happen overnight in other places. The important thing is to be moving the right way – though preferably faster than in the UK, where 713 years separated the Magna Carta from the arrival of universal adult suffrage!

...and don't rely on imported solutions to local problems

Lastly, donors have a tendency to want to export their home systems – understandably, because that is what they know best. But these systems may not be appropriate in different social and historical contexts. Different donors' ideas may be incompatible with one another. Reform must be locally led, to meet local needs and circumstances. This point can never be over-emphasised.

1.7 Summary of Guidelines

Chapter 2 looks at the factors – external and internal - which influence the ways in which parliaments, and their members, behave: government systems, electoral systems, party systems; resources; and members' political will, organisation and ethics. Chapter 3 considers diagnosis, and Chapter 4 planning and appraising a programme of assistance.

The core of the guide is then a series of chapters on strengthening measures:

Chapter 5	constitutional framework
Chapter 6	electoral law
Chapter 7	political parties and party systems

Chapter 7	political parties and party systems
Chapter 8	opposition, and backbenchers
Chapter 9	oversight
Chapter 10	parliamentary ethics, and parliament's role in tackling corruption in public life.
Chapter 11	resource needs
Chapter 12	parliament as a bridge between people and government
Chapter 13	legislation

Chapter 14 looks at monitoring and evaluation.

The Appendices contain a cross-section of supporting information:

Appendix 1	systems of government
Appendix 2	electoral systems
Appendix 3	costs of running the Westminster parliament
Appendix 4	ethical standards regime
Appendix 5	checklists for appraising assistance
Appendix 6	useful addresses and websites
Appendix 7	select bibliography

2 WHAT MAKES PARLIAMENTS WORK THE WAY THEY DO?

Parliaments operate within a constitutional and legal framework...

Important factors in the external institutional environment are the constitution, which defines the system of government and parliament's role therein, the electoral law, which defines the electoral system, and the political party system, which affects the way the electoral system works. Different systems produce different sorts of parliament. Similar systems may also do so, because of differences in culture and history, or because the constitution and/or the electoral law are interpreted differently, or are not respected.

...they need money and support staff...

Resources are needed to pay members and support staff and provide library and other facilities. In theory parliament should be able to guarantee itself an adequate budget, but in practice this often depends on the executive.

...and members who want to be effective.

Within parliament the political will of leaders and members is crucial - do they want to do an effective job? Are they well organised with effective committees? Do they have high ethical standards?

Subsequent chapters look at these factors more closely: this chapter summarises their impact on the way parliaments work.

2.1 The Constitution

Similar constitutions can produce both strong and weak parliaments.

The three basic systems of government are presidential (eg USA), parliamentary (eg UK) or hybrid (eg France) - see Appendix 1 for further details. Each system can produce strong, or weak, parliaments, depending on the terms of the constitution and how they are interpreted, misinterpreted, or ignored, and on other factors mentioned below.

2.2 Electoral systems

The electoral system determines how representative parliament is...

The electoral system determines the composition of parliament and the degree to which it reflects society. The many systems in operation are variations on, or combinations of, the "first-past-the-post" (FPTP) system and proportional representation (PR). See Appendix 2 for more details.

Unfairness - systemic or operational -

Note that systems can be unfair, and that fair systems can be operated unfairly.

will produce distortions.

FPTP systems tend to produce parliaments with few parties and strong majorities, and with good connections between elected members and their constituencies. On the other hand they can lead to big disparities between shares of the vote and shares of seats; and they are less good at securing the representation of women and disadvantaged groups. FPTP systems can also be gerrymandered (see examples in Appendix 2, table B.3).

Different systems have different advantages and disadvantages...

Under PR the share of seats will be closer to the share of votes, and women and disadvantaged groups are likely to be better represented. The downside may be a plethora of small political parties, possibly including extremist groups, which can lead to fragile coalition governments.

...none is ideal...

There is no ideal system: what works best in one situation will not suit another. Inappropriate systems may be incapable of producing a parliament that meets the country's needs⁵.

...and Inappropriate systems can be damaging.

BOX 2.1: ELECTORAL SYSTEMS WHICH HAVE LED TO VIOLENCE

The 1991 and 1992 elections in Algeria, and the 1993 election in Burundi, have been cited as examples of inappropriate electoral systems producing a "winner-takes-all" outcome, which encouraged the "losers" to resort to violence rather than accept the result.

2.3 Parties and party systems

A democratic parliament needs well established parties with well established policies.

Democratic parliaments need members to coalesce into parties around competing policies and interests - an assembly of several hundred completely independent members would be unmanageable. The sum of all the parties in a country is the party system.

They should not be too numerous...

Parliaments work best when parties are well established in the country, have well-known and reasonably distinctive policies, and are not in the pockets of wealthy interest groups or individuals. Effective parliaments also need a party system that is not too fragmented – a plethora of small parties tends to weaken parliament – or so deeply divided that parties not in government resort to undemocratic behaviour.

...or too deeply divided.

But different societies produce different party systems...

However, parties are the product of individual countries' histories and societies. In the UK, for example, they have represented major social groupings with competing interests – aristocrats v. the monarchy, gentry/middle class v. aristocrats, workers v. middle class. The Westminster parliament is very much a child of the party system as it has evolved over the

⁵ A system may be inappropriate from the outset either because insufficient thought was given to likely outcomes, or because those choosing it were more concerned with their own short-term political interests than with the longer-term political interests of the country; or it may become inappropriate because of changed circumstances.

...which are not always ideal.

It is difficult to change the course, and/or speed, of party evolution.

centuries. Developing and transition countries aiming for democratic systems of government sometimes take their models of parliament from the older democracies; but their different societies and histories inevitably produce different types of party and party system, some of which, especially in the newer democracies, are still fairly embryonic. The result is that the parliamentary model will not work in the same way as it does in its country of origin.

2.4 Resources

Effective MPs need pay, allowances...

...facilities...

...and support staff.

MPs need salaries; allowances to pay for secretaries and constituency work and travel between parliament and their homes or constituencies; library and information services; offices; restaurants. They need administrative staff to manage parliamentary business, keep the accounts and prepare budgets, and parliamentary reporters to record proceedings - which must be disseminated. The parliament building needs to be kept secure, clean and in good repair. All this requires money, and management.

The availability of these resources does not guarantee that parliament will do a good job; but in their absence MPs will not be able to function effectively however much they wish to.

2.5 Inside parliament

Vital ingredients for parliamentary effectiveness include MPs who want to be effective...

2.5.1 Political will

Parliament will not be effective unless members want it to be. A number of parliaments have changed markedly because members have chosen to exercise their powers more aggressively. Political will may be lacking if parliament is seen by ambitious politicians as a dead end.

BOX 2.2: WHY STAND FOR PARLIAMENT?

Where being an MP is a rung on the ladder to ministerial office aspiring politicians will want to stand. Otherwise they may not: In Mexico many saw little incentive to run for parliament, where they expected to languish in obscurity, and opted instead for positions in the executive (state or federal). This can become a vicious circle - the legislature stays weak because it cannot attract talented politicians it needs to become strong. The Mexican House of Deputies is reported to have become more assertive with the end of PRI dominance.

2.5.2 Committees

...subject committees for the detailed work...

Parliaments usually operate at two levels: the whole house assembles for major debates, questioning ministers, passing laws and approving the budget; while more detailed work unsuitable for plenary sessions - close scrutiny of proposed legislation oversight of government departments examination

legislation, oversight of government departments, examination of policy issues and special investigations – is delegated to specialist committees of members. Committees also enable parliament to greatly increase its workload, since a number of them can work simultaneously. Committees are usually a good focus for donor assistance – see section 3.5.2.

2.5.3 Ethics

...and high ethical standards.

Parliament needs to have the trust of the people, and to be a credible watchdog in overseeing government, and in dealing with corruption in public life. MPs face difficult ethical problems – gifts, conflicts of interest – and some may be tempted to use their positions for improper gain. All parliaments are susceptible to unethical behaviour – eg the British House of Commons in the 1990s. They need a code of ethics, and an ethical standards body to provide guidance and enforcement.

PART II: PLANNING REFORM

3 DIAGNOSIS

3.1 Why diagnosis is important

Identifying the root causes of problems...

Defects in the way parliaments work can have deep-seated causes which need to be properly understood before reform programmes are developed. Without a thorough diagnosis there is a danger of confusing the symptoms with the disease, and of jumping to wrong conclusions about the cure. For example the reason why MPs see very little of their constituents may appear to be for want of travel and subsistence budgets; but the real reason may be that members have no need to nurse their constituencies – for example if voters' loyalties are determined by ethnicity, or bought. In such cases, the provision of extra budgets would be unlikely on its own to make any difference.

...needs thorough diagnosis...

3.2 Why stakeholders must be involved

...led by local stakeholders...

Diagnosis of problems with the working of parliament means finding answers to fundamental questions about the way in which a country is governed – what is parliament for, etc. These are not questions for outsiders to resolve even if, conditioned by their own very different social and historical backgrounds, they were competent to do so. Apart from almost certainly being wrong, a diagnosis which ignores local knowledge and insight will lack the local ownership which comes from building a shared understanding of the problems and how to tackle them.

3.3 Who are the stakeholders?

...including political leaders...

The full range of stakeholders includes:

...senior parliamentary officials...

- the government
- leading members of parliament from all main parties including from the second chamber (if there is one): assembly presidents, committee chairmen, the modernization committee⁶ (if any)
- leading members/officials of political parties from both inside and outside parliament
- senior parliamentary officials (secretariat heads, committee clerks etc): they are more permanent than elected members and may have an important role in keeping the reform process going
- representatives of the media

...civil society

⁶ Many legislatures have established modernization groups to support legislative strengthening programmes. These are multi-party groups of legislators who direct institutional strengthening activities, help build internal support, and deal with problems and difficulties. See Box 4.3.

representatives
...

- representatives of civil society who can speak for the general public

**...and
backbench MPs.**

Nor should rank and file MPs be overlooked. Two ways of giving them a voice and a stake in the reform process are:

- legislative questionnaires: eg a professionally designed questionnaire that asks them about their institutional support needs
- decision-workshops: eg where they can be asked to rank programme options in order of preference.

3.4 Agreeing a strategy

3.4.1 The context

Where are we now?

Where are we?

- **Politically:** was parliament legitimately elected? How often does it meet, at whose behest, and for how long? Does the executive comply with the law in its dealings with parliament? Who wants an effective parliament? Who doesn't? Are there effective political parties, an effective party system and an effective opposition? Do MPs have the political will to be more effective?
- **Legally:** does the constitution (a) in theory and (b) in practice allow for an effective parliament? If not what are the prospects for change? Is the electoral law fair, appropriate, and respected?
- **Socially:** how much popular demand is there for parliamentary reform? What matters to people most?

**Where do we
want to be?**

What ought to be parliament's roles in the governance of the country, both in the long-term and in relation to any particular short-term political problems – internal/external conflict, economic crisis etc?

**How do we get
there?**

What changes (including constitutional/legal changes) are needed to make parliament effective?

**The Governance
Review
Framework may
help.**

3.4.2 Using the Governance Review Framework

DFID's Governance Target Strategy Paper⁷ identified seven key state capabilities which were believed to be essential to good democratic governance and the achievement of the Millennium Development Goals. The supporting Governance

⁷ *Making Government Work for Poor People* (DFID, 2000)

⁸ www.grc-dfid.org.uk

Review Framework provides a mechanism for measuring progress towards the key capabilities, which are divided for this purpose into topics. Table 3.1 lists the capabilities which seem most relevant to parliaments, along with what appear to be the most relevant of the related diagnostic questions. The full framework, with supporting guidelines, can be found on the Governance Resource Centre website⁸.

TABLE 3.1: GOVERNANCE REVIEW FRAMEWORK

KEY CAPABILITY	TO OPERATE POLITICAL SYSTEMS WHICH PROVIDE OPPORTUNITIES FOR ALL PEOPLE, INCLUDING POOR AND DISADVANTAGED PEOPLES, AND CIVIL SOCIETY TO ORGANISE AND INFLUENCE STATE POLICY AND PRACTICE
TOPIC	DEMOCRATIC ROLE OF POLITICAL PARTIES
REVIEW QUESTIONS	1.12 How free are opposition or non-governing parties to organise within the legislature, and how effectively do they contribute to government accountability? 1.13 How fair and effective are the rules governing party discipline in the legislature, and to what extent is the practice of members changing parties in between elections discouraged? 1.14 How far are parties effective membership organisations, and how far are members able to influence party policy and candidate selection? 1.15 How transparent is the system of party financing and how far does it prevent the subordination of parties to special interests? 1.16 To what extent do parties cross ethnic, religious and linguistic divisions? 1.17 To what extent do political parties represent and serve the interests of poor people and vulnerable groups? 1.18 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?
KEY CAPABILITY	TO DEVELOP A POLICY FRAMEWORK WHICH CAN MEET THE POVERTY ERADICATION TARGETS AND TO RAISE, ALLOCATE AND ACCOUNT FOR RESOURCES IN ACCORDANCE WITH THOSE PRO-POOR POLICIES.
REVIEW QUESTION	3.5 How much confidence do the poor have in the ability of government to help solve their problems, and in their own ability to influence it?
KEY CAPABILITY	TO MANAGE NATIONAL SECURITY ACCOUNTABLY AND TO RESOLVE DIFFERENCES BETWEEN COMMUNITIES BEFORE THEY DEVELOP INTO VIOLENT CONFLICTS
TOPIC	CONDITIONS FOR CONFLICT PREVENTION
REVIEW QUESTION	6.12 How far do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?
KEY CAPABILITY:	TO DEVELOP HONEST AND ACCOUNTABLE GOVERNMENT THAT CAN COMBAT CORRUPTION.
TOPIC	GOVERNMENT ACCOUNTABILITY
REVIEW QUESTIONS	7.9 How extensive and effective are the powers of the legislature to initiate, scrutinise and amend legislation? 7.10 How extensive and effective are the powers of the legislature to scrutinise the executive, and executive-appointed agencies, and hold them publicly to account? 7.12 How comprehensive and effective are legislation and freedom of information provisions in giving the legislature, citizens and the media access to government information?

3.5 Identifying entry points

Are changes needed in the wider environment?

Can parliamentary reform start meanwhile?

3.5.1 The wider institutional environment

Look at the wider institutional environment first. Institutional changes that may be needed to enable parliament to work effectively can include constitutional reform, legal reform, and changed attitudes on the part of political leaders and the public. It may be necessary to postpone any assistance to parliament itself until these wider changes are under way. But not necessarily. Focus on outcomes: will help now improve governance, or will it entrench a corrupt and oppressive body

and/or government? As explained in chapter 5, constitutional and legal change is usually best postponed until there has been some experience of reform in parliament – though it will usually be advisable to flag up the likely need early on.

If not is there scope for working with MPs/CSOs/ media?

If for whatever reason a reform programme cannot begin, there may nevertheless be scope for working with reform-minded MPs or parliamentary officials to pave the way for a programme later, and/or with civil society and the media to raise public interest in an effective parliament.

Committees are a good place to start...

3.5.2 Reforms in parliament

Parliamentary committees are usually a good place to start:

...they have key roles...

- they are the key to holding the executive to account and to the detailed scrutiny of new legislation – two of parliament's most important functions
- committee reform can lead into other reforms – a better Public Accounts Committee will be no use if the Auditor General cannot produce proper accounts
- effective committees are a major conduit for civil society influence on government and need links with civil society and the media. Assistance programmes can help bring the parties together, and open the way for complementary support to the non-parliamentary participants. Existing support to civil society will likewise be enhanced
- committee members become increasingly knowledgeable in their specialist subjects, and hence more effective in plenary sessions - debates, questions etc. This enhances parliament's reputation.

...opening the way to other reforms...

...and work with civil society.

Committee experience makes plenary sessions more useful.

Linkages with other reforms to which government is already committed can be especially helpful in increasing understanding of the need for parliamentary reform and defusing opposition to it – for example a government that has embarked on security sector reform should see the need for an effective Defence Committee.

Look for links with other agreed reforms.

Chapters 8-13 look more closely at particular aspects of parliament which might be the subjects of an assistance programme. Committees provide an *entrée* to many of these activities.

Helping Parliaments and Legislative Assemblies to work for the Poor

TABLE 3.2: SOME PROBLEMS AND WAYS OF ADDRESSING THEM

PROBLEM	POSSIBLE ACTIONS	REF
LACK OF SUPPORT FOR REFORM IN PARLIAMENT	<ul style="list-style-type: none"> Establish modernization group Arrange study tours Arrange surveys, decision workshops Seek consensus on development plan 	Box 4.3 4.1.2 3.3 4.3.1
CIVIL SOCIETY INSUFFICIENTLY AWARE	<ul style="list-style-type: none"> Encourage greater access to legislative facilities Help develop public information units, visitor information centres Help develop and disseminate information material Conduct programmes in constituent relations Help develop constituent software Train legislators in press relations Promote media coverage of legislative sessions Assist with publication of legislative record Help develop interactive web sites Encourage greater participation by marginalized groups 	} } } } 12.1 } } } } 12.1.2 } 12.1.1 } } 12.2
CIVIL SOCIETY NOT INTER-ACTING EFFECTIVELY	<ul style="list-style-type: none"> Train CSOs in legislative relations Train journalists in legislative rules and procedures Support public interest forums/candidate information programmes Help draft civil society organization directories 	12.1.3 12.1.2 Box 12.1 13.3
LACK OF POWER TO MAKE LAW AND OVERSEE GOVERNMENT	<ul style="list-style-type: none"> If formal powers exist help to see how they can be enforced Otherwise see how rules, laws, constitution need changing 	Chapter 5
MPs LACK ADEQUATE INFORMATION	<ul style="list-style-type: none"> Develop data bases of experts and reports Develop budget software, budget offices, improved budget format and presentation Strengthen libraries 	Box 13.1 Table 9.1 11.2.2
INADEQUATELY PREPARED LEGISLATORS	<ul style="list-style-type: none"> Train legislators in policy-making, legislative procedures, and committee processes Conduct new member orientation programs Train legislators in oversight techniques Conduct gender awareness training, establish women's caucuses 	13.2.3
INADEQUATELY PREPARED LEGISLATION	<ul style="list-style-type: none"> Help improve government's policy formulation capacity Help train government legal draftsmen 	} } 13.1.2 }
STAFF INSUFFICIENT, AND INSUFFICIENTLY TRAINED	<ul style="list-style-type: none"> Help to ensure adequate staff budget Conduct training programmes for professional staff Provide training and assistance in conducting public hearings and open committee meetings Help explore alternatives to in-house staff: external think-tanks, experts; internships for university students 	} } } 11.3.2 } 11.2.2
INEFFECTIVE ORGANIZATION AND FACILITIES	<ul style="list-style-type: none"> Improve facilities and equipment Design and develop bill drafting systems Design and develop bill status systems Improve management rules and procedures Draft manuals on legislative procedures and operations 	11.2.3 13.2.1 11.1

(See also the checklists in Appendix 5 .)

4 PLANNING AND APPRAISING AN ASSISTANCE PROGRAMME

4.1 Getting and keeping stakeholder support

Support from government is crucial...

The main stakeholders are the government, and leaders of parliament. Their support is essential.

4.1.1 The executive

...but leaders may be sceptical.

In theory, governments should be looking for continuing popular support, and should be keen to govern well, with a properly functioning parliament as a useful ally. In practice, especially in new democracies, governments may see a strong parliament as a threat to their authority. They may rightly have a dim view of parliament as it is, and lack a vision of what a reformed parliament might look like. They may be concerned that greater participation in the legislative process will slow progress, overlooking the potential benefits in terms of quality of legislation.

They must be involved in the design...

Government support may at first be qualified or grudging, or even just a front to keep donors happy, with no intention of allowing real change. In designing a programme it is important to involve the executive and to try to build in benefits for them. For example improvements in parliament's representative capacity can include activities which will help the executive to increase its own citizen outreach.

...which might include benefits for them.

BOX 4.1: REFORMING PARLIAMENTARY COMMITTEES IN MALAWI

DFID is the main funder of a project to strengthen the interface between parliament and civil society in Malawi. The project focuses on developing the parliamentary committee system. At the outset, there was thought to be a high risk that government and the ruling party would try to sideline Parliament. But the first Output to Purpose Review in February 2002 found that political buy-in had been an early success. "The programme is clearly valued by all key stakeholders, with support from ruling party MPs, opposition MPs, the Speaker, the Leader of the House, and key staff at Parliament. The executive branch, including cabinet ministers, has seen the benefit of committee work....."

4.1.2 Parliamentarians

Not all MPs will be committed to an effective parliament...

Parliamentarians' enthusiasm for reform may depend on their motivation for being members. Those motivated by a desire to serve their fellow citizens will welcome the chance to do better. But so unfortunately may members who are there for reasons of personal gain, eg if they see the reforms as a chance to seek bigger and better allowances without any extra work, or as opening the way to bigger and better

kickbacks on government contracts. In other cases, self-seeking members may oppose reform because they see it as threatening their private interests.

...work with those who are...

Donors need to work with parliamentarians who are genuinely committed to improved governance – for example members of any Modernisation Committee.

BOX 4.2: MODERNISATION COMMITTEES IN BOLIVIA AND COLOMBIA

The USAID legislative strengthening project in **Bolivia** helped establish the Legislative Modernization Commission (CML), a bicameral committee chaired by the President of the Congress and comprising political leaders from both houses. The CML gained permanent status in Bolivia's legislative rules, and survived three national elections and three changes of political parties in power. Committee members used the group to spearhead electoral reforms in 1997. Before granting **Colombia** a \$4.9 million loan to strengthen its legislative branch, the Inter-American Development Bank required Congress to establish a modernisation committee. Congress did so, and members were required to remain in place for the four-year life of the Congress (leaders and members of other committees change yearly).

...study tours can give them a vision.

Parliamentary leaders may lack a vision of what parliament could become. A study tour to meet counterparts responsible for legislative modernization elsewhere can show them what is possible. Study tours should be designed to accomplish specific development objectives, and should include all political parties.

BOX 4.3: A FRUITFUL VISIT

The First Vice President of Mozambique's National Assembly met leaders of Bolivia's CML (see Box 4.3) while attending a legislative conference in Bolivia in 1996. This experience helped him envision a similar committee and similar reforms in Mozambique, which he later helped to implement.

MPs may need encouragement to have more contact with one another.

Some parliaments are highly polarised, with little contact between members of different parties. This is bad for democracy, and can make it difficult for committees to work effectively.

BOX 4.4: PROMOTING DIALOGUE IN MOROCCO

USAID helped to bring parliamentarians together through workshops on coalition building, improving executive-legislature relations, and effective bill scrutiny. This led to the finance minister consulting opposition members about the budget for the first time, and increased collaboration among members of different parties in the government coalition

Influential outsiders can provide support, and guidance.

4.1.3 Civil society leaders

A 'Circle of Friends', comprising eg senior politicians, the secretaries general of the main political parties, and key civil society players, can help to develop support and mitigate political risk. The circle should be listened to as well as talked to; it can be a useful "think tank" and a sounding board for

at; it can be a useful “think tank” and a sounding-board for ideas from elsewhere.

Effective working with outside bodies may need assistance to both sides.

4.2 External interlocutors

Fruitful relationships between parliament and outside bodies require skills on both sides. Try to work with both parties. – for example with the nurses union and the health committee - to build habits of constructive engagement. Start with those committees and elements in civil society that are most receptive, and most able or willing to invest the time and effort required.

4.3 Sustainability

Major reform needs a plan...

4.3.1 A parliamentary development plan

The reform process should be guided by a parliamentary development plan - as comprehensive, prioritised and costed a statement of the legislature’s needs and development goals as possible. The plan may of course need to be tweaked as reform proceeds. As mentioned in chapter 1, frequent changes of leadership make it difficult to maintain consistency in parliamentary reform. It is therefore important for leaders of all the main parties to agree on the plan and on any modifications, so that the programme is not derailed by changes in political fortunes.

...agreed by all to avoid hiccups if leadership changes.

Reforms must be thoroughly embedded...

4.3.2 Sustained assistance

Reforms must take root properly. For example one-off training events, with no follow-up, are unlikely to have lasting effect. Training needs to be supported by continuous consultation, technical assistance, monitoring, and critiques of partners’ practical application of new skills.

... institutionalised and budgeted for...

4.3.3 Institutionalising reforms

Reforms must also be institutionalised if they are to survive the withdrawal of external support. This means helping to build the basic capacity of parliament to support its newly strengthened activities - committees need administrative and secretarial support, researchers, expert advisers; informed debate needs library services, internet access, a press office and a press gallery. These facilities must be affordable, with provision included in parliament’s budget.

...before donor support is withdrawn.

BOX 4.5: PHASING DONOR FUNDING OUT AND LOCAL FUNDING IN

In Bolivia donor funds covered 100% of the cost of the Congressional Research service in its first year and 50% in the second year. In year three Congress paid 100%.

4.4 Parliamentary records

Parliamentary proceedings are important and must be recorded.

Parliaments make laws and take other important decisions eg about government policy and public finances. Parliamentary decisions and enactments can be challenged in the courts. It is important to have clear and accountable records of the parliamentary process, and all assistance programmes should take account of record-keeping needs.

PART III: POSSIBLE ACTIONS

5 THE CONSTITUTIONAL FRAMEWORK

5.1 Potential problems

If parliament lacks necessary powers the constitution may be faulty ...

Most countries have a written constitution which defines parliament's role, including its powers of oversight and accountability, and the rights of citizens. If the constitution seems not to allow for an effective parliament or effective public engagement this may be because:

...or misapplied.

- the constitution is faulty
- the constitution is imprecise and the executive is interpreting it so as to constrain parliament excessively
- the executive is deliberately misinterpreting or ignoring the constitution

Seek expert advice on problems...

Advice from a constitutional lawyer may be needed to define the problem. Given that constitutional change is very difficult, it is important to see how far matters can be improved within existing constitutional parameters.

...and seek to resolve them without constitutional change.

Parliaments and their supporters need to press for constitutions to be interpreted so as to maximise the effectiveness of the legislature. It may be possible to resolve issues by discussion, backed up by legal advice, or through the courts if they are independent and impartial. New statute law can resolve doubts about parliament's powers, and provide machinery for parliament to exercise its powers in cases where this is missing.

BOX 5.1: NEW LAWS TO STRENGTHEN PARLIAMENT'S OVERSIGHT ROLE IN SOUTH AFRICA

A Report published in 1999⁹ recommended two new laws:

An Accountability Standards Act to provide legal backing for the exercise by MPs of their powers to call ministers to account (to strengthen the resolve of government party members in particular to do their constitutional duty); to oblige government and state organs to respond to parliament and to remedy exposed errors; and to define the public entities accountable to parliament, and set objectives and standards for assessing their performance.

An Accountability and Independence of Constitutional Institutions Act to provide for the accountability to parliament of a number of institutions such as the Auditor-General, the Electoral Commission and the Human Rights Commission, whose independence is guaranteed by the constitution.

Constitutional courts, preferably with wide access, can resolve doubts.

Constitutional courts have been set up by several new democracies to handle litigation regarding the constitutionality of laws or acts of government. Constitutional courts should be open to elected officials, party leaders, and preferably to ordinary citizens of voting age; restricting access eg to heads of state or presiding officers limits their effectiveness.

⁹ Report on Parliamentary Oversight and Accountability, Faculty of Law, University of Cape Town (full text available on www.pmg.org.za/bills/oversight&account.htm)

BOX 5.2: CONSTITUTIONAL COURTS IN ACTION

Benin: (1992) the Court refereed a dispute between the President and the National Assembly over budget responsibilities; (1996) it ordered a President to retake the oath of office, after he had omitted a phrase that he claimed offended his born-again Christian principles.

Madagascar: (1995) the Court ruled that the President could be removed from office for failing to respect the Constitution.

Mali: (1997) the Court annulled the first round of legislative elections in response to a petition from opposition parties.

Gabon: (2001) the Court quashed a presidential decree appointing all the members of the Economic and Social Council, contrary to a constitutional requirement that 85% of them be elected.

Source: *Francophone Africa in Flux; Democratization in Fits and Starts* Christopher Fomunyoh *Journal of Democracy* 12:3 (2001)

5.2 Timing of constitutional and legal change

Don't rush constitutional change...

...it takes time to clarify needs and garner high level support.

Where such changes are inescapable it might seem logical for them to come at the beginning of a programme, but in practice it is usually best to leave them until later. Constitutional change is difficult. It may for example require a referendum. It is therefore important to get the changes right. Needs will be clearer once some progress has been made within parliament. Constitutional change also needs high level support which may not be there at the outset.

If other constitutional change is already afoot it might seem a good idea, given that frequent change is usually out of the question, to tack on the changes needed to improve parliament's effectiveness. But the better option may be to delay the other changes to allow time for parliament's needs to be properly defined and agreed.

Likewise with new primary legislation.

New primary legislation, for example to clarify parliament's constitutional powers and/or provide implementation mechanisms, also needs careful consideration and consultation, and is also usually best left until experience of working with parliament has clarified the issues.

See also Appendix 5, checklist B, and Figure A5.1.

6 ELECTORAL LAW

6.1 Potential problems

The important questions are:

- (i) Is the electoral law designed to result in free and fair elections?
- (ii) Was parliament elected in accordance with the law?
- (iii) Is the electoral law appropriate to the country's needs?

Unfair elections may leave little scope for parliamentary assistance.

If the answer to either question (i) or question (ii) is negative, parliament's legitimacy will be in question and there will be little or no scope for assistance unless serious efforts are being made to clean up the electoral system - see *Elections and the electoral process: a guide to assistance* (DFID/FCO 2003). If the outcome was fair, but inappropriate, the question whether or not to assist is more difficult and must be decided case by case. Main considerations will be the reasons for the inappropriate outcome (see below) and the prospects for tackling them, and whether in the meantime there are useful functions that the parliament might perform better with a little assistance.

Inappropriate outcomes may not rule out assistance...

The answer to question (iii) may be negative if elections result in:

- too many parties, making it difficult to achieve political consensus on anything
- one-party dominance
- parties so deeply divided that those not in power resort to undemocratic methods.- boycotts, armed resistance etc (see Box 2.1).

...and may have other causes besides flaws in the electoral system.

The electoral system is likely to be at fault if for example one-party dominance leaves important sections of society under- or unrepresented. But note that these outcomes may result from other problems, such as failings in the party system (see chapter 7) Indeed in theory it is possible that there is nothing wrong with either system and that it is all the voters' fault - for example because of a genuine feeling among most of the electorate that there was only one party worth voting for. But more often than not in such cases the lack of support for the other parties would indicate serious dysfunction on their part.

6.2 Possible solutions

New electoral systems are contentious...

Governments that are willing to reform will have no difficulty in agreeing in principle to put a stop to electoral fraud and intimidation, and to replace unfair electoral laws. But the practicalities of agreeing on a new electoral law, whether to replace one that is unfair, or one that is inappropriate, may prove more difficult; each political leader will want a law which improves his or her party's chances of doing well, and the ruling party, which by definition has done well under the existing system, may be reluctant to change at all.

...an independent body can be asked to advise.

In all cases where a change in electoral law is mooted it will usually be advisable for the government to appoint an impartial expert body to recommend a new system.

7 PARTIES AND THE PARTY SYSTEM

Effective political parties Are important to democratic government...

“...democratic government is unlikely and may not be possible in the absence of competitive political parties.....Orderly government, much less a democratic polity, cannot exist without some form of stabilised party representation”¹⁰

...but may be missing.

An effective democratic parliament requires a minimum of two functional political parties, able to compete fairly for the support of the voters. A functional party is one that can present policies and candidates, act as a link between the population and parliament, and serve as a channel for organised interests and social movements, aggregating the demands and concerns of different supporter groups and individuals into a coherent party platform. A party structure needs money, staff, a headquarters, and branch offices. In many developing and transition countries (especially in former one-party states) the ruling party may be the only one with such a structure (though it will not necessarily be functional in other respects). Other parties may not be functional at all.

Box 7.1 lists some of the main dysfunctions, which often derive from unrealistic perceptions of what is likely to succeed in the long run. For example parties with no policies, or which represent too narrow - and hence too small - a range of interests, are unlikely ever to amount to much. They should be encouraged to coalesce round a broader set of interests and common policies.

BOX 7.1: EXAMPLES OF DYSFUNCTION IN PARTIES AND PARTY SYSTEMS

PARTIES ARE DYSFUNCTIONAL IF THEY:

- are undemocratic: a small group at the top selects policies and election candidates with no rank and file consultation
- exist solely to promote the personal ambitions of the leader
- exist as a means to power with no clear ideas on how to use it (if they can't form a government watch their MPs switch to the winning side)
- have no resources to organise, or to organise outside the capital
- are ephemeral – voters faced with a different set of parties at each election will not know what any of them stand for

PARTY SYSTEMS ARE DYSFUNCTIONAL WHEN:

- one party in parliament has an overwhelming majority, while the opposition is weak and splintered
- there is a high degree of fragmentation (a lot of small parties). Small parties unable to cooperate with each other will not provide good governance; they weaken parliament and strengthen the executive.
- there is a high degree of polarisation (deep divisions between parties, with the risk of parties outside government resorting to undemocratic behaviour).

¹⁰ William Crotty, cited in Democratization, Vol 9 No 3.

Donor conditionality can cramp the opposition's style.

A difficulty in countries which are heavily aid dependent is that many policies are determined by donor conditionality, limiting the scope for opposition parties to present alternatives.

Parties evolve from social needs...

As noted in chapter 2, parties evolve from societies and without social change there is limited scope for repairing dysfunctions in parties and party systems. In countries where the population is mainly poor and mainly rural, it is difficult for parties to make contact. Party workers have limited funds, the transport infrastructure may be inadequate, the only CSOs around may be traditional groups such as ethnic associations and patron-client networks, which tend not to be very helpful in advancing democracy. Low levels of education can be another barrier.

...people in poor rural societies may lack opportunities to articulate their needs.

The poor cannot afford party subscriptions.

A further problem in poor societies is that people cannot afford to subscribe to parties, which will therefore lack funding – except perhaps for ruling parties with their access to state resources and/or funding from individuals or interests seeking undue influence. Some countries have adopted state funding of parties as a solution. Formulae for the distribution of funds vary, but are usually based on the different parties' share of the vote, sometimes with a weighting in favour of smaller, or new, parties. These arrangements may be accompanied by statutory limits on funding from other sources, and on party election expenditure. Ill-conceived arrangements can lead to a multiplication of small, weak parties, or to a freezing of the political landscape.

Parties may need state funding to be viable.

BOX 7.2: PUBLIC FUNDING OF POLITICAL PARTIES¹¹

A number of Francophone African countries including Gabon, Mali, Cote d'Ivoire and Cameroon have enacted laws that provide for public funding of political parties based on their past electoral performance, and their anticipated contributions to democratic vitality.

DFID was among donors who helped to fund parties in Ethiopia in 2000, via the National Elections Board. The funding helped to level the playing field, and the country began to evolve towards a more pluralistic system.

Donor direct help should focus on systems...

Donors can help by persuading governments to level the playing field if parties outside government are disadvantaged by an unfair legal structure or laws that are unfairly applied; for example the electoral system and/or the laws and regulations governing the registration of political parties, party funding, and access to the media.

¹¹ In the UK no state assistance is provided for party activities outside parliament, although funding is provided for opposition parties in parliament. See chapter 8 for further details.

**...aid to parties
should be
indirect.**

Otherwise it is difficult for donors to engage directly without appearing to interfere in domestic politics. The best approach will usually be to work through third party organisations - the Westminster Foundation in the UK (which funds the main UK parties to assist their opposite numbers in developing and transitional countries), the German foundations, NDI or IRI in the USA, International IDEA in Stockholm, or the new Institute for Multiparty Democracy (IMD) in the Netherlands which comprises representatives of all the country's main political parties. Areas where assistance might be needed include:

- internal party management
- internal party democracy – selection of leaders, formulation of policies
- communication with the electorate
- representation of women, indigenous groups, young people, the poor and disadvantaged
- recruitment and membership records
- leadership training
- functioning of local branches
- rules on funding.

See also Appendix 5, checklist C, and section 4.7 of *“Elections and the electoral process: a guide to assistance”*.

8 THE OPPOSITION¹², AND THE ROLE OF BACKBENCHERS

Parliaments need active oppositions and backbench members...

In a democracy, an effective legislature relies not only on those in power but also, almost as much, on those who sit in parliament but not as members of a government – the opposition¹³. In any legislature it is the ordinary members of all parties – the “backbenchers” who are not ministers or party leaders – who have the main role in providing the bridge between leaders and public.

Oppositions should be governments in waiting...

8.1 Helping to make an opposition or minority parties effective

...probing government policies and actions...

The opposition’s role is to advocate an alternative set of priorities, or alternative ways of addressing issues, as well as to scrutinise the activities of government. Oppositions can introduce amendments to legislation, mobilise public support for their policies, and try to defeat or stall legislation (but to be effective they must be constructive: obstructionist opposition for the sake of it is unlikely to win much public support). The most successful oppositions are those that can demonstrate a capacity to govern, eg by having an effective shadow cabinet or set of alternative policies.

...and offering alternatives.

They should be formally recognised...

The importance of the opposition should be formally recognised.

...by allocations of time...

BOX 8.1: OPPOSITION ENTITLEMENTS IN THE WESTMINSTER PARLIAMENT

In each session in the House of Commons the opposition is entitled to 20 days to debate subjects of its choosing, 3 of which are shared between the smaller opposition parties. Opposition spokespersons are called to speak in debates and given the opportunity to ask questions after ministerial statements as well as during the regular question periods. Financial assistance is provided “to enable the Opposition parties more effectively to fulfil their parliamentary duties”. . In 2002-03 this amounted to £5.5 millions in the House of Commons. Assistance is also given to opposition parties in the House of Lords.

...and funding...

...and may need training.

Where necessary, donors can help by persuading governments to recognise the importance of an effective opposition, and their need for resources and parliamentary time. Opposition MPs who are not used to being effective may benefit from study visits and training.

If there is no viable opposition in

¹² Note that the concept of a “loyal opposition” may be difficult to grasp in some cultures – for example in some African languages the only term available is one meaning “enemy”, which does not convey quite the right idea.

¹³ This Westminster terminology does not apply to all systems. For example the US Congress has a majority party and a minority party – and it may be the latter that is the party of the President and hence the government.

**opposition in
parliament
look for
reasons
outside.**

8.2 What if there is no viable opposition?

If the electoral system has failed to deliver a viable opposition grouping there will be little or no scope for helping to develop effectiveness. Problems with the electoral system or the party system may need to be tackled first – see preceding chapters.

**Leaders can
lose touch...**

8.3 The role of backbenchers

Ministers and party leaders can easily lose touch with popular feelings and opinions. This is bad for governance as it can lead to the adoption of policies that people do not want or do not understand. It can also be bad for leaders who may get a nasty surprise at the next election.

**..back bench
members
can make
sure they
don't...**

Backbenchers can alert leaders to public sentiments that they are unaware of. In some parliaments it is common for leaders to consult with their backbenchers and to modify proposals which seem likely to arouse opposition. An effective relationship requires leaders who recognise the value of the backbenchers' contribution, and backbenchers who are in touch with the grassroots, through maintaining contact with the electorate and with CSOs, and who are not afraid to speak up eg by writing to or seeking meetings with ministers, by asking questions or putting down motions for debate in plenary, or by pursuing issues in committee. Effective backbenchers need information and contacts to help them to understand all the issues that they have to deal with.

**...provided
they keep in
touch
themselves.**

There can sometimes be serious discrepancies between the preferences of leaders and backbenchers, and while leaders can bring pressure to bear on their backbenchers to toe the line, they may be obliged to back down in face of a major revolt.

See also Chapter 11, and Appendix 5, checklists D and H.

9 STRENGTHENING THE OVERSIGHT FUNCTION

Oversight is important...

Oversight of government is one of parliament's most important functions. It feeds into the other two main roles of legislatures - representation and law-making – by enabling MPs to monitor the impact and effectiveness of previous legislation.

...but may be unwelcome...

Governments, ministries and other organs of state tend not to relish being called to account, and may seek to constrain or obstruct parliament's activities, or take no notice of parliament's opinions. Governing party MPs may be reluctant to call in question the actions of their party leaders (and in parliamentary systems with a government majority and rigid party discipline - UK, Canada - oversight tends to be less developed than in presidential systems).

...governments may need to be persuaded...

...parliament may need to marshal support from civil society and the media.

Ministers need to be persuaded of the importance of accountable government. CSOs and the media can bring pressure to bear. Parliament itself can help promote public support and make sure that it is taken seriously by publicising its findings and recommendations, and emphasising their evidential basis. Parliamentary sanctions can include withholding approval of government budgets.

9.1 What do oversight and accountability entail?

Parliament must ensure that the state acts legally and properly...

Oversight entails monitoring and reviewing the actions of the executive organs of government. It includes holding the executive accountable but goes wider, for example to assessing whether actions are legal, whether they conform with government policy, and whether they benefit the intended sections of the population.

...and that mistakes are put right, and not repeated.

Accountability means requiring the executive or another organ of state to explain and justify - against criteria of some kind - their decisions or actions. It also requires them to make amends for any fault or error and to take steps to prevent a recurrence.

All state organs are usually accountable.

9.2 Who is accountable to Parliament?

This will be set out in the constitution and will normally include the executive (collectively and individually) and executive organs of the state – ministries, state institutions (Auditor-General, Electoral Commission, Human Rights Commission,

etc), parastatals.

9.3 What does parliament need for effective oversight?

Parliament needs written and oral information...

...MPs who can extract and use it...

...and power to make the executive take heed.

Parliament must have (a) the power to demand information and compel testimony, and (b) MPs with the capacity to understand and interpret information and evidence. MPs may benefit from training programmes in oversight techniques - using question periods more effectively, better utilizing the public accounts committee, learning to apply interest group pressure on the executive, etc.

Parliament must be able to enforce demands on the executive to improve performance, access or responsiveness. In the last resort it must be able to remove the executive by impeachment or a vote of no confidence, or alter its priorities through budgetary or legislative amendments.

Committees play the key role.

9.4 How does parliament exercise oversight and accountability?

This will vary from case to case, but a typical scenario is shown in Box 9.1. As noted earlier (sections 2.5.2 and 3.5.2) committees play the key role in holding ministers, ministries and other government agencies to account.

Box 9.1: MAIN WAYS IN WHICH PARLIAMENT OVERSEES GOVERNMENT

IN PLENARY	IN COMMITTEE
Debates	Cross-examination of ministers and officials
Questions to ministers	Scrutiny of reports on policies and activities
Scrutiny of government budgets	Detailed scrutiny of budgets – by department. Scrutiny of accounts
	Scrutiny of reports from Auditor-General, Ombudsmen etc
Broad scrutiny of legislation	Detailed scrutiny of legislation

9.5 Oversight by the Chamber

The chamber can call government to account in debates...

9.5.1 Debates

Most debates are concerned with government policies and actions in one way or another: they may be on legislation (see 9.5.3 below); on a resolution dealing with an issue of concern to members (see 9.5.5); or on a motion regarding a burning issue of the day such as a proposed war. If the issue is important enough the debate can attract wide publicity for all opinions, and on occasions can result in the downfall of a government. Debates are more suitable for broad brush discussion than for close examination of policies and actions – that is best left to committees where it is easier to pin ministers down.

...by asking questions...

9.5.2 Questions

Questions – oral or written - can be used to obtain information, to query a particular government policy or action, or to embarrass the government. Their main value from an accountability point of view is in extracting and making public information that casts light on government activities and performance. Their value is reduced if ministers can refuse to answer awkward questions, or if they are allowed to lie.

...by scrutinising new legislation...

9.5.3 Legislation

In most democratic legislatures, the lion's share of legislation is presented by the executive, and passed by the parliament. Much of the legislation will derive from the electoral mandate of the winning party. Legislation is usually scrutinised both in plenary and in committee. Plenary sittings usually focus on broad issues: is the new law constitutional? Is it necessary? Is it fair? Is it reasonable, or oppressive? Laws that are acceptable in principle normally proceed to committee for detailed scrutiny.

...and the government's budget.

9.5.4 Budgets

The budget process can be a key opportunity for effective oversight of the government by the legislature, although the legislature's power to change a budget may be limited – see Box 9.2.

Box 9.2: POWERS OF DIFFERENT LEGISLATURES IN RELATION TO THE BUDGET

The US Congress has virtually unlimited amendment powers in the budget process. Most parliamentary systems allow the legislature only to reduce or increase spending and taxes, but often only within specific limits. Under the Westminster tradition, the legislature has the opportunity to vote on specific budget proposals but rejecting the budget in its entirety would lead to a no confidence vote.

Parliament's powers must be clear...

The legislature's powers to debate, amend and/or reject the government's budget need to be defined, and made legally enforceable.

...so must the budget...

Governments must be required to present their budgets so as to provide a clear picture of what they plan to spend, where the money will come from, and how the expenditure will further policies and priorities. Adequate time must be allowed for the legislature to consider the budget. Parliament in turn must have effective structures and procedures, technical and research capacity, and the capacity to process and analyse information about government activities. It needs MPs with expertise in particular topics – for example (see below) members of departmentally-related committees.

...and parliament must have enough time...

...and the capacity to scrutinise effectively.

TABLE 9.1: HELPING LEGISLATORS TO OVERSEE THE BUDGET PROCESS

<p>Budget software: Legislators need accurate information. Budgeting is largely a cumulative exercise; they need to know what was spent in previous years in order to formulate good questions regarding current proposals. The SUNY/CEAL project in Chile developed software to do this. University students input budget information (what was budgeted, and what was spent, by line item) for the previous three years. The software made this information easily retrievable. Legislators could quickly see the yearly actual and percentage change in each budget line, helping them to ask more informed questions of ministries.</p> <p>Budget format and presentation: Budget consultants can recommend changes in format to make the budget easier for legislators and the public to understand. SUNY budget consultants provided the Bolivian House Budget Committee with 25 specific recommendations to this end.</p> <p>Budget offices: professional budget staff can help legislators fulfil both their budget making and budget oversight roles. Many legislatures (Bolivia, Mexico, US) use legislature-based budget offices. Consultants who work in such offices in other systems can assist in office design, and workshops and internships in other legislatures can help staff development.</p>
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Resolutions can put the spotlight on issues of concern.

9.5.5 Resolutions

Parliament can adopt a resolution to express its views on a particular subject. In many parliaments resolutions are proposed exclusively, or predominantly, by the government. In such cases providing opportunities for individual members to put resolutions before the legislature would be one way of increasing parliament's influence. A resolution lacks legal authority but can be a useful way of urging government to take a particular course of action or to look into a particular issue. The media, NGOs etc can be urged to add their support - but the tool becomes blunt if over-used.

Committees look in detail at laws, policies and actions...

9.6 Oversight by Committees

Committees have two main functions: detailed scrutiny of legislation, and detailed examination of particular policies and activities. A committee may perform both functions, or only one or the other. The role of committees is crucial.

...but may be viewed with suspicion by governments.

Committee reform may excite hostility at the outset from governments, who may see subject committees as competing sources of power, and legislation committees as putting a brake on legislation. But the point of these activities is to improve governance, which is something governments should welcome (they will be able to claim some of the credit). Hostility can evaporate once reform gets under way – see Box 4.1.

Strong committees need experienced members...

Committees should be able to set their own agendas. They need committed members who, in the case of subject committees, are appointed for the duration of the parliament. They require wide access to information from government departments and other sources, and sufficient staff and resources to pursue inquiries thoroughly. They

... Information...

...administrative support and expert back-up.

need powers to summon witnesses including outside experts. They need adequate administrative and advisory support – clerks, researchers etc. Research can be contracted out – eg to NGOs or university think-tanks – to obviate the need for expensive resources in-house.

A Public Accounts Committee is central...

The most important committee is usually the Public Accounts Committee. With the help of independent auditors, it can report on the efficiency and effectiveness with which the various arms of government have used their resources.

...with a Defence Committee usually second most important.

A Defence Committee is likely also to be important, both to help ensure civilian control over the military, and to keep a close watch on military spending, which can consume an over large share of the total budget, with wide scope for inefficiency and corruption (because there is only one primary customer and very few suppliers).

Other Committees should shadow the other main departments of state.

By developing committees as centres of permanent expertise, the legislature will be far better placed both to understand and to interrogate ministries. This process should also serve to build trust and confidence between parliament and the ministries.

Where the legislature is too small to maintain effective permanent select committees, respected members of civil society can be called on *in lieu*.

There is no blueprint for an effective committee system. Legislatures can learn from the experiences of select committees in other countries through study visits. Websites offer another opportunity to learn about international best practice.

See also Appendix 5, checklist E.

TABLE 9.2: OVERSIGHT - SOME PROBLEMS, AND POSSIBLE SOLUTIONS

PROBLEM	POSSIBLE SOLUTION
Too many bodies accountable to parliament	Prioritise: the list of bodies can be extended as constraints fall away and expertise and experience increase.
Officials refuse to disclose documents, or discuss certain issues, on grounds of confidentiality	Committee's may have legal power to compel disclosure Committees can sit <i>in camera</i> where necessary. Committees should apply rigorous criteria to confidentiality claims

Helping Parliaments and Legislative Assemblies to work for the Poor

Government reports to committees are not helpful Government reports may be too long and detailed for committee members to have time to read them; or too vague and general. Information of interest to the committee may be hidden away, or absent. Government reports may be submitted at the eleventh hour so members have no time to read them.	Committees should spell out their requirements, as to both content and timing. Requirements need to be enforced.
Government fails to respond to committee reports	Require government response within specified time limit
Ministers and others refuse to testify	Give committee power to require attendance
Ministers insist on being members of scrutiny committees	Restrict membership of non-legislative committees to back bench members

10 ETHICS

10.1 Ethical standards in parliament

MPs face difficult ethical dilemmas.

“The problem is not that legislators are inherently corrupt, or will necessarily become so. Rather, the nature of their position requires legislators to continually face difficult ethical dilemmas. Legislators must constantly decide among competing interests: national, constituent-based, political and personal. This difficulty is amplified by the fact that most legislators simultaneously hold positions in the private sector, and as such are perpetually “changing hats”...legislators are subject to intense scrutiny by the media, NGOs and the public...”¹⁴

Corruption in parliament will lose public confidence...

A parliament that is perceived as corrupt will not have the confidence and trust of the people, and is unlikely to cut much ice in its oversight role. Parliaments need an ethics regime to guide members through difficult decisions, to protect them against false allegations, and to investigate and deal with allegations that appear to have some foundation. Regimes vary from country to country, but essentially require members to be open about their sources of income and their interests outside parliament, to declare conflicts of interest when they arise, and to avoid compromising themselves by accepting gifts or lavish travel expenses. It is also important that members should not seek or accept payment from unofficial sources for undertaking parliamentary duties such as speaking in Parliament, asking a question, introducing a bill, or moving an amendment - or for urging colleagues or ministers to do any of these things. Further details are given in Appendix 4.

...and vitiate effective oversight of government.

An effective ethics regime requires transparency from MPs about income and assets, and conflicts of interest...

...with a regulator to enforce it...

Ethics regimes require a mechanism for enforcement and for sanctioning violations. Some parliaments have set up their own committees on ethics or standards; others have established independent bodies. Parliamentarians usually prefer the first option, but not necessarily for the best of reasons. The regulatory body should be an agony aunt as well as a policeman, to help legislators deal with ethical dilemmas by providing advice and guidance as well as applying sanctions.

...and to provide guidance on tricky issues.

¹⁴ National Democratic Institute for International Affairs: Legislative Research Series Paper #4 *Legislative Ethics: a Comparative Analysis*

10.2 Corruption in public life

An honest parliament can lead in combating corruption in public life.

Parliaments have an important role in fighting corruption in public life: they scrutinise anti-corruption laws put forward by government (and may be able to initiate such laws); their oversight role requires them to look out for, and deal with, corruption in government and state organs; they can raise public awareness of the high cost of corruption, and enlist public support in fighting it. They should participate in working out national anti-corruption strategies.

An effective Public Accounts Committee, supported by an effective public audit, is parliament's strongest anti-corruption weapon – preferably backed by a strong opposition and effective backbenchers.

11 RESOURCES

**Parliament
needs money to
pay MPs and
provide support
and facilities...**

An effective parliament must provide its members with adequate pay and allowances, effective administration and support services, and a suitable working environment. Costs will vary from case to case, but an effective parliament cannot be run on the cheap. The Westminster parliament, for instance (see Appendix 3), has a staff of about 1400 – just over twice the number of MPs – and costs on average over £400,000 per member per year, of which nearly half is accounted for by members' salaries and allowances. This appears very expensive, although looked at another way the total cost (both chambers) is less than £6 per year per head of UK population.

11.1 Managing resources

**...funds must be
well managed...**

Resources need to be carefully managed not only to ensure they are used to best effect, but also because badly managed or ill-judged expenditure will damage parliament's reputation.

**...with members
overseeing
officials...**

It is recommended that a committee of parliamentarians, chaired by the parliament's presiding officer, should be responsible for overseeing resource management. The committee should be responsible for determining strategy and appointing the most senior parliamentary officials, who will then have delegated authority for most day-to-day responsibilities.

**...whose
departments
should work to
established
rules.**

The administration should include a personnel department, and a finance and accounts department responsible for preparing the annual budget, making payments, and accounting for all expenditure and receipts. Regular procedures, manuals and forms should be developed for purchasing, accounting, and employment practices, to reduce employee and legislator discretion.

A separate committee or committees of MPs could be set up to take account of feedback from members on standards of services and facilities.

11.2 Enabling Members to do their job

11.2.1 Pay and Allowances

**MPs need
adequate pay ...**

Members' pay should be fixed at a level high enough to attract capable candidates, without being excessive. It might, for instance, be tied to the pay of a suitably senior grade in the civil service.

...and

allowances... Members also need allowances to cover the various expenses that they must incur to be effective: secretarial help to deal with correspondence, arrange appointments, set in hand research, etc; travel and subsistence allowances to help maintain contact with the electorate; help with the costs of maintaining a constituency office.

...but should perform effectively in return.

Where an appropriate pay and allowance regime is not in place, some thought may need to be given to the timing of its introduction. For example if the MPs now sitting are not doing anything useful it may be best to wait until the next election. On the other hand the existing MPs might be eager to become useful if only they had the resources....

11.2.2 Information and Advice

They need information and advice...

MPs need to be able to obtain information and advice. An efficient parliamentary library can be the main source, providing internet access as well as written material. At Westminster the library staff includes a number of researchers who deal with in-depth enquiries from members and write briefing papers in connection with new legislation and other topics of interest. These researchers each specialise in a particular subject area – business and transport, home affairs, etc. If professional in-house capacity is too costly, alternatives could include contracting work out to local academic institutions, or bringing in university students to supplement full time staff. Research needs to be coordinated to avoid duplication.

11.2.3 Ancillary facilities and services

...and – regardless of party - offices and equipment...

Members need office space, meeting rooms, sound systems, telephones, and copying machines; and they need staff ranging from senior administrators to secretaries, receptionists, security guards and messengers. Benefits should be distributed equitably (in El Salvador reforms were held up until copiers and other equipment were provided to minority parties).

...which should not be too lavish.

The provision of offices, furniture, equipment, telephone systems, etc. is expensive, and should be restricted to improvements that make a real difference to parliament's ability to fulfil its functions. Funds will be needed for training in the use of new equipment or software, and for maintenance and upgrading.

11.3 Managing parliamentary proceedings

Smooth running needs simple

11.3.1 Simplifying the rules of procedure

Rules of procedure or “Standing Orders” govern all aspects of

needs simple rules...

parliamentary management. They should help, rather than hinder, the conduct of business. Possible reforms include:

...well thought out procedures...

- rewriting the rules to make them simpler and clearer
- shifting work from plenary to committee, where more detailed discussions may take place
- increasing the tenure of committee leaders and members, allowing them more time to develop expertise in their areas of responsibility
- limiting debate time on non-controversial legislation, enabling the legislature to devote more time to more difficult issues

11.3.2 The role of senior officials

...and competent officials...

In order to do their job MPs need to know how to proceed (for example if they want to put down a question) and what business is being conducted where and when. Committee members need expert advice, and witnesses who turn up at the proper time. Proceedings need to be accurately recorded. It is up to the senior officials to ensure that all these needs are met, and that parliament runs smoothly.

The main tasks include:

- publishing the order of business for parliamentary sittings, including committees
- providing legal advice to the presiding officer, other senior persons and committees
- providing other support to presiding officers
- in a parliamentary system, receiving questions and motions for debate, and ensuring that they conform with the rules (eg a question might be out of order if there is no ministerial responsibility; if it doesn't seek information or press for action, or if it deals with matters which are *sub judice*)
- examining new legislation and proposed amendments to ensure conformity with the rules (an amendment would be out of order if it went beyond the agreed purpose of the draft law)
- taking minutes and publishing decisions and proceedings (as distinct from the record of what is said – see 12.1.1 below)
- supporting committees by providing a committee clerk, advice on committee programmes and reports, and arranging for other advice, attendance of witnesses, etc
- supervising the broadcasting (if any) of proceedings
- producing written guidance on procedure for members and other interested parties
- overseeing management of the physical facilities – buildings, office and communications, restaurants, etc

...who may benefit from professional training.

buildings, office and communications, restaurants, etc.

Professional staff include committee clerks (to manage committees more professionally), budget specialists (to help legislators with their budget-making and budget-oversight responsibilities), and library research staff. They may need training in some or all of these duties. A number of universities provide suitable masters degree and certificate programmes. Short courses in-country, focusing on specific needs, are another possibility. Training for committee clerks, for example, can include committee record keeping, committee management, committee reporting, conducting open meetings, and conducting public hearings.

Members need catering facilities...

11.4 Members' safety and comfort

11.4.1 Refreshment

MPs need to eat and drink and to be able to entertain visitors. Staff need refreshment facilities too.

...security (but not so as to exclude public access)...

11.4.2 Security

Politicians and parliaments are vulnerable to attack by disgruntled citizens, political enemies, enemies of the state, terrorists, lunatics, etc. Parliaments need to be open to citizens, which heightens the risk. A security system is needed to ensure eg that no weapons are brought into the building, and to intervene if any incident occurs.

...and their premises must be maintained and kept clean.

11.4.3 Maintaining the building

Provision must be made for maintenance and repairs to the building, and for the provision of cleaning services.

12 PUBLIC AND PARLIAMENT

For parliament to be a bridge between citizens and government...

... MPs must be proactive ...

...and so must citizens.

A vibrant democracy requires citizens to do more than just vote on election day. And it requires governments to be permanently aware – not just at election time – that they are there to serve the citizens.

Parliament should act as the interface between citizens and government. If it is functioning well citizens will make known their views on constituency matters, policies and legislation to their MPs, who will follow the issues up. If it is not, citizens will have no motive for constructive engagement. This can become a vicious circle: if people have no expectation that their politicians, parties and parliaments will address their problems, the political actors will be under no pressure to do so. Breaking into the circle means encouraging civil society to engage, and parliamentarians to respond.

12.1 Encouraging public participation

Schools and the media can help raise public awareness...

Citizens are unlikely to participate if they do not understand why parliament is there, and why it ought to matter to them. This is a matter of public civic education that can often start with advantage in schools and local communities. The media have a vital role in educating the public, maintaining public interest in issues of the day and making sure that parliaments do not ignore abuses and problems. The public should have some understanding of the constraints and competing policy concerns that governments must live with.

...and so can parliament itself.

Parliament itself can encourage public participation eg by:

- developing and disseminating information material
- organising educational programmes for young people
- encouraging people to visit parliament and watch its proceedings
- encouraging committees to hold open meetings and to visit all areas of the country to give local people the chance to see them in action and, on local issues, to contribute to the inquiry
- broadcasting/televising plenary and committee proceedings
- providing a parliamentary facility for responding to questions and complaints from citizens

Proceedings should be reported quickly.

12.1.1 Reporting parliamentary proceedings

It is important that parliament's proceedings are transparent, and that the public knows what is happening. Legislatures are often months late in writing and distributing their legislative

often months late in writing and distributing their legislative record. Offices that produce the record may be inadequately staffed, and requirements that the record be verbatim slow the process. Assistance may include consulting on redesign of the record, funding assistance for staff producing the record, and funding to help distribute the record more widely.

A web site could be inter-active..

One option is an Assembly web site. This can contain the daily journal, legislative summaries, and the full text of legislation before the Assembly. Citizens can use the web page to write to the Assembly and comment on legislation under consideration.

The media can report and explain...

12.1.2 The role of the media

If anything is going on in parliament, the media's role is to report and explain it (this can include investigations into allegations of malpractice). If nothing is going on and it should be, the media should be complaining. The media can provide a sounding board for the public (letters to the editor, phone-in programmes), and an interface between representatives and represented (for example the BBC's "Question Time").

...but journalists need facilities and may need training.

To fulfil these roles the media needs journalists who understand the issues (and who may need special training eg in how the legislature functions and how to read legislation and anticipate its impact). The journalists in turn will need facilities in parliament (at the minimum unrestricted access; ideally press gallery, office space, equipment).

The public should beware of media bias.

People should also be aware that the media are not always on the side of objective enlightenment. There may be bias – state-owned media which are too pro-government; privately-owned media pursuing hidden commercial agendas or a proprietor's agenda; media dependent on advertising and afraid to offend big advertisers. There may be sensationalists who will say anything to sell more papers. And conflicts of interest – media owners who are legislators, legislators who host chat shows. The media may also discourage people from standing for Parliament or taking prominent roles by showing excessive interest in the (irrelevant) personal lives of members.

Edited broadcasts should be free from distortion.

In some parliaments proceedings are broadcast or televised. It is for each parliament to decide whether it wants this, and if so how it should work. The important thing is that what is conveyed should be truthful; edited versions can convey too rosy, or too derogatory, an impression.

Radio reaches a wide audience.

Cassettes and the radio are an inexpensive method of informing citizens about legislative happenings. Radio is the

communications medium most accessible to citizens – especially the poor - in developing countries. Information offices could produce a weekly summary of legislative events to be played on radio stations nationwide. Tapes could be customised by asking legislators to provide a brief introduction on cassettes to be broadcast in their regions.

CSOs can inform and promote discussion...

12.1.3 The role of Civil Society

CSOs often conduct activities to inform citizens about their legislature and legislators, and help underrepresented groups, such as women, be heard.

Box 12.1: CSOs AT WORK

Poder Ciudadano (Argentina) conducts citizen workshops on issues such as reducing corruption and improving relations between legislators and the electorate. The Center for Legislative Development (Philippines) and the Forum for Women in Development (Uganda) hold workshops that bring together legislators and CSO representatives for discussions on issues of concern. The University of the Andes (Colombia) developed a "Virtual Candidate" program prior to the congressional elections, distributing detailed information throughout the nation through a network of participating universities.

...but may need help to interact effectively with parliament.

Assistance to help civil society to interact more successfully may include training programs in how the legislature operates and with whom to deal on specific issues, and in presenting testimony in public hearings and open meetings. This kind of assistance also benefits the legislature: trained CSOs are likely to be more focused and more constructive.

12.2 Strengthening Parliament's representational function

MPs have a duty to represent the views and concerns of the electorate generally, and to take up individual or group grievances.

12.2.1 General representation

MPs should represent the public at large...

MPs can be:

- delegates (who subordinate their judgement to the views of the citizens they represent)
- trustees (elected to exercise their own best judgement on behalf of the citizens)
- party representatives (who vote the party line, with the presumption that the party has citizens' interests at heart)

Approaches will vary from one parliament to another, and will not necessarily be the same on every issue: members who normally vote the party line may sometimes revolt, for example on matters of conscience or if the proposed policy would have a specific, adverse effect on their constituents.

Parliament's ability to represent the people depends partly on its composition, and partly on the willingness of individual MPs and their ability to keep in touch with popular opinion. Both are conditioned to some extent by outside factors such as the system of government and the electoral system (see Chapters 2, 5 and 6), and by whether MPs have sufficient resources (Chapter 11). There will be little willingness among members who are interested only in their own advancement or enrichment.

12.2.2 Representing groups

**...group
interests...**

**...paying special
attention to
under
represented
groups ...**

There is a danger that some groups will be overlooked. The composition of parliament is fundamental: if it is all or nearly all male, for example, it is unlikely to make a very good job of representing the views of women; if there are few or no members from minorities – ethnic, religious, etc – their needs and concerns may not get much consideration: if as is usually the case poor people are under-represented the same will go for them. Changes in the electoral system¹⁵ can sometimes make parliament more representative of all elements in society, but opportunities for such change tend to be rare (and care is needed to avoid further entrenching divisions). Meanwhile, members can be encouraged to pay greater attention to the needs of minority and disadvantaged groups; and those groups can be encouraged to do more to make their concerns known to their elected members. See also section 12.1.

**...and should be
willing to take
up individual
grievances.**

12.2.3 Representing individuals

MPs should maintain contact with their constituents – supporters or otherwise. The mechanics of this will vary according to the electoral system. This requires willingness, and resources. Constituency surgeries will bring to light individual or group grievances, and help the MP to keep in touch with public opinion. Constituents may also approach their MPs in parliament or by correspondence. MPs can make themselves known locally by participating in local events – festivals, weddings, funerals etc.

¹⁵ Eg in Singapore just over half the constituencies are *Group Representation Constituencies* (GRCs) where at least one candidate in each party team must belong to a minority race. This ensures that parties contest the elections as multi-racial. Each GRC elects 5 or 6 MPs of whom 1 or 2 are Indian or Malay. Other countries have quotas for women candidates.

MPs may need training in constituency relations, and in relations with the media. Constituent software¹⁶ can help.

See also Appendix 5, checklists G and H.

¹⁶ Constituent software enables MPs to keep track of contacts and correspondence, to make sure that matters raised by constituents are not overlooked. Cf CEAL project in Chile

13 STRENGTHENING THE LEGISLATIVE FUNCTION

Parliament's job is to decide whether new laws are necessary, fair, and correctly drafted.

Making law is another of parliament's most important functions. Parliament's job should be to ensure that new laws comply with the constitution; are fair; are carefully drafted so as to achieve the intended purpose and no other; and that they amend or repeal existing laws where they clash with the new law.

13.1 Parliament's powers

The constitution must provide adequate powers.

There may be a need to tackle constitutional impediments (real or alleged) which constrain parliament's ability to deal with legislation effectively, or to initiate legislation (see Chapter 5).

13.2 Executive capacity

Government may need help to produce better drafts...

Most draft legislation comes from the executive. If it is based on half-baked policies and/or badly drafted, parliamentary time is going to be wasted, either in rectifying deficiencies or because deficiencies pass unnoticed and the law has to come back for amendment when it is discovered not to work. It may be worth considering whether assistance to parliament should be complemented by helping government improve policy formulation, and training for its legal draftsmen.

13.3 Consultation

...which all concerned should see before presentation to parliament.

All concerned parties should have time to study proposed laws and to comment. Where possible governments should publish draft bills for discussion and informal examination before formally presenting them to Parliament.

13.4 Parliamentary procedure

13.4.1 Overview

Parliament will usually meet in plenary to consider whether the purpose of the new law is acceptable – is it necessary? Is it fair? Is it reasonable, or oppressive? If the law is acceptable to parliament in principle, the next step (usually in committee) is to scrutinise the bill clause by clause to make sure that it is acceptable in detail. Amendments are likely at this stage, many of them emanating from the government, who have spotted, or had pointed out to them, defects in their earlier bill. The bill as revised will then normally be considered again in

plenary, for parliament to give its final approval. In bicameral parliaments, this procedure may be gone through twice.

**Parliament
needs efficient
procedures...**

13.4.2 Detail

Efficient parliamentary procedures will allow for proper scrutiny without being too complex. The process should facilitate consensus and compromise, and the resolution of conflicting points of view.

**...including a
system for
keeping track of
bills...**

As the volume of legislation grows, it becomes increasingly difficult for either legislators or the public to know the status of any particular item. Bill status systems, in place in most developed legislatures and a growing number of developing ones, can help. At a very basic level, this can mean just posting and publishing weekly the status of bills before the legislature. At another level, a more complex system on the Web (cf Peru¹⁷) can enable legislators and citizens to read the full text of legislation and follow it through the legislative process.

**...and must have
enough time...**

One key issue is the system for setting priorities among bills in the parliamentary timetable. Governments will lead on this but should not be allowed to railroad through only their own legislation. At the same time, Parliament should also be prepared to resist government attempts to impose unreasonably short timetables for the passage of legislation, or to load the parliamentary programme with an indigestible amount of new law¹⁸. But there do need to be time limits to ensure that consideration is not unduly delayed, and to deal with filibustering and talking out.

**...information,
and advice...**

13.4.3 Advice and information

MPs, especially those on the bill committee, need to understand the implications of the proposed legislation. They need advice and information, including information about legislation in other countries.

BOX 13.1: DATABASES OF LOCAL EXPERTS

A great deal of information needed to resolve public policy problems exists locally, but legislatures do not have systems for tapping into it. One solution is to develop databases of local experts, and a system of expert reports. SUNY has developed such arrangements in Chile, Guatemala and Mozambique. Local consultants develop databases of local experts, by subject area. Committees and members can then draw on their assistance and advice on proposed legislation. The experts can also be called on to draft reports on legislation being considered by the executive, and to help develop the legislature's own proposals.

¹⁷ <http://www.congreso.gob.pe>

¹⁸ This is easier where a parliamentary committee sets, or helps to set, the agenda. In some cases – eg Westminster – the agenda is fixed by government.

...including on legal drafting.

Where legislation is initiated by MPs, expert advice is even more important and will certainly need to include advice on drafting. (It is difficult for MPs to introduce legislation which successfully passes into law¹⁹. There may be pressure on parliamentary time. Drafting legislation is difficult and requires a great deal of skill and knowledge in addition to legal drafting capacity. There may be other constraints: in the UK, for example, backbenchers may not introduce legislation whose purpose is solely financial, though they are allowed to introduce bills with a subsidiary financial impact.)

BOX 13.2: THE ROLE OF THE LEGAL DRAFTSMAN

Professional legal draftsmen help legislators put their preferences into proper legal language, and to amend accurately draft legislation they receive from the executive. Imprecise language muddies legislative intent, and allows ministries undue latitude in interpretation. There are a variety of institutional arrangements for bill drafting systems, ranging from ad hoc systems, where legislators might ask friends and associates to draft, to centralized systems servicing all needs – government and private members alike. Bill drafting reform efforts have generally moved toward institutionalizing the process and establishing centralized professional, non-partisan systems. This also helps to make the best use of what is a very scarce skill.

See also Appendix 5, checklist I.

13.5 Keeping in touch with civil society

Input from civil society should cover laws in force as well as new laws.

Legislatures need to hear from civil society organizations on proposed legislation, and on how well the laws in force are working. Some legislatures – eg Chile – have found it useful to maintain a directory - updated yearly - of all the country's CSOs.

¹⁹ In the UK in 1999-2000, for example, 104 bills were introduced by private members: only 6 became law.

PART IV: ASSESSING IMPACT

14 MONITORING AND EVALUATION

Monitoring should focus on parliament's impact on the outside world.

Monitoring and evaluating progress with parliamentary reform is difficult. It is not enough to monitor changes within parliament – length of sittings, numbers of committees, questions and reports. This needs to be done, but will say very little about the impact on the world outside. It is much more important to measure changes in parliament's influence on government, and on governance. Objectively verifiable indicators (OVIs) need to be selected to meet these criteria. And of course there needs to be a base-line.

14.1 Impact on Civil Society

Ask the man in the street if life is improving...

The ordinary citizen will know best whether activity in parliament has impacted on the outside world. Is governance improved - physical and economic security, human rights, basic freedoms? Do people, especially the poor and minority and disadvantaged groups, feel that they are getting more say in the way they are governed? Do they notice improvements in their lives? Some of these changes will take a long time, but they need to be measured.

...and whether there is really more democracy.

A key question in countries which have declared themselves on the path to democracy is whether things are really moving that way, or whether a democratic façade conceals entrenchment of authoritarian rule.

There are as yet no widely accepted methodologies for using public opinion to gauge progress towards democracy, or the effectiveness of legislatures, although International IDEA have done some work on this through their "Democracy Assessment Methodology and Indicators" programme²⁰. This includes a "Democracy Assessment Questionnaire" (but this requires respondents to be well educated and well informed; something simpler would be needed for the man in the street).

Look for changes in media coverage...

Other possible indicators of the impact of parliamentary reform could include changes in the amount of media coverage given to parliament, or in the amount of time dedicated by MPs to constituency matters – surgeries, volume of correspondence etc.

...in MPs' constituency work...

²⁰ See their website for further details.

14.2 Impact on Government

...and in government performance.

Parliament can seek to influence government and public entities through legislative debates, questions and committee reports. Parliamentary reform might be expected to increase both the quantity and the quality of these activities, and the amount of leverage brought to bear by parliament eg via the media. Impact should be measured by what government does, not just by what it says it will do.

But bear in mind that the effectiveness of legislatures is not simply a matter of making the government change its legislation or policies. Equally important but less obvious ways include providing a forum for public debate about an issue, raising the profile of a particular policy question, and highlighting areas of weakness within the government administration. The quantity and quality of these activities might also be expected to increase.

14.3 Changes in Parliament

Table 14.1 lists some quantitative measures of progress within parliament.

TABLE 14.1: QUANTITATIVE MEASURES OF CHANGE IN PARLIAMENT

➤	changes in number of days in the year that parliament sits
➤	changes in number of parliamentary committees and their subject coverage
➤	greater continuity of committee membership
➤	changes in number of days in the year that committees sit
➤	changes in number of bills ((a) government (b) private members) passed in the year
➤	changes in number of bills ((a) government (b) private members) rejected in the year
➤	changes in the number of amendments put forward to bills
➤	changes in the number of amendments made without having been discussed in committee
➤	changes in the number of bills considered in draft before being formally introduced
➤	changes in number of recommendations made from outside to members, committees or parliament as a whole regarding legislation, policies, operations of parliament and accountability agencies
➤	changes in the resources available to parliament – human and financial

These may not be illuminating or interesting to people outside parliament itself.

Look for imaginative ways of measuring the impact of particular assistance. More use could be made of attitude change survey methodologies, for example, in assessing the impact of training seminars or an ethical code. Statistical information about the number of laws passed should be analysed not only to show increases or decreases in activity,

***Within
parliament focus
on the impact of
particular
assistance.***

but also the number of times particular pieces of legislation have to be reconsidered because of flaws that were not noticed earlier. An increase in the number of representations received by parliament will not be very helpful, and is unlikely to be sustained, if parliament does nothing with them. The effectiveness of improvements to a library resource could be assessed by measuring changes in the attitudes of legislators towards the service, or changes in the number of inquiries made by members.

Work is being undertaken in various quarters on the measurement of the impact of legislatures.

SUPPORTING APPENDICES

APPENDIX 1 – SYSTEMS OF GOVERNMENT

The three main systems are:

- Parliamentary (eg the UK)
- Hybrid (eg France)
- Presidential (eg the USA)

- but there are numerous variations. Table A illustrates how the different systems affect the workings of parliaments in the three countries mentioned above. These effects will not necessarily be mirrored elsewhere – every country is different.

TABLE A.1: HOW SYSTEMS OF GOVERNMENT AFFECT PARLIAMENTS

	UK	FRANCE	USA
Who chooses Head of State?	Hereditary	President elected by the voters	President elected by the voters
Who chooses the Prime Minister?	In practice, Parliament (though the choice is limited to the party leaders who have been chosen by the parties themselves)	President – but PM must be acceptable to parliament	There isn't one
Who chooses the Cabinet?	PM	President - but on recommendation of PM	President
Does Head of State need majority support in Parliament?	No	No	No
Do PM and Cabinet need majority support in Parliament?	Yes	Yes	No
Where is Members' first loyalty likely to lie?	Party	Party	Constituents
What about party discipline?	Tends to be strong	Tends to be strong	Tends to be weaker
Who usually initiates legislation?	The executive.	The executive.	Members of Congress.
How strong are bill committees	Not very; they do little beyond adopting technical amendments put forward by the Minister and discussing amendments put forward by other members of the committee	Same committee considers bills and exercises oversight. They have very little power – probably less than in UK as regards bills.	Same committee considers bills and exercises oversight. Very powerful; eg they can stop a bill reaching the full house, and bills going forward are very much the committee's work.
What about subject committees?	Effective in informing public debate about government policy and activities		

Some of these effects may be modified by the electoral system – see below. For example the tendency of members in a parliamentary system to be loyal principally to party will be tempered in a first-past-the-post electoral system by its tendency to promote accountability to constituents.

APPENDIX 2 – ELECTORAL SYSTEMS

The hundreds of electoral systems in use can be divided into two main categories – *Plurality-Majority* and *Proportional* – with *Semi-proportional* as a cross between the two. The main variants are described in Table B.1. *Plurality-Majority* has the virtue of simplicity and tends to produce strong one-party majorities, but is open to criticism for unfairness because of the lack of correlation between votes cast and seats won. *Proportional* is fair and in its purest form rewards all voters with a corresponding share of seats; but it leads to coalitions which can be difficult to hold together and which can be at the mercy of small extremist parties who may be able to impose policies with scant popular support. *Proportional* with a threshold eliminating parties with, say, less than 5% of the vote can mitigate these problems albeit at the cost of a slight reduction in fairness. Table B.2 shows how the two main categories of electoral system affect parliaments. Table B.3 illustrates some of the systems' faults.

TABLE B.1: MAIN TYPES OF ELECTORAL SYSTEM

PLURALITY-MAJORITY		
SYSTEM	WHO USES IT ²¹	EXPLANATION
First-Past-the-Post (FPTP)	UK, Canada, India, USA	Each district elects the one candidate with the most votes (which can be less than an absolute majority).
Block Vote	Singapore, Thailand	Same as FPTP but for multi-member constituencies: eg if there are 4 seats each voter has 4 votes, and the 4 candidates with the most votes are elected.
Alternative Vote (AV)	Australia, Nauru	AV uses second etc preferences if necessary to ensure that the winning candidate has an absolute majority.
Two-Round System (TRS)	France, Mali	TRS has a second round if the first round winner does not have an absolute majority. The second round winner may or may not need an absolute majority, depending on the variant of the system used.
SEMI-PROPORTIONAL		
Parallel	Japan, Russia	Some members elected under FPTP and some under List PR.
Single Non-Transferable Vote (SNTV)	Jordan, Vanuatu	Each district has several seats; each voter has 1 vote. Candidates with most votes win.
Limited Vote	Gibraltar, Spain	Like SNTV but voters have more than 1 vote, but fewer votes than there are seats.
PROPORTIONAL		
List PR	Indonesia, Israel, Namibia, Netherlands	Voters vote for party; parties get seats in proportion to votes won; winners taken from lists in order.
Mixed Member Proportional	Bolivia, Hungary, Germany, New Zealand	Same as Parallel but list PR seats used to compensate for any disproportionality produced by district seat results.
Single Transferable Vote	Ireland, Malta	A complicated variant of AV – see <i>Elections and the electoral process</i> , Annex A, for a full explanation.

TABLE B.2: HOW DIFFERENT ELECTORAL SYSTEMS AFFECT PARLIAMENTS

SYSTEM	POSITIVE ASPECTS	NEGATIVE ASPECTS
Plurality-Majority	<ul style="list-style-type: none"> Favours a few large parties. Tends to produce strong one-party governments Tends to produce coherent opposition Favours broadly-based parties and excludes extremists 	<ul style="list-style-type: none"> Winning party usually gets disproportionately large share of seats Minority parties get disproportionately small share of seats Ethnic minorities and women under-represented in Parliament

²¹ The lists of countries are not necessarily comprehensive. Countries can change their systems and may not at time of reading be using the system specified.

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	<ul style="list-style-type: none"> Retains link between constituents and representatives Allows voters to choose people not parties Allows election of popular independent candidates Easy to use and understand. 	<ul style="list-style-type: none"> Can encourage development of ethnic parties Minority party supporters lose hope of ever electing a representative and become alienated from the system Can encourage gerrymandering Regular switches between two ideologically opposed parties militates against consistent and coherent government over the longer term – the Grand Old Duke of York syndrome..
Proportional	<ul style="list-style-type: none"> Representation in parliament reflects votes cast Ensures all significant groups represented in parliament – often vital in new democracies Fewer “wasted” votes increases voter commitment and reduces alienation Facilitates representation of minorities and women Avoids the Grand Old Duke of York syndrome. 	<ul style="list-style-type: none"> Leads to coalition governments which can result in legislative gridlock Can fail to provide a link between MP and electorate Can encourage extremist parties Gives too much power to party HQs in selection of elected representatives Difficult to operate in countries with no, or very embryonic and loose, party structures Can be difficult for voters to understand and use.

TABLE B.3: PROBLEMS WITH THE MAIN ELECTORAL SYSTEMS

FPTP
SHARE OF SEATS DISPROPORTIONATE TO SHARE OF VOTE:
<p><u>Lesotho 1993</u>: the Basotho Congress Party won 75% of votes, 100% of seats</p> <p><u>UK 1983</u>: Lib-Dems won 25% of votes, 3% of seats</p> <p><u>Botswana 1989</u>: National Front won 27% of votes, 9% of seats.</p>
GERRYMANDERING
<p><u>Kenya 1993</u>: KANU won a large parliamentary majority with 30% of the vote. The largest electoral district had 23 times as many voters as the smallest</p> <p><u>Londonderry (Northern Ireland)</u> used always to have a protestant town council notwithstanding its predominantly catholic population. The city was divided into 3 electoral wards – 2 small ones with protestant majorities, and 1 large one where most of the catholics lived.</p>
PR
EXTREMIST INFLUENCES
<p><u>Israel</u> PR with low (1.5%) threshold; fragmented party system means that coalitions usually have to include extremist religious parties, and to adopt some of their policies</p> <p><u>Germany</u> the platform offered to extremist parties is thought to have contributed to the collapse of the Weimar Republic in the 1930s.</p>
CONCERNS ABOUT CONSTITUENCY ACCOUNTABILITY
<p>South Africa opted for List PR for the first post-apartheid elections in 1994, with no threshold and a nationwide constituency. This was because, given the country’s history, it was felt that all sections and factions should have representation in parliament in proportion to their numbers. The ANC – favourites to win whatever the system - would have won by a bigger margin under the old FPTP system; but they realised that the disparities of a “winner-take-all” system would be fundamentally destabilizing in the long run. The national candidate lists allowed parties to present ethnically heterogeneous groups of candidates and produced an assembly with more Indian and white members (and more women – 25%) than would have been the case under FPTP. Moreover FPTP would have led to more polarised representation – Xhosas representing Xhosas, Zulus Zulus etc. The 1994 election facilitated the peaceful transition of power. However, there has been a continuing debate about how to introduce some constituency accountability. A high level committee on the electoral system is currently debating this and related issues and will report in 2003.</p>

APPENDIX 3 – COSTS OF RUNNING THE UK HOUSES OF PARLIAMENT

(estimates for 2002-3, in £millions)

House of Commons

Members salaries and allowances	134
Administration and works:	
<i>Clerk's Department</i>	22
<i>Serjeant at Arms Department</i>	75
<i>Finance and Administration</i>	12
<i>Library</i>	9
<i>Official Report ("Hansard")</i>	7
<i>Other</i>	15
 Total	 140
 Grand Total	 274

House of Lords

Peers' expenses and Administration	40
Accommodation and works	18
 Grand Total	 58

Total, both Houses

AVERAGE COSTS PER MEMBER – HOUSE OF COMMONS (BASED ON 659 MEMBERS):

Members' pay and allowances	£203,000	(49%)
Parliamentary staff & services	<u>£213,000</u>	(51%)
	£416,000	

APPENDIX 4 – ETHICAL STANDARDS

Ethics regimes vary from country to country, but normally need to address the following issues:

- *financial disclosure (including gifts)*: members may be required to disclose directorships, income from employment outside parliament, clients, sponsorship, sources of election funds, gifts (sometimes only those above a certain value - tangible gifts and other benefits over £550 -1% of a Member's salary - in the UK House of Commons, \$50 in the US Congress), large shareholdings (in the UK those exceeding 1% of an issue's share capital). The requirement may extend to the member's spouse and children. Rules regarding public disclosure of this information vary from case to case
- *acceptance of travel expenses*: these may be legitimate work expenses – eg the chair of the technology committee being invited to give a keynote speech at a conference; or they might be more in the nature of a gift – eg if the conference is in the Maldives and tickets are offered for the legislator's spouse and five children as well
- *declaration of interests*: members have to declare all relevant past and present interests before engaging in parliamentary activity related to those interests – debates, representations, membership of parliamentary committees concerned with the issue in question
- *advocacy*: members must not take payment for parliamentary activity – speeches, questions, voting, tabling motions, introducing bills or tabling amendments, or canvassing colleagues or ministers to do any of these things
- *conflicts of interest*: members may have the opportunity to deliberate or vote on political issues where they have a pecuniary interest. The rules would either require them to declare their interest, or preclude their debating and/or voting on the issue
- *employment restrictions*: members may be debarred from certain types of employment, both whilst they are members and sometimes for a period after they have left office.

APPENDIX 5 – CHECKLISTS FOR APPRAISAL

A) General effectiveness

- how often does parliament meet (days per year, hours per day)?
- what committees are there and how often do they meet?
- how much legislation is passed each year?
- how many reports are produced by committees?
- what proportion of committee recommendations are accepted/ implemented by the government?
- what is the annual budget for parliament? Roughly what proportions are spent on:
 - members' pay
 - members' allowances and expenses
 - members' support staff
 - parliamentary staff
 - library/research
- are proper records kept of parliamentary discussions and decisions?

B) Constitution, Law and Procedures

- do these allow for an effective parliament?
- if there are impediments where are they?
- what are the prospects for removing impediments? Where prospects are poor (eg amending a constitution is usually very difficult) are there any practical steps available to mitigate the constraint?

See also Figure A5.1 on next page.

C) Political parties

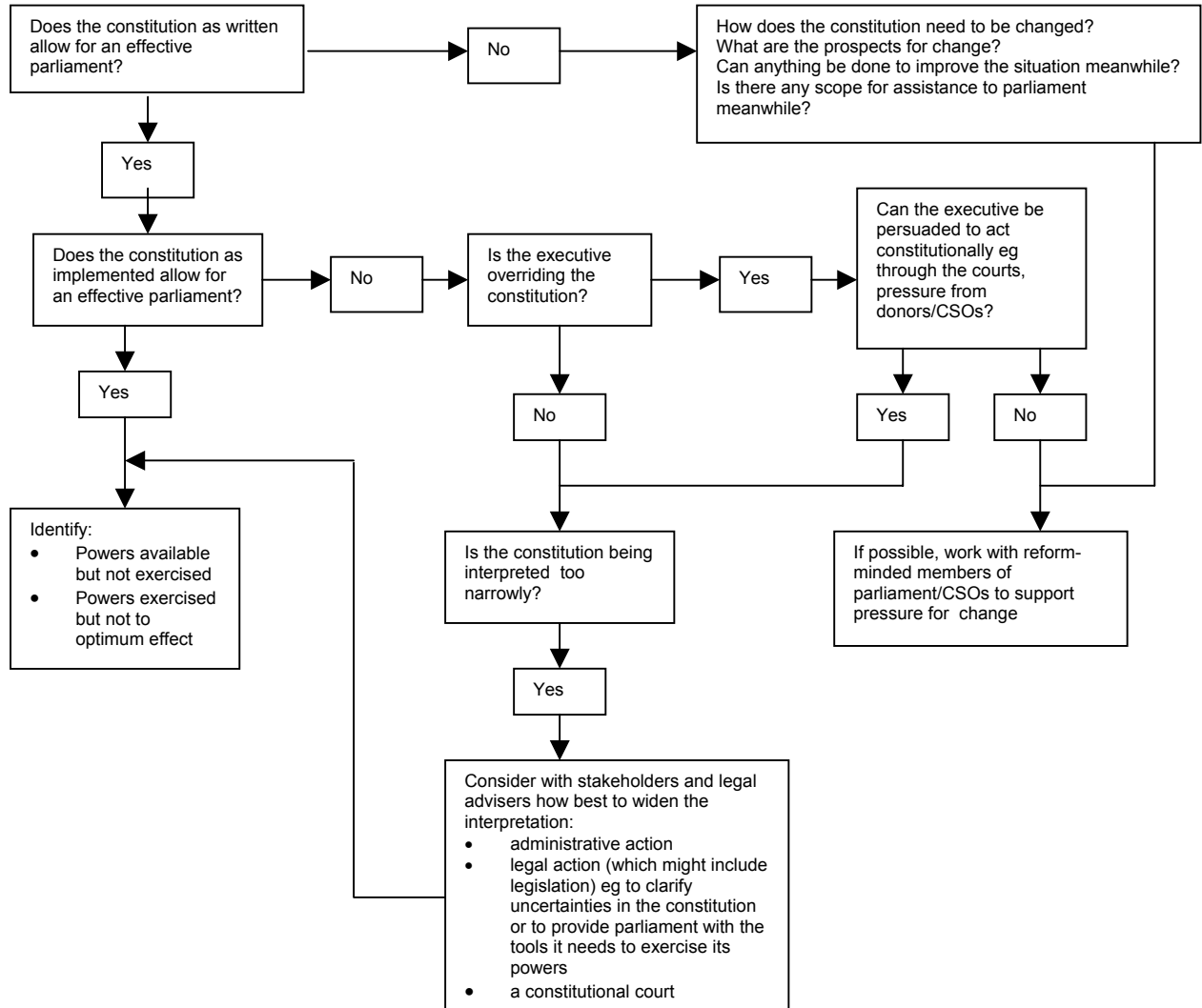
- how many parties are there in parliament?
- how many seats do they each have (number/percentage of total)
- how long has each been in existence?
- how well funded is each party and what are the main sources of funds?
- which parties are organised (a) nationally (b) regionally) and (c) only in the capital?
- which parties are built round (a) an ideology (b) an ethnic or religious group (c) a charismatic leader?
- if the main opposition party were to win the next election, what difference if any would this make to people's lives?

D) The role of backbenchers

- how many (a) government) (b) opposition backbenchers play an active role in parliament (ie do more than vote)?
- what are their main activities?
- how close are the links between MPs and the electorate? How can links be improved?

- do backbench MPs have access to information and expert advice?

FIGURE A5.1: DIAGNOSING CONSTITUTIONAL PROBLEMS



E) The oversight function

- what formal powers does parliament have to exercise oversight of the executive? Do they include:-
 - power to demand information
 - power to compel testimony
 - power to remove the executive eg by impeachment or vote of no confidence
- are these powers defective in any respect?
- does parliament exercise its formal powers effectively? If not what are the constraints:-
 - lack of confidence
 - lack of information
 - intimidation by the executive
 - misplaced loyalty to party/party leadership
 - lack of research/technical capacity
 - procedural obstacles
- does the executive take any notice of parliament? If not why not:
 - parliament has no formal power to demand action?
 - parliament has formal power but does not use it
 - the public and outside organisations are not told about parliament's findings
 - parliament has no understanding of the constraints on the executive's actions – financial, international treaty obligations, etc?

F) Ethical Standards

- is there an ethics regime?
- is it comprehensive and sufficiently strict?
- who is responsible for enforcement?
- how effective is enforcement? How many MPs have been disciplined in eg the last 2 years, and which parties did they belong to?
- what level of confidence does the public have in the efficacy of these arrangements?

G) Public awareness

- are the proceedings of parliament open to the public?
- how much discussion is there in the media – especially those media accessible to poor people – of parliamentary business?
- how much reporting is there of the outcome of parliamentary debates and investigations?
- do committees (or even the plenary) hold meetings outside parliament?

H) The representational function

- are all sections of society – women, minority ethnic or religious groups, low castes – adequately represented among members of parliament?
- is there a case for seeking to improve the representation, in the membership, of particular groups?
- what access do members of the public have to their elected representatives and what use do they make of this?
- is there adequate publicity, and public discussion, about matters coming before parliament – new legislation, the budget, etc?
- do MPs adequately represent those without a vote, for example children, refugees

I) The legislative function

- who initiates legislation?
- are there enough legal draftsmen? Are they equipped to operate cost-effectively? Are those who instruct them able to articulate their wishes clearly?
- how long on average between the time a new law is introduced and its coming into force? What is the process?
- what opportunities does parliament have to consider and/or amend legislation?
- what arrangements are there for publicising proposed legislation and encouraging public debate and questions?
- is there a backlog of unpassed legislation? If so, how serious is it?
- does new legislation usually fulfil its intended purpose? How often are new laws amended within 2 or 3 years of being passed?
- does parliament (including its committees) have adequate administrative support?

APPENDIX 6 – USEFUL ADDRESSES

Part I – Support Organisations

Centre for Democratic Institutions (CDI)
Research School of Social Sciences,
Coombs Building,
Australian National University,
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Tel: +61 2 6125 0605
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e-mail: erisuk@compuserve.com
Website: www.eris.org.uk

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E-mail: hansard@hansard.lse.ac.uk
Website: www.hansardsociety.org.uk

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Tel: +46 8 698 3700
Fax: +46 8 20 24 22
E-mail: info@idea.int
Website: <http://www.idea.int/index.htm>

International Records Management Trust
12 John Street
London WC1N 2EB
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Tel: +44 (0) 20 7831 4101
Fax: +44 (0) 20 7831 7404
E-mail: info@irmt.org
<http://www.irmt.org>

International Republican Institute
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Fax: +1 202 408 9462

King Prajadhipok's Institute
47/101 Moo 4 Tiwanond Road
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Muang District
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Tel: +66 (0)2 527 7830 to 7839
Fax: +66 (0)2 527 7826 or 7828
<http://www.kpi.ac.th>

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Website: http://www.nimd.org/index/index_english.htm

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E-mail: wfd@wfd.org
Website: <http://www.wfd.org>

ACE Project (Administration and Cost of Elections)
A joint project run by IDEA (qv), IFES (the International Foundation for Election Systems) and UNDESA (the UN Department of Economic and Social Affairs). Their website contains a wealth of information on all aspects of organizing elections.
www.aceproject.org

Part II - Legislatures

The UK Parliament has a long tradition of sharing expertise and experience with its commonwealth counterparts, and in the past decade has also been increasingly involved in assisting new democracies in the Former Soviet Union and Central and Eastern Europe. It arranges study tours, and sends officials and sometimes members overseas to provide advice and provide training. Early in 2003 the House of Commons held its first parliamentary co-operation seminar, a 10-day structured programme for officials from legislatures in a particular region, focussing on parliamentary scrutiny.

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E-mail: bpst@sansad.nic.in
Website: <http://parliamentofindia.nic.in/bpst/bpst.htm>

Part III - International Parliamentary Organisations

Asia Pacific Parliamentary Forum
No permanent address, or secretariat
Representative: Hernan Ampuero (Head Information Officer for the Chilean Chamber of Deputies)
Tel: +56-32-50-5509
e-mail: hampuero@congreso.cl
Website: <http://www.appf.cl/>

European Parliamentarians for Africa (AWEPA)
Prins Hendrikkade 48-G
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Tel: +31.20.5245678
Fax: +31 .20 .6220130
E-Mail: 106001.362@compuserve.com
e-mail: awepa@antenna.nl
Website: <http://europe.awepa.org/>

Commonwealth Parliamentary Association
Suite 700
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<http://www.cpahq.org/>

International Institute for Democracy
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Fax: +41 22 919 41 60
E-mail: postbox@mail.ipu.org
Website: <http://www.ipu.org>

National Confederation of State Legislatures
444 North Capitol Street NW Suite 516
Washington DC 20001
Tel: +1 202 624 5400
Fax: +1 202 737 1069
e-mail: INFO@NCSL.ORG
<http://www.ncsl.org>

Nordic Council
PO Box 3043
DK-1021 Copenhagen K
Denmark
Tel.: +45 33 96 04 00
Fax: +45 33 11 18 70
E-mail: nordisk-rad@nordisk-rad.dk

Parliamentarians for Global Action
211 east 43rd Street, Suite 1604
New York, NY 10017
USA
Tel: +1 212-687-7755
Fax: +1 212-687-8409
e-mail: edunn@pgaction.org
<http://www.pgaction.org/Default.asp>

PARAGON Asian Inter-parliamentary Network
c/o King Prajadhipok's Institute
(See under "Support Organisations" above)

APPENDIX 7 – BIBLIOGRAPHY & USEFUL WEBSITES

CARROTHERS, Thomas *Aiding Democracy Abroad. The Learning Curve* Carnegie Endowment for International Peace, Washington DC1999

CARROTHERS, Thomas *The End of the Transition Paradigm* Journal of Democracy 13.1 2002

DUBROW, Geoff *Systems of Government and Parliamentary Accountability* World Bank Institute2001

KUMAR, K (ed) *Postconflict Elections, Democratisation and International Assistance* Lynne Rienner Publishers, Boulder, 1998

MULGAN, Richard and UHR, John *Accountability and Governance In Are You Being Served? State, Citizen and Governance* Sydney, Australia, Allen & Unwin2001

Canadian Parliamentary Centre publications

Handbook on Parliamentarians and Policies to Reduce Poverty 2002

Governance Resource Centre

http://www.grc-echange.org/g_themes/politicalsystems.html

Inter-Parliamentary Union publications

The Parliamentary Mandate 2000

Democracy: its Principles and Achievement 1998

Presiding Officers of National Parliamentary Assemblies G. Bergougnous 1997

Parliaments in the Modern World P. Laundry 1989

Parliaments of the World - A Comparative Reference Compendium 1986

Handbooks for Parliamentarians:

Parliamentary Oversight of the Security Sector H.Born Editor and Lead Author 2003

The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol 2003

Eliminating the Worst Forms of Child Labour 2002

Refugee protection: A Guide to International Refugee Law 2001

HIV/AIDS, Law and Human Rights 1999

Respect for International Humanitarian Law (1999)

(The IPU also publishes reports, surveys and periodicals – see their website for further information)

International IDEA publications

Handbook on Electoral System Design 1997

Women in Parliament: Beyond Numbers 1998

Handbook on Funding of Political Parties and Election Campaigns 2004

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NDI publications

Strengthening Legislative-Executive Communication on Poverty Reduction Strategies (PRSS) 2004 (with UNDP) (Parliaments and Poverty Series; Toolkit number 1)

Parliamentary-Civic Collaboration for Monitoring Poverty Reduction Initiatives 2004 (with UNDP) (Parliaments and Poverty Series; Toolkit number 2)

Legislative Public Outreach on Poverty Issues 2004 (with UNDP) (Parliaments and Poverty Series; Toolkit number 3)

Strengthening the Representative Capacity of Legislatures: A Guidebook, October 2001

**Strengthening Legislative Capacity in Legislative-Executive Relations, 2000*

Guidebook for Implementing Legislative Programs, June 2000

**Legislative Ethics: A Comparative Analysis, 1999*

**Committees in Legislatures: A Division of Labour, 1996*

A Comparative Study of Second Chambers of Parliament in Selected Countries, January 1996

**One Chamber or Two? Deciding Between a Unicameral and Bicameral Legislature, January 1996*

Presiding Officers: Speakers and Presidents of Legislatures, January 1996

**Legislative Research Series*

OECD publications

Role of the Legislature 1998

Can National Legislatures Regain an Effective Voice in Budget Policy? 2001 Schick, Allen

SIDA publication

SIDA Study 23: The Political Institutions: Parties, Elections and Parliaments, 2002

UNDP

Governance publications are listed, with links, Under:

<http://www.undp.org/governance/parldev.htm>

Within this list, publications on parliamentary issues are at:

<http://www.undp.org/governance/publications.htm>

(This site includes a Concept Paper on "Legislatures and Good Governance"; several short technical papers; some handbooks for MPs and Parliamentary Staff; New Member Orientation training modules; details of UNDP staff training and policy conferences; reports on parliamentary seminars and conferences (international, regional and national); and links to other relevant sites.)

UNDP Evaluation Office has a "Lessons Learned" paper on Assisting Legislatures at:

<http://www.undp.org/eo/documents/essential-on-assisting-leg.pdf>

UNDP Programme on Governance in the Arab Regions has a paper on Arab parliaments at:

<http://www.pogar.org/publications/legislature/sawi1/agenda8.html>

USAID publications

http://www.usaid.gov/our_work/democracy_and_governance/publications

World Bank

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The World Bank Institute site on parliaments is at

<http://www.worldbank.org/wbi/governance/parliament/>

The Institute has an electronic Governance Library with a section on parliaments:

<http://info.worldbank.org/etools/library/governance.asp?topicID=651&n=1&del=&cdrom=>

Other World Bank sites which include material on parliaments:

<http://www.worldbank.org/capacity/>

<http://www1.worldbank.org/prem/notesps.cfm?offset=1>

Further material may be found by going to the main site at <http://worldbank.org> and searching under “legislatures”.