Strengthening Legislatures for Conflict Management in Fragile States

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ABBREVIATIONS AND ACRONYMS

CA	Constituent Assembly (Bolivia)
CSO	Civil Society Organization
DFID	Department for International Development (UK)
IDP	Internally Displaced Person (Uganda)
LRA	Lord's Resistance Army (Uganda)
MAS	Movimiento al Socialismo (Bolivia)
MDG	Millennium Development Goals
NATO	North Atlantic Treaty Organization
NDI	National Democratic Institute (Bosnia)
NRM	National Resistance Movement (Uganda)
OHR	Office of the High Representative (Bosnia)
OSCE	Organization for Security and Cooperation in Europe
PDCO	Planning and Development Coordination Office (Uganda)
PODEMOS	Poder Democrático Social (Bolivia)
PRSP	Poverty Reduction Strategy Papers
RoS	Republic of Sprska (Bosnia)
SAA	Stabilization and Association Agreement (Bosnia)
SDA	Party of Democratic Action (Bosnia)
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
UWPA	Uganda Women's Parliamentary Association (Uganda)
VNI	Vital National Interest (Bosnia)

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We hope the results of our study prove useful to the agencies and their missions.

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EXECUTIVE SUMMARY

CONFLICT MANAGEMENT AND PEACEBUILDING IN FRAGILE STATES

In the past half-century, scores of countries have escaped the hegemony of resource-seeking colonial regimes and ideologically-driven Cold War patrons. Frequently, the transition from colony or Cold War protectorate to a stable, independent state has not been smooth for a wide variety of internal and external reasons. As a result, there exist today over a hundred 'fragile states' in which institutional capacity to govern is weak (Fund for Peace 2006). In these states, the government could lack the ability or willingness to provide services to its people including territorial control, safety and security, capacity to manage public resources, and delivery of public services (DFID, 2005).

While in some cases fragility may derive from exogenous factors such as natural or economic disasters, this report focuses on states destabilized by internal political conflicts. These conflicts are often exacerbated by the plural nature of these societies, where social cleavages arise as peoples of different race, religion and culture grapple with competing identity politics. These fragile states have either experienced violence in the past or are at risk of experiencing violence in the future. Of particular concern in such states is the lack of government capacity to manage conflict through state institutions.

The international community has a strong interest in building the capacity of governments in fragile states to build consensus and broker compromise in order to manage conflicts. Failure to do so may lead to the degeneration of fragile states into crisis states or even failed states, and ultimately to the destabilization of regions, the disruption of global markets and precipitation of humanitarian crises. Enabling legislatures to manage conflict in such countries is among the most critical steps for achieving stability. In some cases, this may simply require the improvement of existing government capacity. In many instances, however, peacebuilding requires adjustment or complete redesign of the institutional architecture of the state in order to address structural deficiencies that may have contributed to conflict.

It is in this light that the "Strengthening Legislatures in Fragile States Workshop" of Princeton University's Woodrow Wilson School, in partnership with UNDP and USAID, conducted the following study on strengthening the role of the legislature for conflict management in fragile states. In addition to reviewing the academic literature and the literature of donor organizations working on strengthening legislatures, the workshop conducted field research in Uganda, Bolivia and Bosnia over a nine-day period. Interviews with legislators, representatives of civil society organizations, journalists, local donor agency staff, and local government officials were arranged with the help of local partner agency staff to inform this report.

UNIQUE ROLE OF LEGISLATURES IN FRAGILE STATES

The legislature, as the representative body of government, has the potential to be an extremely effective institution for conflict management. Legislatures are the guarantors of pluralism and can play a significant role to ensure the proper workings of government while protecting the interests of minorities (Taylor 2005, 105) or disenfranchised groups. Stakeholders can transfer their grievances from the battlefield to the political sphere, and power-sharing mechanisms can be adopted to bring all segments of society into the political framework (Sisk 2001, 789). In addition, stakeholders can pursue compromises and participate in making difficult decisions on contentious issues of national policy through the legislative and committee processes in the legislature. Finally, an effective legislature can exercise oversight over the executive, acting as a check on an authority, if unfettered, could ignore or abuse minority interests.

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We recognize, however, that legislatures operate in a broader system of political incentives and disincentives. Individual legislators will naturally give greater credence to activities that further their own political positioning. Attaining the right political incentive system is crucial to ensuring legislators perform their key roles in constituency outreach and balancing local and national concerns. A system that skews these political incentives can descend into extreme clientelism or a patrimonial structure that overrides the independence of individual legislators. Legislatures do not automatically take on the role of conflict management. They too can become instruments of majoritarian oppression of the minority by passing legislation to marginalize the opposition (Smilov 2005, 10). Legislatures, precisely because they are representative of plural societies, can embody the social cleavages that drive a conflict. Particularly in situations of extreme subservience to the executive, they can exacerbate these social divisions and become part of the underlying causes of conflict. Properly functioning legislatures are, however, less likely to be captured by conflict-inducing interests. Legislatures that effectively perform the three functions of representation, lawmaking, and oversight have the greatest potential to effect meaningful conflict management and peacebuilding measures.

REPORT OBJECTIVE AND SCOPE

Drawing from an analysis of case studies in Bolivia, Bosnia, and Uganda, this report identifies challenges to effective legislative conflict management in fragile states and recommends key strategies to promote the ability of legislatures to manage conflicts and promote peacebuilding.

The countries of Bolivia, Bosnia, and Uganda were selected based on the ability of the two partner agencies to host field site research. Though our case study countries are differentiated by region and the nature of the conflict, all are considered 'fragile states' under the stability criteria established by the Fund for Peace Index.[1]

Bolivia is a state where political upheaval, disagreements over natural resources, and regional sovereignty issues threaten to destabilize a democracy dating back to 1982. Fuelled by the poverty and frustrations of the indigenous majority, mass mobilization swept Evo Morales to the presidency in 2005. As promised, Morales has convened a Constituent Assembly which aims to substantially reform the existing structure of the state. Uganda is a country whose leader, President Yoweri Museveni, and its 1995 constitution were both widely-praised in Africa and abroad. In 2005, however, Museveni's unprecedented move to amend the constitution to allow him to serve a third term has harmed the functioning of Uganda's democracy and has threatened to further weaken the legislature. Meanwhile with peace talks continuing with the Lord's Resistance Army (LRA) since July 2006, Uganda is attempting to end twenty years of violent conflict in the North. Bosnia is a country more than ten years removed from the conflict which ended with the Dayton Peace Accords in 1995. A weak national government with an inefficient national-level legislature, designed to be highly representative, is still struggling to create cohesive policy vision that overcomes ethnic divisions.

The structure of the report is an inside-out approach, each chapter focusing on one of the three facets of the legislature that needs to be strengthened. Chapter 1 examines the dynamics within the legislative branch in building compromises and the need to institutionalize legislative sub-structures, fostering compromise through deliberation in small groups. Chapter 2 then studies the balance of power between the legislative and executive branches, and the need to strength the legislature's ability to function as an effective and independent branch of government. Chapter 3 finishes by examining the importance of strengthening the linkages between legislatures and constituents. The aim is to explore these three facets of the legislature's work and to identify different entry points for assistance to strengthen its conflict management capabilities.

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1   In 2006, Uganda was ranked 21st, Bosnia 35th and Bolivia 56th out of 146 countries (where the lower the rank the greater degree of state failure, i.e. Uganda is 21st from the bottom).

Chapter 1 examines the necessary preconditions for effective legislative compromise building, including good communication between legislators and the use of small groups (such as caucuses and legislative committee structures) to foster negotiation and compromise. As conflict management is partly an exercise in building trust between factions whose previous interaction is often marked by tension and violence, these legislative sub-structures allow factions to build productive relationships in settings more conducive to compromise than the legislature's plenary sessions.

There are key challenges to building compromises within legislatures. The first is bringing parties together to communicate and work productively with each other. Second, voting structures within the legislature provide incentives, but also disincentives for the majority party to build compromise. Third, even when engagement begins, discussions can quickly become unmanageable when too many voices take part in the conversation, as evidenced in large legislative assemblies. Smaller structures devoted to negotiation and compromise building can facilitate these discussions. Fourth, the solutions arising from these structures could lack legitimacy and broad appeal if some key stakeholders are excluded from participation. Fifth, if all relevant groups are represented in these kinds of proceedings, the discussions that occur will produce positive outcomes only if the legislators have enough independence in their party hierarchies to negotiate credibly. Finally, even productive legislative compromise-building efforts can be derailed by external interference.

Recommendations from this chapter include the following:

1. Assist in creating legislative sub-structures that can act as neutral, bipartisan non-conflictual forums in which competing actors can develop relationships and build compromises that address national conflicts

2. Support the effective functioning of legislative sub-structures to allow minority or opposition parties to participate in compromise-building processes to resolve conflict

3. Encourage parties to develop democratic structures and practices that increase all party members' involvement in deliberations and decision-making, thus empowering them to negotiate credibly with counterparts from other parties

4. Fund and organize trips for multi-party and cross-regional groups of legislators to visit different districts to learn about specific problems and concerns in constituencies other than their own, thus increasing awareness of other perspectives on key conflicts.

Chapter 2 examines the legislature's powers vis-à-vis the executive and identifies what is needed to overcome the imbalance that is often the norm in fragile states. The chapter recognizes that the executive branch may play the dominant role in conflict management. The executive's capacity for quick decisions and decisive action is often compared with the legislature's propensity for long deliberations and heated rhetoric. There is a danger, however, that leaving conflict management to an unfettered executive, without the benefit of legislative oversight, will threaten the protection of the rights and interests of minority groups. The legislature must have the autonomy and the capacity to undertake credible and authoritative political dialogue with the executive branch on the issues fueling conflict. Donor activities, which are often concentrated on the executive, can exacerbate the executive-legislature imbalance. The legislature must therefore be included in the larger conflict management, democracy building and national development agenda. An imbalance could arise out of two conditions: the legal structure does not grant the legislature sufficient power to check or work with the executive, or the legislature's existing powers are not implemented to full effect. The chapter examines both levels.

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Recommendations from this chapter include the following:

1. Strengthen the capacity of opposition parties to participate in legislative activities, ensuring that minority views are incorporated in policies that affect the social cleavages underlying conflict

2. Strengthen the legislative secretariat's capacity and ability to gather and collate accurate information for legislators, enabling them to make informed assessments of the country's peacebuilding needs and how to draft and amend legislation to address them

3. Support the independence and autonomy of the legislature by encouraging mechanisms that increase its budgetary control, underscoring its legitimacy and ability to influence the executive and its policies in the critical stages of peacebuilding

4. Take advantage of the synergies between legislative strengthening and other conflict management, democracy strengthening and development sector programs (for example, donor programs targeted at the civilian security-sector or at improvements to the Poverty Reduction Strategies should include legislators and the legislature's secretariat).

Chapter 3 examines the task of strengthening the critical link between the legislature and its constituents, explaining why it is crucial for the legislature to perform the function of representation well. The legitimacy of a fragile democracy rests on the ability of legislators to give voice to the expectations and interests of their constituents; the population must see these tangible democracy dividends for the political system to be sustainable. The representative function of legislatures is especially important in fragile states, where certain minority groups and marginalized individuals are frequently excluded from the governmental process. However, as vertical accountability is strengthened, legislative elites may find it more difficult to engage in compromise, particularly if they must then answer to polarized and often radical constituents and constituent groups. Yet with institutional controls in place, strong representation can help manage conflict; it allows disputes to move from the battlefield to the political arena. Strong representation requires strong linkages to the constituents, supported by a responsible media and vibrant civil society organizations. When this system of connections operates properly, interest clashes that could otherwise degenerate into violence are addressed through peaceful political mechanisms.

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Recommendations from this chapter include the following:

1. Support mechanisms to improve legislators' constituent outreach, so that they can manage and give voice to the expectations and interests of constituents (particularly the minority and marginalized groups) in conflict resolution processes

2. Create formal and informal collaboration mechanisms between civil society and legislators to i improve informational partnerships to ensure all perspectives in a conflict gain access to the legislature

3. Improve the ability of the legislature to become an institution of democratic learning, so that citizens have more confidence in its legitimate role to resolve conflicts

4. Establish mechanisms to engage the media to improve public perceptions of the legislature and legislators, so that citizens are better informed of the legislature's activities and whether they address the country's peacebuilding and conflict management needs

FINAL RECOMMENDATIONS

From this strategy flow the three key overarching recommendations of this report. These are the areas where strengthening will best contribute to increasing the ability of legislatures to manage conflictual issues in their countries and where the thrust of international aid should be concentrated. The three areas are inter-related as strengthening one area supports the strengthening of the other two.

1. **Help establish sub-structures within the legislature, such as legislative committees and cross-party caucuses, and strengthen the legislature's ability to build compromises to resolve conflict issues.** Conflict management is an exercise in building trust between factions whose previous interactions were often marked by tension and violence. Legislative sub-structures allow factions to build relationships and make difficult compromises in less public settings. They deal with the broader issues necessary to run the country, not only the issues that sparked the conflict, bringing opposing factions together to take responsibility for the management of the country, as opposed to focusing on their conflict grievances. Where regional and ethnic divisions are strong, issue-based legislative committees can bring together legislators with diverse identities to work together on national issues. Where political party divisions override regional divisions, regional-based groups can encourage legislators from deadlocked national parties to build compromises on less divisive local issues on which they have shared interests. In either structure, it is important to devise and enforce rules that ensure that opposition and minority parties have a strong role in the policy-making processes. Small groups then develop the necessary skills and relationships to manage conflicts.

2. **Help build the capacity of legislators and the legislative secretariat to address conflict effectively, independent of the executive, as well as providing oversight of executive peacebuilding and conflict management efforts.** Conflict management requires critical and sensitive government policies, for which the accountability of executive decision-making and its impact on peacebuilding is vital. In conflict-prone states, the legislature is often a disempowered institution. A stronger legislature can ensure that broader views are injected into the executive's peacebuilding and conflict management agenda, but this relies on several factors. First, opposition parties must be cognizant of their role to check executive actions and to give voice to minority concerns. Second, the legislature must have the autonomy, especially budgetary autonomy, and the informational resources to engage in credible and meaningful political dialogue with the executive branch on the issues fueling conflict. Finally, the legislature must be included in the larger conflict management, democracy and national development agenda. Donor initiatives in several sectors, such as the security sector or the media, should include the legislature to build its political legitimacy and capacity to participate in the country's peacebuilding efforts.

3. **Help improve communication between the legislature, legislators and their constituencies to ensure that interests underlying current or future conflicts are represented.** Constituents must have confidence in legislators and the role of the legislature in the political system as the primary mode of Communication and compromise between political forces. If legislators do not bring their constituents' views to the bargaining table, these grievances, particularly minority views frequently excluded from government processes, often erupt into violence. Learning about constituent interests allows legislators to manage existing tensions and produce policies that can more effectively deal with those unmet needs that could result in emerging or renewed conflicts. Good communication is essential and can be fostered by programs such as constituent outreach programs, the legislature's civic

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education programs or partnerships with media outlets and civil society organizations. Donors need to recognize the delicate balance for legislators between faithfully representing their constituents' explicit desires, and exercising leadership to build compromises with opposing factions. Programs strengthening representation must be particularly sensitive to political context to ensure legislators' adequate flexibility for conflict management.

Each chapter in this study has provided specific recommendations stemming from these overarching ideas and has proposed several specific entry points for donor organizations. Understandably, all recommendations might not be feasible in all circumstances. Donor efforts working with legislatures are often subject to the explicit or tacit agreement of host governments, particularly the executive branch. They also require the engagement of legislators who are willing to work with donor programs and motivated to act in good faith to manage conflict. The extent to which each recommendation applies to any given fragile state, as well as the phasing or prioritization of some recommendations before others, is highly context-specific. Donors need to consider the existing political environment carefully and the functional strengths and weaknesses of each legislature when choosing among possible interventions.

These recommendations reflect what is needed to help legislatures mature and increase in effectiveness. Assisting in these ways to strengthen legislatures has a great potential to contributing to conflict management. Properly resourced, they can play an integral part in building lasting peace and stability; properly functioning legislatures are then indicators of democratic health and institutionalized conflict management.

INTRODUCTION

CONFLICT MANAGEMENT AND PEACEBUILDING IN FRAGILE STATES

In the past half-century, scores of countries have escaped the hegemony of resource-seeking colonial regimes and ideologically-driven Cold War patrons. Frequently, the transition from colony or Cold War protectorate to a stable independent state has not been smooth due to a wide variety of internal and external factors. As a result, there exist today over one hundred 'fragile states' in which institutional capacity to govern is weak (Fund for Peace 2006). In fragile states, the government may lack the ability or willingness to provide services to its people; in particular, the government may not have territorial control, may be unable to ensure safety and security, and may lack the capacity to manage public resources and delivery of public services (DFID, 2005).

While in some cases fragility may derive from exogenous factors such as natural or economic disasters, this report focuses on states destabilized by internal political conflicts. These conflicts are often exacerbated by the plural nature of these societies, where social cleavages arise as peoples of different race, religion and culture grapple with competing identity politics. These fragile states have either experienced violence in the past or are at risk of experiencing violence in the future. Of particular concern in such states is the lack of government capacity to manage conflict through state institutions. The term 'conflict management' is designed to highlight the understanding that although conflicts may not be fully resolved, they must nevertheless be managed to ensure they are negotiated peacefully within the political sphere.

The international community has a strong interest in building the capacity of governments in fragile states to build consensus and broker compromise in order to manage conflicts. Failure to do so may lead to the degeneration of fragile states into crisis states or even failed states, and ultimately to the destabilization of regions causing disruption of global markets and precipitation of humanitarian crises. Enabling legislatures to manage conflict in such countries is among the most critical first steps in the process of achieving stability. In some cases, this may simply require the improvement of existing government capacity. In many instances, however, peacebuilding requires adjustment or complete redesign of the institutional architecture of the state in order to address structural deficiencies that may have contributed to conflict.

UNIQUE ROLE OF LEGISLATURES IN FRAGILE STATES

The legislature[2], as the representative body of government, has the potential to be an extremely effective institution for conflict management. Legislatures are the guarantors of pluralism and can play a significant role in ensuring the proper workings of government while protecting the interests of minorities (Taylor 2005, 105) or disenfranchised groups. Stakeholders can transfer their grievances from the battlefield to the political sphere, and power-sharing mechanisms can be adopted to bring all segments of society into the political framework (Sisk 2001, 789). In addition, stakeholders can pursue compromises and participate in making difficult decisions on contentious issues of national policy through the legislative and committee processes in the legislature. Finally, an effective legislature can exercise oversight over the executive, acting as a check on an authority that, if unfettered, could ignore or abuse minority interests.

We recognize, however, that legislatures operate in a broader system of political incentives and disincentives. Individual legislators will naturally give greater credence to activities that further their own political positioning. Attaining the right political incentive system is crucial to ensure that legislators perform their key roles in constituency outreach and balancing local and national concerns. A system that skews these political incentives can descend into extreme clien-

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2   Our study examines only the legislatures at the national level. Although decentralization of legislative powers has also been cited as a method for conflict management, this topic is beyond the scope of this study.

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telism or a patrimonial structure that overruns the independence of individual legislators. This report takes account of the role of political dynamics, such as the influence of the party structures and the drivers for opposition party behavior, in achieving or resisting sound conflict management.

Additionally, legislatures do not automatically take on the role of conflict management. They too can become instruments of majoritarian oppression of the minority by passing legislation to marginalize the opposition (Smilov 2005, 10). Legislatures, precisely because they are representative of plural societies, can embody the social cleavages that drive a conflict. Particularly in situations of extreme subservience to the executive, they can exacerbate these social divisions and become part of the underlying causes. Properly functioning legislatures, however, are less likely to be captured by conflict-inducing interests. Legislatures that perform the three functions of representation, lawmaking, and oversight have the greatest potential to effect meaningful conflict resolution and peacebuilding measures.

REPORT OBJECTIVE AND SCOPE

Drawing from an analysis of case studies from Bolivia, Bosnia, and Uganda, this report identifies challenges to effective legislative conflict management in fragile states and recommends key strategies to promote the ability of legislatures to manage conflict and promote peacebuilding.

The strategy to strengthen legislatures must be threefold. First, internal mechanisms must be institutionalized within the legislature to ensure that legislators can build widely acceptable compromises. Second, because the executive branch usually dominates the political system, the legislature's ability to function as an effective and independent branch of the government must be reinforced. Third, the ability of a legislature to communicate effectively with their constituents so as to serve as a properly representative institution must be strengthened.

This report addresses these key domains in three chapters:

Chapter 1: building compromises within the legislative branch
Chapter 2: overcoming the imbalance between the legislative and executive branches
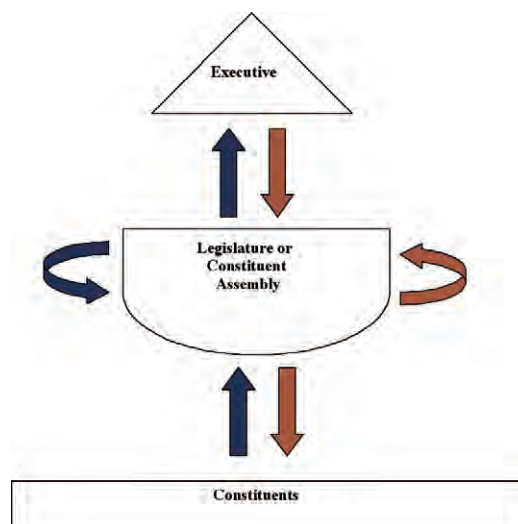Chapter 3: strengthening the linkages between legislatures and constituents

DIAGRAM 1: Legislative Linkages

The methodology is an 'inside-out' approach as depicted in Diagram 1. The report begins by examining the internal dynamics of the legislature. It then examines its relationship with the executive, followed by an examination of its relationship with the constituents. The aim is to provide a well-rounded overview of all facets of the legislature's work and to identify different entry points for assistance to strengthen its conflict management capabilities.

Chapter 1 examines the mechanisms for conflict management within the legislature. It examines the institutional mechanisms and best practices that can enable the diverse interests in the legislature to build compromises and manage conflict. The chapter will discuss preconditions that are necessary for effective legislative compromise building including good communication between legislators, the use of sub-structures like committees for negotiation and compromise, and the establishment of self-governance mechanisms to ensure opposition parties are given representation in legislative sub-structures. In addition, the occasional utilization of super-majoritarian voting procedures, increased democratization of internal party politics and a lessening of the executives' capability to interfere in legislative compromise-building processes are also discussed. When all these preconditions are present, legislatures become more likely to develop executable compromises that consider the interests of all major stakeholders in a conflict.

Much of what legislatures can and cannot do is heavily dependent on executives. Chapter 2 examines the legislature's powers vis-à-vis the executive and identifies what is needed to overcome the imbalance that is often the norm in fragile states. The chapter recognizes that the executive branch may play the dominant role in conflict management. The executive's capacity for quick decisions and decisive action is often compared with the legislature's propensity for long deliberations and heated rhetoric. There is a danger, however, that leaving conflict management to an unfettered executive, without the benefit of legislative oversight, will disregard the interests of minority groups. The chapter examines the remedies at both the legal and institutional levels.

Moreover, because resolving the issue of legislative-executive imbalance often involves radical restructuring of government, this chapter touches on the constitutional reform process. Understandably, constitutional reform cannot be the answer to solving every legislative-executive tension. But when the rules of the game are so skewed toward a particular branch, amending the constitution could be the only viable solution. Because donors are often limited in their ability to bring about and shape constitutional reform, this chapter mainly considers avenues for strengthening the existing legislative oversight mechanisms to enforce executive accountability.

Chapter 3 examines the critical link between the legislature and its constituents, explaining why it is crucial for the legislature to perform the function of representation well. It discusses how to strengthen the linkages between legislators and their constituents. The legitimacy of a fragile democracy rests on the ability of legislators to give voice to the expectations and interests of their constituents; the population must see these tangible democratic dividends for the political system to be sustainable. The representative function of legislatures is especially important in fragile states, where certain minority groups and marginalized individuals are frequently excluded from the governmental process. However, as vertical accountability is strengthened, legislative elites may find it more difficult to engage in compromise, particularly if they must then answer to polarized and often radical constituents and constituent groups. Yet with institutional controls in place, strong representation can help manage conflict; it allows disputes to move from the battlefield to the political arena. Strong representation requires strong linkages to the constituents, supported by a responsible media and vibrant civil society organizations. When this system of connections operates properly, interest clashes that could otherwise degenerate into violence are addressed in a more public and productive manner.

Each chapter suggests a theoretical framework within which to consider problems identified and solutions suggested by case study research in the three countries. The report is intended as a tool to inform future funding allocation decisions by international donors involved in legislative strengthening activities in fragile states. The report then sum-

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marizes lessons learned identified from the three case study countries and offers broadly applicable recommendations for improving the effectiveness of legislatures for conflict management. These recommendations are intended to help donors to choose between competing priorities for specific legislative strengthening programs when limited resources are available for such activities.

CASE STUDY SELECTION

The countries of Bolivia, Bosnia, and Uganda were selected as sites for field research for this report based on the ability of the two partner agencies (the United States Agency for International Development and the United Nations Development Programme) to host field site research. Although vastly different in socio-political characteristics, the three countries provide a sample of countries in different stages of conflict management. Bolivia is representative of country that may soon enter into conflict, while Uganda is currently emerging from one. Bosnia, in turn, is years removed from conflict but is still struggling with its ramifications.

Bolivia is a state where political upheaval, disagreements over natural resource allocations and regional sovereignty issues threaten to destabilize a previously functioning democracy. Since its 1982 transition to democracy, Bolivia's government has weathered a series of political crises fuelled by the poverty of the indigenous majority and governmental failures to represent its interests. A wave of mass mobilization and disgust with the established political order swept Evo Morales to the presidency in late 2005. His platform promised greater state control of natural resources, land redistribution and a reorganization of the state to reflect indigenous values and cultural norms. As part of this promise, a constitutional assembly was convened in Sucre in summer of 2006. Fault lines in Bolivian politics tend to run along the Cordilleras that divide the country into a Western, indigenous, and poorer half contending with the Eastern, mestizo, and wealthier half. Political representatives in Bolivia are an extremely diverse group. They range from first-time indigenous representatives who lack formal education but have years of political experience in trade and farmers' unions to veteran landowning senators who have been involved in politics for decades.

Uganda is a country currently emerging from violent conflict but facing the possibility of reversion to violence as post-conflict negotiations continue. The government was involved in the July 2006 peace talks with the Lords Resistance Army (LRA), a northern rebel movement. The LRA, formed in 1987, has waged a brutal armed rebellion against the Ugandan government. An interim truce has been signed bringing hope to the war-torn North, where over 2 million people have been displaced. With peace talks underway, political debate over addressing land tenure in the North and resettlement is intensifying. Uganda's 1995 constitution was widely praised, and President Yoweri Museveni was previously seen as a leading African proponent of democracy. In 2005, however, Museveni's pressured the legislature to amend the constitution to allow him to serve a third elected term, while conceding to the introduction of multi-party politics. These recent events have made political observers wary of the excessive growth of executive power and the health of Uganda's democracy. Despite the overwhelmingly powerful executive, the position of the legislature vis-à-vis the executive was strengthened during the 6th and 7th Parliament. During these periods, a group of young legislators worked together and implemented reforms that strengthened the legislative body.[3] Ugandan legislators do not fit a common profile, but run the gamut from young university graduates to seasoned political veterans. In general, however, they tend to be older, male, and occupy higher paying jobs than the general population (Kasfir and Twebaze 2006, 48). By law, legislators must have completed an 'Advanced Level standard' of education, so fluency in English is nearly universal, and many legislators have completed post-university education (ibid.). In addition to district representatives, the Parliament includes a number of representatives from special constituencies (e.g. women, youths and people with disabilities). The makeup of Parliament is significantly different from session to session, as there is a high rate of turnover in each election.

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3   For more information, see Annex C: Uganda, Legislature's Role in Land Reforms

Bosnia is a country more than ten years removed from the end of conflict but still struggling with conflict management. For much of the early 1990s, Bosnia was the site of a brutal civil war, fought between Serbs, Croats and Bosniaks (Muslim Bosnians). Violence in Bosnia was sparked by conflict over its very existence as a state; violence was the expression of Serb displeasure at the strong support for Bosnian independence at the 1992 referendum. It was only after the intervention by NATO forces and the subsequent 1995 Dayton Peace Agreement that fighting ceased. The Dayton Agreement laid out Bosnia's constitution, a document designed to stop the war, but not to run a country. Later constitutional reform to improve the political structure was always envisaged. A weak national government holding few national portfolios was instituted along with a federal structure of entity-level and local-level governments. The country was divided into two entities - Republic of Sprska, the Serb entity, and the Federation of Bosnia and Herzegovina, the entity of the Croats and Bosniaks. Dayton also created the Office of the High Representative, or OHR, with key executive powers. The national-level legislature, the Parliamentary Assembly, was designed as a bicameral institution composed of the House of Peoples (15 delegates appointed by the entity governments) and the House of Representatives (42 delegates). A relatively weak institution, the Parliament was designed to be highly representative of each ethnic group. Unfortunately, it also became a highly inefficient structure due to each nationalist group's intent on protecting their 'Vital National Interests' through the power to veto legislation in the upper house. Public confidence ratings for the state legislature have decreased over the last four year, as have approval ratings for the national government in general (UNDP 2006, 38). The legislators are not considered major political players, and continue to struggle within the constitutional and institutional confines to build an effective institution. Many of the country's most popular politicians make their careers at the entity rather than the national level.

Though our case study countries are differentiated by region and stage of conflict, all are considered 'fragile states' under the stability criteria established by the Fund for Peace Index, published every year in Foreign Policy (Fund for Peace 2006).[4] Importantly, all three countries are also plural societies in which identity politics plays an important role in public life – thus making the management of conflicts between contending identity groups a pressing priority in all three.

COUNTRY ANNEXES

Following the main report are the three country annexes examining Uganda, Bolivia and Bosnia in detail. The purpose of the annexes is twofold. First, they provide the historical and political background for each country to situate the causes and influences of the conflicts mentioned in the main report. Second, they summarize the findings for the individual UNDP and USAID country offices to address the key questions that they wanted investigated.

For Uganda, the country report examines the legislature's role in addressing land-related issues in Northern Uganda. The report discusses the potential role of Parliament in ensuring that post-conflict land disputes do not reignite violence in the North. For Bolivia, the country report assesses different conflict-management mechanisms and structures within the Congress and the Constituent Assembly, with a focus on the parliamentary brigades. It aims to identify gaps in the conflict management architecture and points of entry for international assistance. For Bosnia, the report investigates the factors that influence the legislature's legislative output. The study examines the technical, structural and political obstacles in Bosnia that hinder the legislature's activities and result in poorly-drafted, financially infeasible legislation being promulgated by the Parliamentary Assembly.

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4   In 2006, Uganda was ranked 21st from the bottom, Bosnia 35th and Bolivia 56th out of 146 countries.

Introduction

RESEARCH METHODOLOGY AND LIMITATIONS

Research for this report began with a review of the academic and policy literature concerning conflict resolution, peacebuilding and the role and functions of legislatures in fragile states. The workshop then coordinated with the partner agencies to formulate key research questions of interest in each country, as well as important cross-cutting issues for research in all three countries and a list of key informants.

The workshop formed three teams to conduct field research in each country over a nine-day period from October 27 through November 4. Interviews with legislators, representatives of civil society organizations, journalists, local donor agency staff and local government officials were arranged by the workshop with the help of local partner agency staff (see Annex D). Each team conducted interviews using a standardized questionnaire designed to elicit information unique to each country while drawing out information pertinent to cross-cutting lessons learned.

The workshop acknowledges two significant shortcomings in the research. First, the period allotted for primary data collection in the case study countries was very short, directly impacting the number and range of primary informants interviewed. Despite efforts to gain a wide range of perspectives, the fact that informants were generally recommended by the partner agencies or other informants could have also introduced biases into the research. Another limitation of the research is the small number of countries visited, which necessarily calls into question the universal validity of the report's conclusions. For these reasons, the findings and recommendations should first be understood as pertaining to the specific countries in question, and only secondarily be considered relevant to a broader set of countries in similar circumstances.

CHAPTER 1: BUILDING COMPROMISES WITHIN THE LEGISLATURE

Managing conflict between competing groups is an essential function of legislatures in all democracies (IPU 2006, 1). The very process of democratization hinges on the development of *tolerance, bargaining, and compromise among rival political groups'* (Barkan 1995, 3). This function is especially critical in post-conflict and fragile states. In these contexts, where there is recent precedent for the use of violence to settle disputes and grievances, governance institutions must reconcile divergent interests and build effective compromises. The importance of compromise creation in conflict management is clear. In its absence, the legislature could become an ineffective institution where legislative activity is paralyzed; alternatively, it could produce decisions that are unacceptable to a wide array of social groups. Either outcome can lead to the breakdown of legislative legitimacy, as governmental inefficacy or systematic exclusion from decision-making processes lead important groups to lose faith in democratic governance structures. Democratic consolidation becomes impossible under such circumstances, for democratization is complete only when key societal stakeholders view the democratic process as the only legitimate way to pursue group interests.

Legislatures can function either in a 'transformative' manner or act simply as 'arenas'. Transformative legislatures possess the independent capacity to mold and transform proposals from whatever source into laws. Arenas, in contrast, serve as formalized settings for the interplay of significant political forces in the life of a political system (Polsby 1975, 277). A metamorphosis from 'arena' to 'transformative legislature' needs to occur to equip legislatures in fragile states with the capacity to manage conflicts and build compromises. Legislatures need to serve not merely as forums for the airing of disagreements, but as creative bodies capable of producing policy solutions that a broad variety of societal actors can support. Such an outcome requires the establishment of suitably designed institutional sub-structures and regulations (Polsby 1975, 291), with the goal of reducing the likelihood that policy creation will become deadlocked or that key groups will be excluded from the policy creation process.

Legislatures that are organized to conduct negotiation and compromise processes in small groups like committees tend to manage conflicts more successfully. When self-governance mechanisms exist to ensure that these sub-structures are allowed to fulfill their designated roles and that regulations protecting opposition party participation are respected, the effectiveness of these sub-structures and regulations can be significantly enhanced. Moreover, using super-majoritarian or consensual modes of decision-making to settle particularly critical questions can create incentives for majority parties to engage and negotiate with minority parties to achieve super-majoritarian support.

Legislative restructuring alone cannot accomplish the conversion of legislatures from arenas to transformative bodies, however. Executives must be prevented from interfering in legislative compromise-building efforts. Strong parties can help ensure that legislators have the legitimacy, resources and information needed to negotiate credibly with each other, but strong parties can also weaken legislative conflict-management mechanisms if undemocratic party governance and rigidly hierarchical methods of organization prevent legislators from negotiating freely.

There are a number of ways, then, in which legislatures, executives and parties can be altered and reformed to support the transition from legislature-as-arena to legislature-as-transformative body. Using illustrations taken from our Bolivian, Bosnian and Ugandan case studies, expanding upon these methods will be the work of this chapter. We should note, however, that there are important determinants of whether legislatures will manage conflicts effectively that we do not directly address. When it comes to building compromises, the larger social and political context plays a decisive role. Our analysis and policy recommendations will not specifically discuss ways to shape this broader context, but will focus on mechanisms (mentioned above) that if properly implemented should go a long way toward diminishing the influence of corrosive social and political features.

BUILDING COMPROMISES WITHIN LEGISLATURES

This chapter identifies some key challenges to building compromises within legislatures. The first is bringing parties together to communicate with one another and work productively together. Clearly, there is a lot that can go wrong in this complex process. Establishing common ground and common perceptions of reality relies on this ability to communicate and structures such as party caucuses can assist or block communication. Second, voting structures within the legislature provide incentives, but also disincentives, for the majority party to build compromise. When ultimate decisions are made by simple majoritarian processes, majority parties may lose interest in engaging the opposition to find mutually beneficial arrangements. Thirdly, even when engagement begins, discussions can quickly become unmanageable when too many voices take part in the conversation, as evidenced in large legislative assemblies. Smaller structures devoted to negotiation and compromise building can facilitate these discussions. The committee system, facilitating the detailed examination of particular issues, is one such structure. Next, the solutions arising from these structures could lack legitimacy if some key stakeholders are excluded or structures and regulations to allow a minority voice are not respected. Finally, even productive legislative compromise-building efforts can be derailed by external interference such as when the executive chooses to interfere.

PROBLEM 1: Poor communication and cooperation between legislators

To facilitate compromise, legislators must communicate and cooperate with one another both within parties and between parties. Without good communication, legislators cannot build the shared perception of reality and mutual understanding of needs that is a prerequisite for effective compromise creation. Without a spirit of cooperation, legislators will often be unwilling to engage in the dialogue needed to hammer out mutually beneficial arrangements.

Mechanisms to foster the inter-regional as well as intra-regional communication necessary for facilitating compromise are absent in many settings. In others, structures are in place to allow communication within and between groups of representatives. In Uganda, for example, intra-regional and intra-party mechanisms for exchanging information are quite well established. Party and regional caucuses act as venues for the sharing of information and the discussion of policy issues. National Resistance Movement (NRM) politicians say they often exchange views on broad policy issues in the NRM party caucus. The opposition legislators also agree that regional caucuses are useful venues for the sharing of information.

Successful communication between various groups in the legislature relies on exchanges of information between regions and also cross-party exchanges. It is in this area that there are weaknesses in Uganda. While members of parliament from northern Uganda use regional caucuses to share information and form positions as to how to represent regional interests, they do not have inter-regional caucuses to form such positions at the national level. Many Ugandan parliamentarians agree that members from other regions do not receive information from members representing the North, and one member commented that information sharing between opposing caucuses is basically nonexistent.

Caucuses do not inherently function as mechanisms to produce communication and conflict management. Regional and party caucuses can shape communication within the group, but do not in themselves lead to effective communication across these regional and party lines. Bosnia is an example where caucuses, also known as parliamentary clubs, have cemented ethnic, and therefore regional, divisions. Bosnia's parliamentary clubs run along ethno-national fault lines. Legislators also spend very little time in Sarajevo so their contact with differing regional views is kept to a minimum. Add to this the constitutional power of each ethnic faction in the House of Peoples to veto legislation if it threatens their 'Vital National Interest', it is clear that the result of these mechanisms is to paralyze legislative activity.

Cooperation between legislators is just as complex a subject as communication between legislators. In Bolivia, strong regional identities have helped legislators from different parties work together to develop compromises that serve the common interest. Regional *brigadas* seem to function best at facilitating discussion and compromise creation across parties when they are accompanied by strong regional identities, as in Santa Cruz. Initiatives proposed in Ugandan regional caucuses often succeeded in garnering support from opposition parties when they were perceived as aimed at addressing regional deficits of development. When regional divisions align with party divisions, however, strong regional identities may serve only to exacerbate conflicts at the national level and make compromise impossible. Thus, in Bosnia, where conflict tends to be born out of ethnically-based regional identities, there is little need to strengthen such identities. In fact, the pressing need is for a strong national identity capable of breaking down the intractable opposition between the two regions or entities.

Clearly, legislative communication and cooperation are complicated and difficult things to improve. It may be wise, in this area, to tailor policy solutions to address the needs produced by local realities. Thus, international organizations will usually find it worthwhile to encourage the development of well-resourced national caucus structures to improve intra-regional cross-party communication, but supporting the establishment of regional caucus structures would be most useful in contexts where inter-regional rivalries do not pose a serious obstacle to legislative operations.

In other countries where the regional identities themselves are the problem, donor programs must target initiatives to counteract these entrenched cleavages. For Uganda, a visit to the North spurred some southern parliamentarians to acknowledge the extent of the conflict and its possible impact on land tenure issues. One Bosnian politician spoke very highly of a joint regional visit he undertook with fellow legislators. Not only was he able to learn of the concerns of a different region, but the legislators visiting as a group portrayed a role model for national unity generally missing in Bosnian politics.

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BOX 1.1: Party Caucuses – Lessons Learned

From the Bosnia and Uganda experience: Caucuses facilitate communication within parties and within regions, but they do not overcome problems of inter-regional cleavages and might even cement these differences.

From the Bolivia experience: Caucuses can be useful to forge regional identities that cut across ideological and party lines.

PROBLEM 2: Dominance of simple majoritarian decision-making procedures

Simple majoritarian voting procedures tend to give majority parties in fragile and post-conflict states the capacity to ignore opposition interests. If only a bare majority is required to resolve important issues, representatives from the majority group naturally become less inclined to compromise with their opposition counterparts. In Bolivia, for example, the majority party's success in ensuring that votes will be decided by a simple majority in the Constituent Assembly has produced anxiety among opposition party representatives; they fear that they will now be cut out of the decision-making process.

Super-majoritarian or consensual methods of deciding important issues can force majority parties to negotiate with minority parties to build the needed support for legislation. Such an approach may be necessary when inter-group conflicts are particularly threatening, but it is important to remember that these methods are not cost-free. In Bosnia,

ethnic voting is entrenched in the constitution and was identified as an issue stalling the legislative operations. The legislative procedures under the constitution require the support of at least one-third of the votes from each entity, even when these politicians are not present in the chamber. The politics, then, are marked by ethnic divisions, with ethnic groups on occasion boycotting parliamentary sessions. The presence of the constitutionally-mandated 'vital national interest veto' in the House of Peoples has protected each group from possible offenses by other groups – but it has also led to inefficiency. Ethnic groups sometimes use the vital national interest veto to defeat legislation that does not drive at identity politics or ethnic divisions; an extreme example at the entity-level is the use or abuse of the veto to block legislation governing organic food.

PROBLEM 3: Use of large legislative assemblies as forums for negotiation

Large legislative assemblies are poor venues for compromise building and conflict management – the multiplicity of voices and the wide spectrum of personalities makes it difficult to isolate and address points of contention between competing groups. Legislative sub-structures such as committees can help foster compromise by bringing together the main representatives of important groups. Enabling factional leaders to interact in small-group settings with their counterparts tends to bolster trust between participants, and lessening the number of those involved in negotiations makes it more likely that negotiations will bear fruit.

Uganda furnishes another example of how committees can contribute to compromise-building. Parliamentarians there report that the Uganda Women's Parliamentary Association (UWPA), whose membership comprises female legislators (both those elected from geographic districts and the women's special constituency representatives), is usually able to reach compromise on issues regarding women.

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In Bolivia, the Constituent Assembly that was convened in August 2006 attempted for two long months to hammer out its rules of operation in large plenary sessions that all assembly members attended. The result was interminable discussions, widespread frustration, and very little progress on drafting useful regulations. Beginning in October 2006, however, the directorate of the assembly – consisting of the assembly president, vice-president, and secretary, each drawn from different major parties – and the heads of the fourteen parties represented in the Assembly began meeting to discuss issues before they were taken up by the Assembly as a whole. Assembly leaders report that these meetings have contributed a great deal to the search for consensus and the identification of feasible alternatives.

Bosnia provides an interesting illustration of how the international community can motivate the creation of structures, like committees, that encourage compromise. The lure of membership into the European Union has played a key role in Bosnian legislative reforms. Joint committees from both the House of Representatives and House of Peoples were established to attempt to pass legislation for the needed changes in the country as laid out by European Union pro-tocols. Although the legislators' stance on committees usually follows party and ethnic divisions, in Bosnia they have provided opportunities for legislators to illustrate special interests or expertise and occasionally deviate from the party position.

Conflict management is an exercise in building trust between factions whose previous interactions have been often marked by tension and violence. Legislative sub-structures allow factions to build relationships in less public settings. The legislature's committees consider the broader issues necessary to run the country. This deals not only with the issues that sparked the conflict, but also brings opposing factions together to take responsibility for the management of the country and not just their conflict grievances.

PROBLEM 4: Failure to ensure that minority-respecting regulations are followed

Unfortunately, legislative sub-structures like committees cannot produce effective compromises unless they include all the major groups represented in the legislature and in society more broadly. (The former, of course, often does not imply the latter; Chapter 3 of this report discusses this divergence in greater detail.) Many legislatures have regulations that reserve some leadership positions in committees (and in general assemblies) for the largest opposition groups. But without an authority with the capacity to ensure that these rules are followed, minority parties may nonetheless find themselves sidelined.

According to opposition party parliamentarians in La Paz, Bolivia's Congress has struggled to deal with this problem. Within the regional cross-party brigadas that play an important role in organizing legislative business, committees exist that are meant to help brigadas manage conflicts and build compromises. These committees are supposed to have minority party representation among their leadership, and their meetings should certainly include committee members from opposition parties. But brigadas that are strongly dominated by particular parties often exclude members of other parties from committee leadership and proceedings. The second vice-president of the national Chamber of Deputies is nominally charged with overseeing the operation of such committees, but in practice he has little authority to demand compliance from committee and brigada leaders. Clearly, Bolivia could benefit from stronger committee self-governance mechanisms.

In Bosnia, there has been some attempt to ensure that committees and assemblies fairly divide power by giving television media access to plenary session and committee proceedings. All parliamentary sessions are open to the public and the media. Bosnia's Parliamentary Rules of Procedure determine the national and ethnic composition of the committees and any violation of these rules would, if reported in the media, cause political concern. Media access could prove to be a useful instrument for promoting fairness in negotiations in other settings, as well, though it is important to keep in mind that televising committee proceedings may also politicize these proceedings and thus hinder the creation of compromise.

PROBLEM 5: Rigidly hierarchical political party structures

Political parties are often identified as institutions with a critical role to play in conflict management and compromise building, with their capacity to organize interests and clarify disagreements between contending groups. The discipline within a party is partly due to the electoral system of a country, with a closed list PR system often producing very hierarchical parties. Excessively hierarchical party structures and undemocratic internal party governance can deprive legislators of the capacity to negotiate compromises. The top-down structure of the Movimeiento al Socialismo (MAS) party in Bolivia, for example, has eroded the ability of MAS representatives in the state of Santa Cruz to negotiate on issues of regional importance with counterparts from other parties. Instead, discussions between representatives of other parties and MAS often bypass local representation and directly involve the center (i.e. the executive).

This problem can be addressed by improving the capacity and legitimacy of legislators and by encouraging parties to make decision-making transparent and democratic. When party leaders make decisions on platforms and ideology without involving lower-level representatives, it becomes more difficult for these representatives to negotiate credibly with representatives of other parties – which is a problem, given that regional issues are often most appropriately dealt with through discussions between regional-level representatives.

BOX 1.2: Political Parties – A Panacea for Conflict Management?

The merits and drawbacks of political parties in strengthening legislatures remain contested. Political parties are part of the societal structure and the political system in which the legislature is embedded. Traditional democratic principles dictate the inherent value of a multi-party system. Yet a highly plural multi-party system is one of the structural variables that influence the development of a strong legislature. Such societies tend to have highly local identities and, with under-resourced legislatures, clientelism pervades (Barkan 2004). The conflict management challenge is heightened; it involves building compromises across several different interests, rather than between a small number of nationally-unified party platforms.

Bolivia and Uganda are both states characterized by strong regional identities, where political parties have multiplied. Even in Bosnia which began its post-war independence with a small number of large political parties, politics soon fragmented to see 48 political parties contesting the October 2006 election.

The result is a dependent cycle between political parties and legislatures; the development of several small political parties can undermine the strengthening of the legislature and weak legislatures offer no incentive for large national political parties to develop (Kasfir 2006). For donors, then, the challenge is to find entry points to support national political parties that can integrate regional identities into a unifying party platform.

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PROBLEM 6: Executive interference in legislative compromise-building processes

When the executive is able to scuttle legislative initiatives or force through their own initiatives without legislative participation, legislatures become less likely to develop independent compromise-building capacities. As long as this kind of interference continues, legislatures will often find themselves compelled to leave compromise building in the hands of the executive – an institutionally unreliable outcome.

In Bolivia, representatives of the Constituent Assembly have expressed frustration with the executive's propensity to break up developing compromises. On a number of occasions, according to these representatives, serious progress on the drafting of regulations was halted or reversed by presidential or vice-presidential visits to the Assembly.

The development of legislative compromise-building capacities in Bosnia has been similarly hampered by executive interference in the legislative process. As a part of the Dayton Agreement, the Office of the High Representative (OHR) was given vast executive powers to ensure the functioning of the state. An unfortunate byproduct of this type of interference has been that the Bosnian legislature has not developed the necessary capacity to solve difficult problems through compromise. Legislators have found OHR a convenient excuse not to engage in deliberation; if OHR is going to act anyway, then why should legislators act? Legislators allow highly emotive and political debates to continue because there is no incentive for compromise. The attitude particularly under interventionist High Representatives such as Paddy Ashdown (2002 to 2006) was that the key measures necessary for Bosnia's operation would be handed down by the OHR, and legislators would not need to suffer the political consequences of making difficult decisions.

A possible solution to this problem involves strengthening legislative technical capacities and legitimacy. In Bolivia, Constituent Assembly representatives that hail from the majority party are often very dependent on the executive for guidance and backing; many lack the legislative know-how or popular support that would allow them to challenge or-

ders from above. Through training, education and resourcing, organizations working with the Assembly are attempting to address these deficiencies.

Preventing the executive from interfering in legislative processes is a crucial component of creating balance between the executive and legislative branches. In the chapter that follows, we broaden our discussion of how this balance impacts conflict management.

RECOMMENDATIONS

1. *Assist in creating legislative sub-structures that can act as neutral, bipartisan non-conflictual forums in which competing actors can develop relationships and build compromises that address national conflicts*

   a. Where party divisions are along ethnic or regional lines, support the formation of issue-based national committees and caucuses that will bring together legislators from diverse ethnic or regional groups
   b. Where party divisions are not explicitly regional, support the establishment of regional caucuses that will allow legislators from deadlocked national parties to gain experience in building compromises through collaboration on less divisive regional issues.

2. *Support the effective functioning of legislative sub-structures to allow minority or opposition parties to participate in compromise-building processes to resolve conflict*

   a. Provide technical expertise and funding for the drafting of rules of procedure for the sub-structures. A participatory approach to the drafting involving minority and opposition parties can be adopted by the organization facilitating the drafting. Part of the drafting process for these rules should be training on best practices that can illustrate:
      i. The conflict-management and democratic value of leadership positions on committees being distributed among both majority and minority parties
      ii. The conflict-management and democratic value of key decisions being taken by super-majoritarian votes
      iii. The conflict-management value of establishing a legislative committee with the authority to oversee compliance with committee and caucus regulations
   b. Conduct joint conflict-management training for legislators of different parties participating in these legislative sub-structures
   c. Advocate the designation of specific budget allocations in the legislative budget to support the operations of these sub-structures

3. *Encourage parties to develop democratic structures and practices that increase all party members' involvement in deliberations and decision-making, thus empowering them to credibly negotiate with counterparts from other parties by:*

   a. Providing training, funding and technical expertise on the internal governance practices and transparent and inclusive decision-making processes
   b. Workshops on internal participatory mechanisms on developing party policy statements and policy platforms

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> 4. *Fund and organize trips for multi-party and cross-regional groups of legislators to visit different districts to learn about specific problems and concerns in constituencies other than their own, thus increasing awareness of other perspectives on key conflicts.*

Additional recommendations concerning executive-legislative relations will be presented and discussed in Chapter 2.

The proposed recommendations grow out of the recognition that manageable negotiations, personal relationships, respect for minority viewpoints, transparency and mutual understanding are all critical components of any compromise-building project. Because the absence of effective compromise can induce dissatisfied groups to use violence to defend their interests, the importance of providing for these components in order to prevent conflict is clear.

Our recommendations broadly break down into four categories: creating new opportunities for legislators to work together across major political divides; reforming the rules governing legislative sub-structures to protect the role of minority or opposition parties; improving internal party governance and transparency; and developing means whereby legislators can learn about alternative perspectives on the key conflicts facing their societies. Of these, the first and the last are probably easiest to implement, involving as they do the creation of new structures rather than the reform of old structures in which some actors already have vested interests. In both cases, the main responsibility of donor organizations should essentially be to fund the new structures, to provide expertise in administering them, and to help organize their initial activities, all while lobbying government figures to incorporate these structures more permanently into legislative programming. Given that none of these tasks are particularly politically sensitive, they should all be feasible for donor organizations with adequate access to resources and knowledgeable personnel.

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The second and third recommendations – reforming the rules governing committees and caucuses to provide a greater role for minority parties, and urging parties to democratize their decision-making processes – are likely to be more difficult to implement. In both cases, there will be actors with a strong interest in opposing these changes: in the first case, majority parties, and in the second, party leaders. In cases where the current majority either finds itself in an opposition role in some regions, or recognizes that it may become the national opposition party after a future election, it should be easier to demonstrate the wisdom of creating rules that protect opposition party participation in regional caucuses and national legislative committees. When the majority party is either so strong or so adept at manipulating elections that it has no reasonable chance of losing power in the near future, it will be more difficult to get the changes we propose implemented through pure persuasion. Assistance then, particularly at a political party level, can become an important reward and incentive for engagement by political parties with donors. This by no means implies that donors should impose a set of rules on political parties. Rather it envisages donors training parties on best practices for transparent party decision-making or opposition inclusion in legislative sub-structures. With this basis, the adoption of sound internal party and legislative sub-structure practices becomes more likely.

Donor constraints are not only guided by the political context in the recipient country. We recognize that working with or funding political parties directly is not common practice for many donors. However, donor efforts to encourage and fund compromise-building processes could easily be derailed without political party support and engagement. Donors can use and have used innovative mechanisms to overcome constraints preventing direct support for political parties. Cross-party funding is one example, as is multi-donor basket funding, administered by an international NGO or a host government agency (Bryan 2006). The feasibility and success of donor programs could always be disrupted if political parties become the spoilers of peacebuilding; international assistance can then become a valuable incentive for the comprise-building process.

CHAPTER 2: OVERCOMING EXECUTIVE-LEGISLATIVE IMBALANCE

Peacebuilding is a turbulent process that often involves negotiation or renegotiation of government systems and structures. These constitutional negotiations dictate the power of the legislature and in many ways define the legislatures' ability to effect conflict management in a fragile society. In conflict-prone states, the legislature is often a disempowered institution. Conflict may arise while the unfettered executive branch ignores or actively quashes minority interests. Given the proper governance framework, legislatures can become the guarantors of pluralism, injecting diverse perspectives to moderate the powers of the executive branch. As the foremost representative institution, they can play a significant role to ensure the proper workings of government while protecting the interests of minorities (Taylor 2005, 105).

Executive dominance is the norm in most political systems. It is important to recognize, however, that there is a clear tension in the executive-legislature balancing act. Domestic expectations and international pressures on new governments of fragile states are high. Executive dominance can be the expedient solution to meet these demands for immediate, tangible and visible initiatives to address the significant development and infrastructure needs of fragile states. In the face of these pressures, a charismatic and decisive executive may better deliver fast results and reforms by avoiding the potentially long deliberations in the legislature.

There is no guarantee, however, that the executive will focus on the right issues or that swift action will placate the demands of marginalized groups that could become spoilers in the peacebuilding process. When conflict management is left to the executive, which is often dominated by one political force with strong support only among some sectors of society, the discretion of the executive becomes the most significant determinant of whether societal reconciliation is built or allowed to wither away. An active legislature, when it represents the broad spectrum of societal groups, can ensure the executive is seriously and effectively addressing conflict management. Checking the executive, the arm of government with control over the security sector and armed forces, is then a vital component of both conflict prevention and post-conflict peacebuilding. Quantitative studies clearly show that the presence of a strong legislature is strongly correlated with the existence of a strong democracy and an open society (Fish 2006, 5). Weak legislative institutions hinder a fragile state on its path toward sustainable peace and democratization.

An imbalance in the executive-legislature power arises from two conditions:

1. the constitutional and legal structure does not create a sufficiently robust system to allow mutual checks and balances between the two branches, almost always to the detriment of the legislative branch.
2. the institutional mechanisms, where they do exist, are not implemented or do not function properly in practice.

This chapter examines the first condition by looking at the legislature's powers and responsibilities under the existing legal and constitutional frameworks. A legislature's powers to initiate legislation and to question, scrutinize and overrule the executive are direct measures of a legislature's strength as laid out in the constitution. Other enumerated powers more indirectly affect the legislature's ability to operate effectively, such as the number of legislators, the electoral system and the length of terms. The solution to the formal legal imbalance is often constitutional reform. Part of this chapter is thus an update on existing constitutional reform processes in the three countries that, in part, aim to improve the governance framework for the operation of legislatures.

In examining the practical operation of legal mechanisms, the chapter acknowledges that the written letter of the constitution does not always reflect a legislature's practice. A concentration on legal frameworks alone is often inadequate. Moreover, donors and the international community may have little leverage to effect and shape constitutional reform. For them, the focus is the strengthening of the legislature's institutional mechanisms. Too often, however, internation-

al attention centers only on the executive arm's ability to govern, exacerbating the asymmetry of power for the legislature (UNDP 2006, 6). Strengthening the legislature's abilities to enact legislation, amend legislation, make effective policy, and oversee its implementation become key to allowing it to assert its constitutionally mandated position.

There are several reasons why institutional mechanisms to check the executive are not used at all or not used properly. This chapter seeks to explain three important challenges to the legislature's institutional mechanisms that impede legislatures' oversight function. The first challenge is weak and ineffective opposition parties. Despite the existence of the legal mechanisms to scrutinize the activities of the executive, an opposition which does not engage in its role is not able to take advantage of these mechanisms. Second, the absence of well-resourced and skilled legislative secretariats presents another challenge to individual legislators' ability to perform their oversight duties. If legislators do not obtain any support from the secretariats in matters such as legislative drafting and technical research, they cannot analyze laws and their implementation, particularly in the face of an executive branch which has highly specialized ministries at its disposal. The last challenge is the inability of the legislature to obtain accurate information from the executive branch in a timely manner. These institutional mechanisms, as vital components of legislative mechanisms in fragile states, provide entry points for donor initiatives.

MEASURING THE STRENGTH OF LEGISLATURES – IN LAW AND IN PRACTICE

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The legislature's role in peacebuilding is defined by its ability to oversee conflict prevention policies implemented by the executive. The legislature's oversight of the executive is also one measure of its relative strength. Oversight refers to several procedures where the legislature brings the executive to account, including committees of inquiry, questions on notice and question time. Certainly the legislature's ability to check executive security sector power is vital to the peacebuilding process. But measures of a strong legislature go beyond oversight of government activities. A strong legislature is also one that is able to act independently of government, with its own budget. It can, if not initiate legislation, then at least amend it or send it back to the executive for revision. With such structures in place, executive dominance does not preclude a legislature's activism nor its ability to shape solutions to conflict-prone situations.

Executive resources tend to dwarf those of the legislature, even in the least-developed nations (USAID 2000, 4). Control over its own budget then is a centerpiece of a legislature's independence. The degrees of budgetary control range from the ability to draft the budget to the ability to consider it in detail, amend it and approve it. For example Bosnia's National Assembly Secretariat drafts the budget, according to parameters set by the Ministry of Finance and Treasury, and then submits it to the Ministry. While members of both Houses commented on the draft, their comments do not tend to be reflected in the budget.

The power to control internal budgets is recognized in guidelines for effective legislatures (IPU 2006, CPA and World Bank Institute 2006), because it affects the autonomy of the legislature. Budgetary autonomy is essential to improving the legislature's capacity to discharge its oversight function. It enables the legislature to recruit competent supporting staff, develop an independent research capacity and implement its oversight initiatives that command a greater degree of accountability from the executive.

The availability of budget alone will not contribute to the effectiveness of legislative oversight function if the legislature does not allocate the budget to the activities that are designed to improve its institutional capacity. The passing of a bill increasing its own salaries and perquisites in 1997 by the Parliament of Uganda is one possible example of the legislators' abuse of its powers of budgetary control. Even where the legislature has the formal power over its own budget, legislators may be unable or unwilling to exercise it properly because of inadequate technical capacity or undesired political consequences. An excellent example is furnished by Bolivia. The steadily eroding legitimacy of the

Bolivian Congress over the 1990s and the first part of this decade made attempts to cut legislative funding in 2006 by Morales' government in 2006 very popular. These cuts disproportionately affected Congress, where legislators' salaries were significantly reduced. Because legislators pay for outreach efforts out of their own salaries, this move weakened the legislature vis-à-vis the executive, making it harder for legislators to strengthen the legislator-constituent linkages discussed in Chapter 3. Unfortunately, Congress's lack of legitimacy made it difficult for the legislature to exercise its independent budgetary authority, thus handicapping further efforts to improve legitimacy.

TABLE 2.1: Legislative Powers – Vested and Exercised

	Oversight of Government Budget		Ability to Question Ministers		Ability of Committees to conduct inquiries into government activities		Ability to censure government		Legislature can control its own budget	
	*Power Exists***	*Power Regularly Exercised**	*Power Exists*	*Power Regularly Exercised*	*Power Exists*	*Power Regularly Exercised*	*Power Exists*	*Power Regularly Exercised*	*Power Exists*	*Power Regularly Exercised*
Bolivia	Yes	N/A	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Bosnia	Yes	Yes	No***	No	Yes	No	Yes	N/A	No	No
Uganda	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	No	No

** Measurement of whether the power is enumerated in the constitution, the legislature's rules of procedure or other laws or regulations governing the powers of the legislature
* Measurement for each category varies.
-          oversight of budget = at least once per year
-          ability to question ministers = at least once per legislature's session
-          ability of committees to conduct inquiries into government activities = once per year
-          ability to censure government, regular use of this power is not necessarily a strong point
legislature can control its own budget = at least once per legislature's term
*** Bosnia's Legislature put questions to ministers in writing, but not in person.

PROBLEM 1: Inadequate constitutional and legal framework

The constitutions of each of the three countries we investigated give different degrees of freedom to the legislatures to discharge their functions. From Table 2.1, our assessment is that the constitutional structures themselves allow the legislatures of Bosnia, Uganda and Bolivia formal powers to balance and oversee the executive. Some legislatures have also developed rules of procedure that have strengthened the oversight mechanisms. As one example, the Ugandan constitution allows Parliament to design its own committees as instruments in exercising the oversight and law making functions. Ugandan legislative committees are explicitly accorded the right to call any Minister or public official to give oral or written statement. Minority reports for committee decisions can also be submitted to allow a channel for dissenting opinions. Uganda's legislature is well-placed to check the executive in formal legal terms.

Bosnia too has a committee structure in both the House of Representatives and the House of Peoples. It is, however, constrained by the constitutional framework. Bosnia's constitution was drafted as part of the 1995 Dayton Peace agreement and was intended as the starting point for further constitutional reform. It created a weak national government limiting its portfolios to a short list, such as foreign policy and immigration. The entity governments have very gradually transferred some responsibilities to the national government. This operating environment creates considerable strains for the legislature. The increase in responsibilities at the national level did not also translate into an increase in the number of legislators to oversee these new portfolios. The 42 members of the House of Representatives must divide their time between eight permanent committees and three joint committees, a number likely to grow with further increases in remit. The strains on members are direr in the House of Peoples which has only 15 members to service three permanent committees and three joint committees.

Constitutional reform or amendments to the legislature's rules of procedure are both clear remedies to legislature-executive imbalance in the legal framework. One positive example from Uganda is the amendment in the 8th Parliament that designated the opposition to hold chair and deputy chair positions of oversight committees – a move that strengthened the incentives for an effective committee structure (Rules of Procedures of the Parliament of Uganda 2006, 89).

Constitutional reform, however, is arduous and not always capable of producing solutions. Too frequent constitutional overhauls contribute to a society's instability, and constitutional reform outcomes are not always positive. Uganda's reforms to the highly-praised 1995 constitution increased executive dominance by rolling back some of the powers

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BOX 2.1 Parliamentary versus Presidential Systems

The debate over the merits of parliamentary versus presidential systems in fragile states is long-running and contentious. The argument states that presidential systems more naturally lead to autocratic behavior because the executive is not politically responsible before the legislature (Linz 1990, 52). The counter-argument posits that questions of political systems are irrelevant. Dictatorships arising from presidential democracies have more to do with the legacy of military rule and the competence of the executive and legislature than with the political system itself (Cheibub 2002, 297). Political experiences beyond the Americas illustrate the equal tendency of parliamentary systems to produce dictators.

What is uncontested is that fragile states consistently have weak legislatures, irrespective of their political systems (Samuels 2006, 11). The traditional presidential models of Uganda and Bolivia and Bosnia's mixed presidential system with its power-sharing arrangements all follow this pattern of weak legislatures.

In most cases of constitutional reform, international actors have limited influence on the types of political systems adopted, parliamentary or presidential. The constitutional choice is determined by the historical and political context of peacebuilding, where rational calculations of parliamentary versus presidential systems are immaterial and international pressure is a secondary consideration (Samuels 2006, 12). The proposed 2005 Bosnian constitutional reform is an example of a case where international pressure in support of certain reforms was high, but unsuccessful. Domestic political considerations and animosities prevailed.

Note: Constitutional reform in Bosnia was spearheaded largely by Washington by former deputy high representative Donald Hays. The US ambassador, UK diplomats and the EUROPEAN UNION delegation were all present at the assembly sessions to consider these reforms and attempted to cajole lawmakers in the breaks (Skrbic 2005: 2).

accorded to the legislature. A constitutional mechanism to balance executive power had limited the President to two terms. In 2005 President Museveni's Constitutional Amendment Act abolished this limitation. As part of the entire reform package that aimed to reduce the powers of the parliament, Museveni also gained powers to suspend the parliament in the event of a disagreement with the executive branch.

Constitutional reform can also reopen the wounds of mistrust created in the conflict. Because the process is sensitive and politically highly charged, the timing for proposing reforms is crucial. The Bosnian constitutional reform proposal came to the agenda in late 2005 and was voted on in the Assembly on 27 April, barely five months before a national election. The issues proved more divisive than productive. Ethnic divisions cemented and supporters of the reform were branded as traitors. In the October 2006 elections, support for the constitutional reform process cost several politicians reelection, particularly from the Party of Democratic Action (SDA). The controversy did not surround the legislative strengthening measures, rather the division rested on the attempt to renegotiate the federalist structure by shifting more powers away from the entities. On one side, many Croat and Bosniak politicians wanted to see greater steps to abolish ethnic voting mechanisms, some calling for the immediate abolition of the Republic of Srpska. They saw the reform package as too meager. On the other side, the radical Serbian view was that the package went too far, diluting the powers of the Republic of Srpska. The failure was costly. Even though constitutional reform is required, in the words of Bosnia's then-foreign minister, Mladen Ivanic: 'Several years will be necessary in order to launch new constitutional changes and reach new compromise' (Reuters 2006).

Bolivia provides a good example of a constitutional reform process where unclear goals are limiting the capacity of the process to produce a positive rebalancing of executive-legislative relations. The new Constitutional Assembly lacked direction from its beginning in August 2006. Opposition party members complain that they do not know what MAS proposes to do in the Constitutional Assembly, and MAS delegates are quite vague about their policy proposals. The Assembly will probably address issues of land redistribution and regional sovereignty, but there is also a great deal of unfocused talk about reintroducing pre-colonial methods of governance to Bolivia. The ambiguity gave rise to dark rumors in the mestizo eastern half of the country that have fuelled a rise in distrust and fear toward the ruling government. Bolivia's Constitutional Assembly demonstrates the dangers of beginning a process of constitutional reform without some consensus on what particular structural problems in the government need to be addressed.

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BOX 2.2 The New Constitutional Reform Process—Lessons Learned

Bosnia: Constitutional reform should not be undertaken in the lead-up to an election. Phased constitutional reform might be a way to allow less controversial reforms to succeed rather than being held hostage to controversial proposals.

Uganda: Constitutional reform does not always deliver benefits for the legislature; it can increase the power of the executive.

Bolivia: In an increasingly polarized society, a constitutional reform process that has ambiguous aims and has not identified structural problems it seeks to address can easily provoke even greater distrust and conflict.

CHAPTER 2: OVERCOMING EXECUTIVE LEGISLATIVE IMBALANCE

PROBLEM 2: Opposition parties do not engage in oversight

Part of the problem of legislative-executive imbalanced relations, identified also in problem six of the previous chapter, lies in the inability of the opposition to exercise its oversight function. No matter the powers of a legislature, their effectiveness relies on proper implementation. Much of the proper use of oversight functions requires an engaged opposition ready to use institutional mechanisms to its advantage. For states without a long democratic tradition, developing an understanding of the opposition's role is particular challenging. For example, Bosnia's oversight powers both in the committee and in the plenary are rarely used effectively. One reason is that the opposition does not properly understand its role in oversight and inquiry of government activities; it does not understand the potential political utility of questioning ministers and of conducting public inquiries. The inquiries that do take place do not focus on the implementation of laws or government policies, but rather the impact of proposed measures. This is one reason why implementation and enforcement of the many laws passed by the Bosnian legislature has been weak. There are too few political consequences for the executive if a law is not implemented.

In Uganda, the relatively strong oversight structure is being undermined by the governing NRM party's overwhelming majority (205 out of 309 seats[5]). The chairs of the standing committees, even though they are not government members, adopt pro-government stances for the sake of their own political positioning and careers.

Part of the problem observed in Uganda and Bosnia, is that the opposition does not offer any clear policy positions from which to criticize government in both the committees and the plenary. In Uganda, the opposition's position is basically just anti-government. Politicians in Bosnia frame the problem somewhat differently. The political parties all aim to be brought into the powerful coalitions, and they do not want to jeopardize their political positioning by criticizing potential coalition partners. Coalitions of strange bed-fellows with parties from opposite ends of the political spectrum are regular feature of Bosnian politics.

For donors, working with opposition or political parties more broadly can be sensitive. It could expose them to accusations of taking sides. But there are some less controversial entry points the donors can use to bolster the role of the opposition in the legislature. One is to work through multi-donor basket funding administered by international NGOs. A second is cross-party funding. Donors, such as the Organization for Security and Cooperation in Europe (OSCE) conduct cross-party training for incoming legislators at the start of their new term in some countries. This training should include modules on the role of the opposition. Bosnian politicians spoke of how useful it was for them to visit legislatures of other nations. When they saw a vigorous opposition questioning a minister before television cameras, they understood the power of oversight mechanisms. Media and civil society are also strong mechanisms for oversight and their role can bolster that of the opposition. They can also question an opposition that is not fulfilling its role properly. Programs to strengthen media and develop civil society can then include modules on the working of the legislature and how to build connections to government and opposition politicians.

Bolivia provides a good model for an opposition using its powers for oversight effectively. In legislative commissions controlled by the governing party, the vice-presidency is always delegated to a member of an opposition party. It also has control of some commissions. Although the governing party generally attempts to maintain control over key commissions, the opposition is able to use the commissions it controls to exercise oversight functions. The fact that they also have designated roles and responsibilities within the directorates of all three bodies (as an example, the vice-president of the Chamber of Deputies is from the opposition Poder Democrático PODEMOS party) enables them to check the influence of the (uni-party) executive on the functioning of the (multi-party) legislative branch.

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5   The total number of representatives in the 8th Parliament is 319, with 10 ex-officio members who have no right to vote on any issue requiring a vote in Parliament.

PROBLEM 3: Inadequately resourced and skilled secretariats

As in many fragile states, the legislators in Bosnia, Bolivia and Uganda, particularly those from opposition parties, are supported by limited resources. In Uganda, the opposition members do not seek assistance from the Parliamentary research office because they do not believe that the office could impartially assist them in investigating the government's questionable actions. This indicates the importance of political neutrality for the legislative research center. A relatively strong research center was established in Bosnia by the Canadian Parliamentary Center and continues to be supported by the OSCE. Despite its resource and space limitations, its officers have a clear understanding of their role and will often call on their international counterparts for advice on how best to organize their work, maintain impartiality and respond to legislator requests.

Bosnia also presents a useful model for limited-resource donor projects. The National Democratic Institute established an internship program within the legislature's secretariat. Bosnian recently-graduated and final year economics and law students were brought in as interns so the secretariat could draw on their expertise. The program was so beneficial to the secretariat that it now runs its own internship scheme.

Part of the secretariat's role is also to manage the work plan for the legislature and the committees. In Bosnia, part of the problem for the secretariat and the legislators is managing the sheer volume of laws that are put before the legislature. Legislators do not have their own advisers unless they occupy senior party executive positions, nor are the draft laws supplied to them in time for thorough consideration before the committee meetings. Add to this the fact that not all legislators are full-time politicians (many have outside business or professional roles), and it becomes clear how time constraints on politicians often do not allow for thorough oversight. Many legislators travel to Sarajevo only for Parliamentary Assembly sessions, so distributing committee documents to them is often difficult. Committee meetings tend to be scheduled during the Assembly session and many legislators collect their Committee documents on arrival in Sarajevo.

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The value of professional secretariat staff is highlighted through the Bolivian experience. USAID assistance in the early 1990s funded the new staff that subsequently identified over $100 million in errors in the executive's proposed budget over a two-year period (USAID 2000, 5). For Bolivia the resource problem lies with the Constituent Assembly. Since MAS was elected in early 2006, there has been a strong reluctance to accept foreign assistance. The Assembly's technical capacity is low, and it lacks access to legal and constitutional expertise and documents. Members of the Assembly have been forced to turn to private foundations – often financed by the same international donors who are formally forbidden by law to provide direct support to the Assembly – in order to get the support they need. Although the Constituent Assembly is only now just beginning to debate substantive issues, many people working in and around the Assembly suggested that this weakness is likely to prove to be a serious impediment to the timely drafting of the new constitution.

PROBLEM 4: Inadequate information exchange between the executive and the legislature

Legislatures must have powers to compel information from the executive, such as questioning ministers or requesting answers from a ministry. Obtaining this information is crucial to the legislature's oversight function. In Uganda, the Parliament also relies on technical staff from the executive to provide guidance and assistance in drafting bills since most bills originate from the executive. Legislatures also rely on the executive to disseminate information about the laws that it passes and their implementation. In this way, proper oversight and legislation relies on timely and accurate information flow between the two branches of government.

These information exchanges are not working effectively in Bosnia. Draft laws require a legal and financial impact assessment before being submitted to the Parliament. Yet often the assessments are cursory without any details about the budget for the law implementation or whether any implementing regulations are required. Responses to committee requests for further information are slow in coming. When committees have questions for Ministers, they often send a delegate, an official or an outside expert. While this can be useful for the committee to gain expertise, it does not encourage Ministers to take political responsibility for a draft law or its implementation. This leads to problems like laws being passed that exceed the government's budget and which cannot be implemented. Improving these information flows is about building the informal and institutional linkages between the branches. This can be achieved by training the financial and legal experts from the two branches in joint sessions. In this way, both develop similar skill sets and an informal chain of communication is already developed through their joint learning experience.

RECOMMENDATIONS

1. *Strengthen the capacity of opposition parties to participate in legislative activities, ensuring that minority views are incorporated in policies that affect the social cleavages underlying conflict:*

   a. Provide technical assistance and support orientation training for new legislators that includes modules on the importance, rights, and responsibilities of the opposition, and its proactive role in balancing the executive to address conflicts

   b. Support legislative exchanges to enable legislators to observe how the opposition's executive oversight and negotiation with majority parties can highlight deficiencies in government's conflict management effectively

2. *Strengthen the legislative secretariat's capacity to gather and collate accurate information for legislators, enabling them to make informed assessments of the country's peacebuilding needs and how to draft and amend legislature to address them:*

   a. Establish a non-partisan legislative research office to provide information to legislators, free of executive or political pressures

   b. Sponsor programs that develop partnerships among legislative staff in different countries to share expertise and best practices derived from conflict management experiences; training for the secretariat can be conducted by partner-country secretariats, who then become informal focal points of contact for advice

   c. Establish secretariat internship programs for law, economics and political science undergraduate and graduate students

3. *Support the independence and autonomy of the legislature by encouraging mechanisms that increase its budgetary control, underscoring its legitimacy and ability to influence the executive and its policies in the critical stages of peacebuilding:*

   a. Develop the legislative secretariat's budgetary expertise by establishing and training a non-partisan budget office of the legislature, so that it has the capability, if not to control its own budget, then to engage in proper oversight of the budget drafted by the executive. Provide training to that

office on fiscal procedures and research on the fiscal impact of proposed laws for relevant legislative committees.

4. Take advantage of the synergies between legislative strengthening and other conflict management, democracy strengthening and development sector programs:[6]

    a. Sector-specific training of the executive branch should be implemented in tandem with training for the parallel service in the legislature. For example:
        i.   Budgetary training for the ministry of finance or the auditor general's office should include the legislature's budgetary office
        ii. Training of the executive branch's legal drafting bodies (Juridical Council, Attorney-General, etc.) should include the legislative staff
        iii. Training specific to the civilian security sector should also include the members of relevant committees in the legislature and the committee secretaries

    b. International assistance for national economic planning should also include the legislature. For example:
        i. Capacity-building for the Poverty Reduction Strategy Papers (PRSP) or strategies for the implementation of the Millennium Development Goals (MDGs) should also target the relevant legislative committees and offices
        ii. International financial institutions should involve legislatures in the national economic planning and lending

    c. Media strengthening programs should include training on the role of legislatures and, in particular, the legitimate role of the opposition in balancing the executive branch and ruling coalition.

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Executive dominance over the legislature is a common phenomenon in fragile states; our recommendations aim to direct donors to target their efforts at rectifying the executive-legislature imbalance, rather than exacerbating it, as too often is the case (UNDP 2006, 5). Conflict management requires critical and sensitive government policies, where accountability of executive decision-making and its impact on peacebuilding is vital. A stronger legislature can ensure that broader views are injected into the executive's peacebuilding and conflict management agenda. This first requires that engaged opposition parties check executive actions and give a voice to minority concerns. Second, the legislature's own autonomy, especially budgetary autonomy, and its informational resources are key to its ability to undertake genuine credible and authoritative interactions with the executive on the issues fueling conflict. Legislatures require this financial independence to act unimpeded and the informational resources to act capably. Finally, the recommendations seek to ensure the legislature's inclusion in the larger conflict management, democracy and national development agenda. Donor initiatives in several sectors, such as security sector, the media, can draw in the legislature to build its political legitimacy and capacity to participate in the country's peacebuilding program.

International donors are subject to constraints when implementing measures to strengthen the legislature's position vis-à-vis the executive. Some donors' own domestic political pressures prevent them from engaging with certain political actors or parties. These recommendations speak to some of these domestic pressures, but the feasibility of these programs remains heavily dependent on the local political context in the fragile state. In the first place, donor

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6   This recommendation builds on the USAID Handbook on Legislative Strengthening (USAID 2000: 2).

engagement is subject to host government explicit or tacit approval. The political setting of fragile states could see the executive acting as a spoiler against efforts to enhance the oversight capacity of the legislature. The executive must be convinced that the overall effectiveness and legitimacy of the state would be improved by strengthening the legislature. A legislature that functions effectively can inform the executive of opinions fuelling social cleavages; its strengthening is not a zero-sum game. Another problem is that fragile states do not have the financial capacity to bear the rising expenses of government institutions. Increasing the budget of government institutions could contribute and perpetuate the over-dependence of those governments on donor assistance. Lastly, donor engagement with the legislature in fragile states might need to grapple with a political culture of corruption and bad faith. The chance will always exist that legislators would abuse the new power and resources entrusted to them. International donors therefore should recognize these potential constraints, while trying to help the legislature to enhance its role in the management of the country.

CHAPTER 3: STRENGTHENING LINKAGES BETWEEN CONSTITUENTS AND THE LEGISLATURE

Strengthening the linkages between a legislature and the people is a necessary step for promoting peace and stability in a fragile democracy. The legitimacy of a fragile democracy rests on the ability of legislators to give voice to the expectations and interests of their constituents; the population must see these tangible democratic dividends for the political system to be sustainable. These linkages are a two-way phenomenon including both top-down and bottom-up communication: legislators represent the people's interests, while simultaneously providing feedback and information to their constituents on the political process. Representatives must be able to disseminate information about their actions to their constituents, educate them on the political process, gather constituent feedback and act upon suggestions. This enables them to manage constituents' expectations of the role, scope and constraints of legislative power, thereby ensuring that people do not lose faith in their representatives, the legislature or peaceful forms of conflict management when contentious issues are not satisfactorily addressed in the short term.

The representative function of legislatures is especially important in fragile states, where certain minority groups and marginalized individuals are frequently excluded from the governmental process. Effective representation allows disputes to move from the battlefield to the political arena. When citizens feel that their views are represented in government, and that their representatives will try to resolve conflict with constituents' interests in mind, they are less likely to turn to violence to resolve conflicts. Politics then becomes the primary mode of communication and compromise between divergent social forces (Ball 2001, O'Brien 2005). In fragile states, this function gains even greater urgency as unresolved conflicts have a greater potential to degenerate rapidly into renewed violence.

Second, effective representation strengthens the rule of law by building the legitimacy of the legislature and the government. As violent conflict is marked by the breakdown of the rule of law, its proper restoration is a centerpiece for the conflict management ability of the governance institutions. When citizens feel that their views are represented in governing institutions, they are more likely to accept the legislature's authority to enact legislation to resolve conflict and the executive's authority to implement and enforce it. Not only are legislators, if they understand the expressed desires of the citizenry, better able to draft legislation to reflect the interests of all sides, but the laws are also more likely to gain widespread support and therefore be implemented effectively. With this increased legitimacy of the legislature comes the increased confidence, particularly among warring factions, in the political arena as the viable medium for conflict resolution. Conflicting parties are more likely to abide by government-imposed conflict management measures if they feel that their views were considered when these laws were drafted.

A tension can arise between the aims of effective representation and conflict management. As vertical accountability is strengthened, legislative elites may find it more difficult to engage in compromise, particularly if they must then answer to polarized and often radical constituents and constituent groups. This is particularly true in societies where identity politics reign. Systems that are less transparent may give representatives the necessary freedom to broker deals which may not be seen as acceptable by their constituents, but which contribute to the greater goal of conflict management. This paradox highlights the need for donors to take into account the specific political context and to recognize the delicate balance that legislators must tread between faithfully representing their constituents' explicit desires, and exercising leadership and vision when these are desires inimical to national or local long-term interests.

The political, legal and societal contexts shape representation and the tensions it creates. Individual legislators face differing political incentive structures for representation in different electoral systems. Single member district systems are generally viewed as providing stronger incentives for direct representation of local interests; proportional representation may shield individual members of parliament from the potentially negative political consequences of a perceived failure to represent specific interests. While vertical accountability can thus be a positive or a negative factor in the short term, our contention is that in the long run it is an indispensable element in cementing the peaceful and political exercise of conflict management.

CHAPTER 3: STRENGTHENING LINKAGES

In order to strengthen the linkage between constituents and the legislature, individual legislators, political parties and the legislative branch as an institution must be enabled to overcome the challenges that inhibit them from:

1. Collecting information from their constituents to anticipate, detect and address conflicts in the legislature and deliver information to their constituents about the actions of the legislature

2. Building individual legitimacy of legislators to strengthen their ability to perform their duties fully

3. Building the institutional legitimacy of the legislative branch, so that constituents gain trust in and are willing to abide by the decisions of the legislative branch

4. Establishing and strengthening accountability systems so that grievances can be voiced within the political system

Strengthening these linkages at the individual legislator level increases the effectiveness of the institution as a whole. What results is the institution's increased capacity to bring battles into the political arena, build the legitimacy of the government and increase the government's ability to pass effective conflict management laws. Legislatures with strong legitimacy become instruments of learning, a way of imparting democratic knowledge to citizens (Smilov 2005: 6). Particularly in states with limited democratic traditions, legislatures themselves can reach out and educate citizens about legislative processes, above and beyond the work of individual representatives. As citizens become more confident of the purpose and effectiveness of the legislature, they are more apt to trust it to resolve ongoing and future conflict.

PROBLEM 1: Ineffective communication between legislators and their constituents

Effective communication between members of parliament and their constituents occurs when legislators are able to collect and aggregate information from their constituents so that all viewpoints are taken into account in legislative deliberations. If the aggregation and representation of interests is weak or non-existent, the legislature is unlikely to anticipate and address emerging or ongoing conflicts. If the feedback mechanism is similarly dysfunctional, constituents are unlikely to recognize that their concerns are being considered or acted on in the legislature, perhaps prompting them to seek other means of redress.

In Uganda some legislators reported standardized, coordinated, and intensive efforts to visit with individual constituents and learn about their views, while others described more ad hoc systems. This lack of uniformity speaks both to the creativity of individual legislators and to the lack of systematic mechanisms across members of the legislature. Though there is a wide range of outreach methodologies in Uganda, there is no guidance for legislators on what mix of methods work best and no forum through which to share innovative methods with colleagues. For example, among northern legislators in Uganda there are divergent opinions on what people in the North think about land issues, and many legislators stated that there was a need to gather different groups' opinions systematically. Unfortunately, they do not have access to training on how to go about this process. When home-grown models exist, they may not be shared: one legislator described how he had created an innovative constituency development committee which has a rotating meeting schedule in each of his sub-counties. His colleagues only learned about the project after they read of it in the newspaper. Only then did they approach the legislator to learn how to establish similar mechanisms in their districts.

Bolivia has institutionalized a mechanism aimed at encouraging legislators to interact with constituents following a set schedule. In both the Bolivian parliament and the Constituent Assembly, one week a month is designated as 'regional

week.' The bodies do not sit during that period and elected officials are directed to return to their constituencies to facilitate interaction with the electorate. Anecdotal evidence from across the political spectrum suggests that over 80 percent of legislators take advantage of this period to return to their home districts and engage with constituents.

Even with enabling practices like the Bolivian 'regional weeks', it is extremely difficult for individual legislators to engage with people sufficiently because the legislators are primarily based in the national capital. Some legislators in Uganda expressed a desire to establish district offices where constituents can both provide feedback through permanently present staffers, and can access information about the government through the internet, newspapers, CSO publications, and parliamentary policy papers. In addition to passive receipt of complaints, such offices could play a proactive role in defusing minor conflicts at the local level while simultaneously gathering information on more serious matters to be brought to the attention of the legislator and the parliament.

A critical factor that often inhibits these interactive and personalized forms of constituent outreach is a lack of resources. Compared with many unidirectional and mass forms of communication (posters, rallies, television, etc.), genuinely participatory approaches often require both skilled personnel and significant monetary investments. In Bolivia, the effectiveness of the regional weeks is mitigated by the fact that legislators' travel stipends only cover travel to the provincial capital; additional funds for representatives to travel to their home districts are unavailable. Legislators in Uganda cited a lack of funds as one of the main reasons for not setting up local constituency offices. In Bosnia, the National Democratic Institute has provided funds to support the establishment of such constituency offices countrywide in an attempt to mitigate some of the negative effects ascribed to Bosnia's proportional representation system; this example illustrates that even with adequate funding other obstacles may remain (see Box 3.1).

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BOX 3.1: Bosnia's Constituency Offices

The National Democratic Institute (NDI) established 65 offices around Bosnia as contact points for the Assembly legislators to use in their districts. In Bosnia most funding for office space came from limited political party resources. Within the Assembly building itself, legislators share tight offices and rarely have access to computer terminals with internet connections. Linkages through the constituency offices are then more easily built between legislators and the community because each now has a mailing address and telephone number. Although the offices work very well in general, some politicians complained about the sharing arrangements for the offices. The premises, particularly those in the Federation, are shared across political parties – they are organized by geographical area rather than by political affiliation. Some legislators make time-share arrangements for days of the week. Others avoid these offices and use more limited party facilities.

A key success for the NDI program came in the Republic of Srpska (RS). During a study visit to neighboring Macedonia, one legislator saw first-hand the value of constituency offices. On his return to Banja Luka, he pushed for the RS assembly to pass a law requiring municipal level authorities to provide office space in their municipality buildings for entity-level legislators. Although many of these offices are equipped only with a chair and a desk, it represented a first step in establishing structures for access and communication between Srpska politicians and their constituents.

Informational exchanges with organized civil society groups (CSOs) can be as important as interactions with individual constituents.   Often CSOs have the best networks to reach out to remote areas. Legislators can use existing CSO networks to disseminate information and also work with CSOs to gather opinions and aggregate information from their constituents. In reality the relationship between legislators, civil society and the media is often one of antagonism, rather than one of collaboration.

CHAPTER 3: STRENGTHENING LINKAGES

In Uganda, many CSOs view legislators as being uninformed and motivated by personal interest rather than the desire to represent their constituents. legislators take a more varied view of the performance of CSOs. Some of the legislators interviewed acknowledge the value of CSOs for gathering grassroots information, educating citizens, and working with Parliament to draft laws, and describe successful collaborations with CSOs in the past. Others believe that CSOs are poorly run, politically motivated, and contribute little information to legislators. Both legislators and CSOs acknowledge that communication about specific issues is usually instigated by CSOs. In this context it is worth noting that at one extreme, CSOs might not always be genuinely representative of popular sentiment; at the other, they may be so representative of broader society that they replicate the marginalization and exclusion of that society. Although CSOs can play a critical role in enhancing legislators ability to manage conflicts, they should not be a substitute for direct outreach to individual constituents.

In Bolivia, an important indigenous civil society organization described how although they were sympathetic and allied with the governing MAS party, no one from MAS had ever come to speak with them despite the fact that they represent a significant nationwide indigenous constituency. Their efforts to provide input into the policymaking process had gone unanswered, and they felt the only way they could get their message through was by taking to the streets, a path that in the Bolivian context dramatically heightens tensions and often leads to violence.

In countries without long democratic traditions, the development of a viable civil society is also a priority. In Bosnia for example, civil society is a burgeoning industry and it is only this year that a directory of civil society organizations is being put together. Civil society must understand the structure and workings of government in order to target their initiatives effectively. Where there is a complex federal structure like Bosnia, identifying entry points for each individual issue is no simple feat. Where civil society groups can correctly target their campaigns, they can increase the level of representation of the political system and effect policy change. One example is the advocacy network of the Mostar Women's Initiative. This multi-ethnic network, supported by NDI, works to improve the lives of women in Mostar and successfully lobbied for the amendment of the municipal maternity law.

A final note on the topic of communication between legislators and their constituents relates to the role of the media. The media clearly has the potential to be valuable both in bringing potentially explosive issues to the attention of legislators in a timely fashion, and in helping disseminate information on the activities of legislators to their constituents. Unfortunately, available evidence indicates that numerous barriers hamper such a process. In Uganda, there is a consistent lack of media savvy among legislators. Journalists complain that they are frequently viewed as the 'enemy' by legislators, and are excluded from covering meetings and debates about issues that are of crucial importance to constituents. Legislators rarely call press conferences to disseminate information. In Bolivia, the media is both viewed as highly politicized (and biased against the current MAS government) and generally extremely negative toward both the parliament and the Constituent Assembly. Bosnia's legislators complain that they do not have the skills to influence the media. Many legislators who were criticized for their support of the constitutional reforms in the lead up to the 2006 October election did not have the media avenues to respond and consequently suffered at the ballot box.

BOX 3.2: Barriers to Indigenous Representation in Bolivia

Sometimes the barriers to communication between legislators and their constituents are even more basic. Before the rise of MAS in 2005-2006, indigenous Bolivians who make up the majority of the population had limited representation in the legislative branch and all other embodiments of state authority. In this respect, the election of large numbers of legislators who not only share their constituents' language and culture but also their upbringing and occupational experiences present a critical opportunity to strengthen communication between the legislature and a large, traditionally marginalized segment of Bolivian society.

Political observers and those working closely to support the new legislators have noted that physical presence is a necessary but not sufficient condition for improved communication. There is a critical need for capacity building to ensure that the new legislators' communication and participatory skills are strengthened to capitalize on their newly assumed positions of power.

Beyond the communication element of this development, it represents an unprecedented opportunity to begin to reverse the decades-long decline in parliament's legacy amongst mestizos and to address the parliament's lack of legitimacy in the eyes of the majority of (indigenous) Bolivians. Some Bolivians believe that the very institution of representative democracy as embodied in Parliament is not legitimate in that it is incompatible with indigenous traditions of more direct, deliberative democracy.

PROBLEM 2: Inadequate individual legitimacy of legislators   **29**

A problem legislators faced in all three countries was a negative perception by constituents of their motivations, ability and actions. This negative perception made it difficult for them to build a sense of legitimacy in the eyes of the electorate. This lack of legitimacy can prevent legislators from playing an effective role in conflict management through at least two mechanisms. To the extent that it weakens them politically, it may decrease their ability to make compromises by overcoming the marked distrust that is a feature of fragile states, as well as their ability to stand up to a powerful executive branch (see Chapter 2). A lack of personal legitimacy could also contribute significantly to electoral turnover and thereby inhibit the development of both experience and long-term personal relationships that can be critical in defusing potential conflict situations. Negative perceptions may be generated by the electorate's past experiences with other legislators' genuine lack of competence and motivation or by constituents' unreasonable expectations.

Legitimacy also relies on the legislators' representation of their constituents. Women and minorities are more likely to believe that someone from their ranks will understand their interests and therefore best represent their interests in conflict resolution. For example, women are often underrepresented in the legislature, even though they can be disproportionately affected by conflict and can have different priorities in the conflict resolution process to male constituents. Though it is important that the make up of legislators mirrors the demographics of their constituents, this alone is often not sufficient for effective representation. (See Box 3.3)

In Uganda, legislators frequently complain that constituents feel that their main job is to provide personal favors to their constituents and to funnel money to the community. Constituents' main connections to their legislators are personal, not issue-based, and constituents tend to be disappointed when legislators fail to deliver on their hopes for personal gain. Legitimacy is also challenged in Uganda by the perception that legislators have sought public office for personal benefit. This perception was illustrated by public reaction to a recent government proposal to loan each legislator a significant amount of money to purchase a vehicle, the stated purpose of which was to increase the ability of legislators to travel to their districts to meet with constituents. Public reception of this proposal was overwhelm-

ingly negative, as citizens viewed the loan as a handout to legislators while other pressing social needs went unmet in their districts.

The perception of legislators is similarly negative in Bosnia. The citizens believe that people run for a seat in the Parliamentary Assembly not to help the state or the people, but for the pay and the perks associated with office. These legislators often have other lucrative jobs in business and academia, and do not devote their full work time to the legislative position. These perceptions were validated when the legislators voted to raise their own pay in 2003. The public reaction was understandably negative in light of persistently high unemployment rates. Parliamentary pay, on the other hand, is fifteen times the average Bosnian salary. In Bosnia too, constituents largely contact their legislators for personal favors rather than to register their opinions and concerns on issues and policy.

PROBLEM 3: Inadequate institutional legitimacy for the legislature

Institutional legitimacy is more than simply the sum of the legitimacies of individual legislators. In fragile states, institutional outreach can give citizens the necessary information on how the legislature functions, demonstrating that their opinions are being considered by the legislature. Providing this information is crucial to build trust and legitimacy in the government system so that citizens feel that their grievances will be addressed by their representatives. Informing citizens of the important lawmaking function and oversight functions of legislators can help to overcome the misperception that legislators' main role is to deliver personal favors. Legislatures with strong legitimacy become instruments of learning, a way of imparting democratic knowledge. As citizens become more confident in the purpose and effectiveness of the legislature, they are more apt to trust it in resolving conflict.

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Institutional legitimacy is commonly strengthened via public hearings, policies to make the parliament more accessible and transparent to the public and civic education. The lead-up to the Constituent Assembly in Bolivia provides a good example of how institutional outreach can improve civic education. During this time, there was an unprecedented and concerted effort by a wide range of actors, including political parties, international donors and the assembly members themselves, to reach out to the populace and explain the purpose and scope of the Assembly. There were fears, which proved justified during the thousands of outreach meetings held across the country, that the population would expect the Assembly to solve a wide range of quotidian problems. It appears that the combination of community meetings and media campaigns was largely successful in managing expectations, as most assembly members agreed that their constituents had an accurate picture of the key issues and scope of the Assembly's deliberations.

Few institutional linkages exist between the legislature and constituents in Uganda. Public hearings on legislative issues are held at the discretion of individual legislators in their own districts. Constituents and CSOs are generally not invited to participate in committee meetings, and media coverage of these meetings is inconsistent.

Bosnia, on the other hand, has taken initial steps towards increasing the capacity of the parliament to hold hearings. NDI was particularly active in supporting the secretariat's work to organize effective public hearings, conducting training and seminars for the staff and producing guidelines. OSCE has published a handbook geared to teach legislators and staffers how to hold effective public hearings. Large and mobile hearings were held on post-secondary education, organized by the Assembly's Research Center with assistance from the Canadian Parliamentary Center and OSCE. Two representatives from Canada's Ontario legislature also trained and worked with staff in the organization of the public hearings. The hearings were highly praised by legislatures and participants. Public turnout has been high on these larger issues, post-secondary education and the foreign currency savings law, but low for other public hearings. A major challenge has been developing a vibrant civil society that participates in the discussion of a wide range of issues. Without a long history of democratic traditions, Bosnian civil society groups were not yet accustomed to using

institutional mechanisms such as public hearings to voice their views. Organizers of public hearings at various levels of government did not always invite or inform the civil society groups. Civil society groups then often did not attend because they were either uninterested or unaware of the hearings.

There are numerous other ways in which legislatures can strengthen citizens' understanding of the legislature's role. In Bosnia for example, the cantonal-level legislature directly broadcasts all parliamentary proceedings, publishes daily parliamentary news bulletins distributed in the local paper and operates a public hotline for citizens to contact parliamentarians or ask questions about the parliament. The OSCE has also sponsored programs to bring schoolchildren to the Parliamentary Assembly to observe the government in action. These initiatives are still limited in scope due to funding constraints, but have helped in making the legislature more transparent to the public.

BOX 3.3: Representing Women Through the Legislature

Conflict resolution cannot succeed if it does not carry the interests of half the population with it. Women can suffer particularly traumatic experiences and atrocities in conflict, which must be taken into account in the peacebuilding process for the society to be properly reconciled. Confidence building in a political system requires the engagement and support of women for true and effective representation and political legitimacy. It is also a key step in conflict management. UN Security Council Resolution 1325 of 2000* reaffirmed the important role of women in preventing and resolving conflicts and mandates UN member states to take steps to increase women's participation in decision-making.

There are many mechanisms to ensure gender-specific issues are represented in the legislature. The Beijing Declaration and Platform for Action arising out of the 1995 World Conference on Women noted that only 10 percent of elected legislators world wide were women. International commitments to the representation of women have shown results.** In Uganda, seats are set aside for women representatives who represent an entire district. Another example from Bosnia is that one third of the candidates on any party list must be women. The OSCE reports that this law has been implemented and its effect was to raise representation from 4 to 25 per cent. The Bosnian legislature has also established a standing gender equality committee within the legislature.

Developing strong civil society also fosters the recognition of women's role in conflict resolution. Uganda has a network of peace animators, developed by non-government groups such as Isis Women's International Cross-Cultural Exchange. Peace animators are trained by the network in fragile rural areas of Uganda to manage inter-personal and inter-communal conflict (Crisis Group 2006,12).

Ensuring that women are represented in the legislature is one thing; ensuring that issues pertaining to women's experience are addressed is another. It is important not to reinforce the one-sided view of women as the victims. Politicians and women's organizations can achieve remarkable successes in projecting the women's voice in complex environments. In one of the few examples of advocacy achievement in Bosnia , fledgling women's organizations banded together to lobby successfully for maternity leave rights in the Mostar canton. In Uganda, Betty Bigombe is tackling the arduous ceasefire negotiations between the Lord's Resistance Army and the Ugandan government.

*Notes: *The anniversary of this resolution has been marked every year since 2000. In 2006, the Secretary-General's report found that women's participation in peace consolidation had generally fallen short over the last year. The Security Council reaffirmed its commitment to the full and effective implementation of resolution 1325.*

***Initiatives include the South African Development Community's 2005 commitment to have women occupy at least 30 percent of the positions in political and decision-making structures. A 30 percent quota was set by the Economic and Social Council and the Beijing Declaration and Platform for Action noted that worldwide representation fell well short of this target.*

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CHAPTER 3: STRENGTHENING LINKAGES

PROBLEM 4: Inadequate accountability systems for the legislature

In addition to having effective communication mechanisms and sufficient legitimacy, and in the interest of strengthening both of these elements, it is important that the legislature has a system for ongoing accountability. Particularly in fragile states, one cannot afford to wait until the next electoral cycle to correct a problem in the system. There must be appropriate and well publicized mechanisms for lodging complaints against legislators, as these can serve various purposes: a means to correct genuine malfeasance, a signal that public misperceptions need to be addressed, an impetus for reform, or even simply a channel for frustrations to be released in a controlled manner.

In Uganda, there are few established systems for holding Parliament to account. Civil society organizations make some effort to monitor Parliamentary debate and action (for example, through advocacy campaigns to petition the Speaker for information), but their efforts have been hampered by the enactment of an onerous new law requiring CSOs to register annually with the government. The registration process makes it difficult for CSOs to be truly independent and to criticize the government freely, because they depend upon government approval for their right to operate. Accountability also suffers from lack of direct citizen input about the performance of their legislators. This may be the result of citizens' lack of awareness of the formal or informal avenues available to them to provide feedback on their representatives' performance.

In many cases the media can play a role in holding Parliament to account. By reporting on debate and action occurring in Parliament, the media helps disseminate information to constituents. Presently, in Uganda, such media coverage is inconsistent. Though major newspapers and radio stations have reporters dedicated to covering parliamentary activities, they often face difficulties in getting information as previously discussed. In Bosnia, many complain about the media's poor investigative reporting on serious issues. Any story about political scandal is reported one day and then promptly dropped by the media. Sustained coverage of an issue is rare and, although media interest in constitutional reform was high, generally the media rarely focuses on the issues in the Parliamentary Assembly.

RECOMMENDATIONS

1. *Support mechanisms to improve legislators' constituent outreach, so that they can manage and give voice to the expectations and interests of constituents (particularly the minority and marginalized groups) in conflict resolution processes:*

   a. Fund workshops for small groups of legislators to discuss local and international models of constituent outreach and pilot selected models based on international and local experiences

   b. Compile best practices from workshops and pilot programs and disseminate them to all legislators

   c. Provide resources for legislators to work in their constituencies, such as travel to their districts, constituency offices and constituency-based staff

   d. For areas where constituency work is difficult to conduct, establish alternative communications channels such as telephone hotlines, dedicated e-mail addresses, or suggestion boxes in public spaces like marketplaces

2. *Create formal and informal collaboration mechanisms between civil society and legislators to improve informational partnerships to ensure all perspectives in a conflict gain access to the legislature:*

   a. Support projects to publish directories of CSOs and legislators to facilitate communication between the two groups

   b. Sponsor and fund meetings between legislators and CSO leaders. Legislators could also take advantage of CSO grassroots networks by meeting with grassroots representatives, thereby expanding their outreach via existing CSO networks.

   c. Organize training for legislators and their staff on participatory methodologies for information collection and dissemination

   d. Include modules on working with legislators and legislative operations in training programs for civil society organizations

3. Improve the ability of the legislature to become an institution of democratic learning, so that citizens have more confidence in its legitimate role to resolve conflicts:

   a. Establish civic education campaigns conducted by the legislature on its legislative and oversight roles, such as designated 'parliament weeks', free guided tours, television and radio slots, democratic knowledge quizzes and competitions, websites for the legislature

   b. Improve formal institutional outreach mechanisms such as public hearings by training legislators and the secretariat on public hearing processes and helping draft public hearing guidelines as needed

4. Establish mechanisms to engage the media to improve public perceptions of the legislature and legislators, so that citizens are better informed of the legislature's activities and whether they address the country's peacebuilding and conflict resolution needs:

   a. Provide technical assistance and resources for a non-partisan legislative media office that can be the focal point for the legislature's public relations and can publicize the issues and activities before the legislature. It can also provide training for legislators on media management on working with local constituency-based media and formulating and executing media outreach strategies.

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A fragile state's ability to promote peace and stability rests on the ability of legislators to give voice to the expectations and interests of their constituents; effective representation then is basic building block of conflict management. These recommendations target two aspects: first building the legitimacy of legislators to represent all perspectives involved in conflict resolution; and second building the legitimacy of the legislature as an institution that can meet peacebuilding needs. Constituents must have confidence in legislators and the legislature, in the political system, as the primary mode of communication and compromise between political forces. Representation is the key to ensuring that the views of marginalized and minority groups, frequently excluded from the governmental process in fragile states, are brought to the bargaining table. While it is crucial that all voices be heard, it is also important that a representative knows how to aggregate interests and respond to those interests that are unmet. It is in this area that civil society and

the media can act not as adversaries but as partners to legislators, providing them with information. The recommendations in this chapter are aimed at strengthening and creating linkages between representatives and other representatives, civil society and the media to allow representatives to understand the interests of their constituents. These partnerships are also useful for delivering information about the legislature, its processes and activities to constituents to improve democratic learning and understanding on how the legislature is working to meet the country's peacebuilding needs. Linkages between the legislature, legislators and the media and CSOs can decrease the likelihood of conflicts in society erupting into violence, since sharing of information between these groups can help defuse conflict situations.

There is a high level of variability in the feasibility and ease of implementation of the recommendations. The recommendations focus on building linkages between legislators, CSOs and the media while also examining resource availability and accountability of individual legislators. Enhancing the linkages between representatives could be the most cost effective and politically neutral means to create best practices. CSOs and the media could resist working with elected representatives since they do not want to be seen as having political affiliations. There is also the danger of linkages that are too close between these three parties and which may cloud the ability of CSOs and the media to be an effective watch dog of the activities of the government. Despite these drawbacks, encouraging legislators to work with CSOs to expand their outreach capabilities is not capital intensive and can be very effective in helping the legislator gain access to his constituents. Though representatives clamor for resources, increasing resources might not be politically feasible when the public feels that representatives are already living beyond their means. Resources then must be earmarked for specific purposes (offices, telephones etc) rather than discretionary outreach budgets. When legislators receive outreach resources, spending must be closely monitored and accompanied by an intensive public education campaign informing the general public of the need for the increase.

CONCLUSION

The international community has a strong interest in developing and reinforcing the capacities of governments to manage conflict. The consequences of the degeneration of fragile states into violence are extreme, severely traumatic and costly. However, as fragile states across the globe continue to struggle and resources for aid remain limited, the question of where to allocate available funds and efforts to achieve the maximum effect for strengthening states remains central. This report has argued that strengthening legislatures is a vital step in assisting fragile states and a viable entry point for the effective use of donor aid. Legislatures, when functioning properly, can harness their unique representative and deliberative capacities to engage all sides of a conflict to develop a shared vision for the state's future. Legislatures can become institutions of political learning, fostering public faith in democracy and in institutionalized non-violent governance mechanisms for conflict management. When legislatures help manage conflicts, their states become significantly more likely to take the critical first steps in the process of building an enduring peace.

Drawing from an analysis of case studies from Bolivia, Bosnia, and Uganda, this report has identified challenges to legislative conflict management in fragile states and has recommended a strategy for addressing these challenges. Legislative strengthening should ideally be tripartite. First, internal mechanisms must be created within the legislature to ensure that legislators can build executable and widely accepted compromises. Second, the legislature's ability to function as an effective, independent branch of government, maintaining a healthy balance with the executive, must be fostered and safeguarded. Finally, legislative capacities to communicate effectively with constituents and represent their interests must be strengthened.

From this strategy flow the three key overarching recommendations of this report. These are the areas where strengthening will best contribute to increasing the ability of legislatures to manage conflictual issues in their countries and where the thrust of international aid should be concentrated. The three areas are inter-related as strengthening one area supports the strengthening of the other two.

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1. **Help establish sub-structures within the legislature, such as legislative committees and cross-party caucuses, and strengthen the legislature's ability to build compromises to resolve conflict issues.** Conflict management is an exercise in building trust between factions whose previous interactions were often marked by tension and violence. Legislative sub-structures allow factions to build relationships and make difficult compromises in less public settings. They deal with the broader issues necessary to run the country, not only the issues that sparked the conflict, bringing opposing factions together to take responsibility for the management of the country, as opposed to focusing on their conflict grievances. Where regional and ethnic divisions are strong, issue-based legislative committees can bring together legislators with diverse identities to work together on national issues. Where political party divisions override regional divisions, regional-based groups can encourage legislators from deadlocked national parties to build compromises on less divisive local issues on which they have shared interests. In either structure, it is important to devise and enforce rules that ensure that opposition and minority parties have a strong role in the policy-making processes. Small groups then develop the necessary skills and relationships to manage conflicts.

2. **Help build the capacity of legislators and the legislative secretariat to address conflict effectively, independent of the executive, as well as providing oversight of executive peacebuilding and conflict management efforts.** Conflict management requires critical and sensitive government policies, for which the accountability of executive decision-making and its impact on peacebuilding is vital. In conflict-prone states, the legislature is often a disempowered institution. A stronger legislature can ensure that broader views are injected into the executive's peacebuilding and conflict management agenda, but this relies on several factors. First opposition parties must be cognizant of their role to check executive actions and to

CONCLUSION

give voice to minority concerns. Second the legislature must have the autonomy, especially budgetary autonomy, and the informational resources to engage in credible and meaningful political dialogue with the executive branch on the issues fueling conflict. Finally, the legislature must be included in the larger conflict management, democracy and national development agenda. Donor initiatives in several sectors, such as the security sector or the media, should include the legislature to build its political legitimacy and capacity to participate in the country's peacebuilding efforts.

3. **Help improve communication between the legislature, legislators and their constituencies to ensure that interests underlying current or future conflicts are represented.** Constituents must have confidence in legislators and the role of the legislature in the political system as the primary mode of communication and compromise between political forces. If legislators do not bring their constituents' views to the bargaining table, these grievances, particularly minority views frequently excluded from government processes, often erupt into violence. Learning about constituent interests allows legislators to manage existing tensions and produce policies that can more effectively deal with those unmet needs that could result in emerging or renewed conflicts. Good communication is essential and can be fostered by programs such as constituent outreach programs, the legislature's civic education programs or partnerships with media outlets and civil society organizations. Donors need to recognize the delicate balance for legislators between faithfully representing their constituents' explicit desires, and exercising leadership to build compromises with opposing factions. Programs strengthening representation must be particularly sensitive to political context to ensure legislators' adequate flexibility for conflict management.

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Each chapter in this study has provided specific recommendations stemming from these overarching ideas and has proposed several specific entry points for donor organizations. Understandably, all recommendations might not be feasible in all circumstances. Donor efforts working with legislatures are often subject to the explicit or tacit agreement of host governments, particularly the executive branch. They also require the engagement of legislators who are willing to work with donor programs and motivated to act in good faith to manage conflict. The extent to which each recommendation applies to any given fragile state, as well as the phasing or prioritization of some recommendations before others, is highly context-specific. Donors need to consider the existing political environment carefully and the functional strengths and weaknesses of each legislature when choosing among possible interventions.

These recommendations reflect what is needed to help legislatures mature and increase in effectiveness. Assisting in these ways to strengthen legislatures has a great potential to contributing to conflict management. Properly resourced, they can play an integral part in building lasting peace and stability; properly functioning legislatures are then indicators of democratic health and institutionalized conflict management.

ANNEX A: BOLIVIA CASE STUDY

SECTION I: RESEARCH FOCUS

Before traveling to Bolivia in October of 2006, our research team consulted with UNDP's Bolivia office to identify three fundamental questions that our work should aim to answer: (1) How do Bolivia's departmental parliamentary brigades – or *brigadas* – function, and what role do they play in congressional business?; (2) What mechanisms currently exist to manage conflicts in Bolivia's Congress and Constituent Assembly, and how effectively do these mechanisms operate?; and (3) How can UNDP more closely engage with Bolivian political groups, institutions, and leaders? We jointly selected these questions with UNDP partly because they addressed UNDP's programming needs in Bolivia, but also because, in our opinion, they concerned the recent developments in Bolivian politics that have the potential to most significantly impact the future course of the country's governance and development.

Bolivia's *brigadas*, as we explain in greater detail below, epitomize a conflict between two trends in Bolivian governance. On the one hand, legislative representation of popular interests has become more genuine since the rise of mass mobilization movements in the late 1990s. But on the other hand, the increased quality of popular representation has also led to greater regionalism and deeper divides in national level politics. The multi-party *brigadas*, with their capacity to bridge party divides and effectively voice regional concerns, have thus seemed to some observers to represent both a promise and a threat for Bolivian democracy (Sist 2006, 24).

The *brigadas* constitute a particular parliamentary institution whose activities may exacerbate national-level conflicts. But even in the absence of such an institution, regional conflicts and inter-party conflicts would threaten to frustrate effective policy-making in Bolivia. The serious regional divisions mentioned above broadly correlate with the geographical separation of Bolivia by the Cordilleras into an indigenous, poor, and eastern half and a *mestizo*, prosperous, and western half. Within departments, though, these divisions replicate themselves, and the increased prominence of mass mobilization politics and calls for regional autonomy has made it difficult to reconcile the divergent interests of Bolivia's competing social sectors without prompting them to resort to non-institutional methods of protecting their interests. Under these circumstances, the capacity of the legislature to work with the executive to craft compromises that manage conflicts is critical to the future of Bolivian society.

UNDP Bolivia, as an organization with an interest in strengthening Bolivian democracy, thus finds itself in a complicated position. Bolivia only stands to benefit when its government officials work with donor organizations like UNDP to make their efforts more effective, but such organizations must tread carefully if they are to avoid creating perceptions of bias – perceptions that can disincline aggrieved stakeholders from accepting future collaboration.

SECTION II: BACKGROUND

(1) Principal Conflicts
Bolivia is currently beset by a wide range of conflicts at different levels. Perhaps one of the most salient characteristics of Bolivian political life this past decade has been the proliferation of numerous local (and often economic) conflicts that rapidly escalate in both scope and violence in the face of a lack of capacity by the state to address conflicts at their inception. Overlaying this general instability, there are three central conflicts (two economic conflicts and one political) that have emerged at the national level which promise to shape the future of the country. The first of these relates to the distribution of revenues from Bolivia's significant hydrocarbon reserves. While the international media has focused primarily on President Evo Morales' so-called 'nationalization' of large international gas companies, disputes over the share of revenues going to the central government versus those allocated to the (most prosperous) states where the gas is located have been ongoing for years. Morales' unexpected success in forcing the international corporations

to concede the lion's share of revenues to Bolivia has only raised the stakes.

The second major conflict is over land redistribution. A failed attempt at land redistribution in 1953 resulted in most of the arable land remaining in the hands of relatively few large landowners. This situation has been exacerbated in recent years by pressure from poor indigenous peasants who, having been laid off from Bolivia's mines during the economic collapse of the mid 1980s, have migrated in large numbers from the poor west of the country to the more fertile and prosperous east in search of jobs and land. These peasants, an important constituent base for the current *Movimiento al Socialismo* (MAS) government, have initiated a number of marches, protests, and other forms of civil disobedience to pressure the government into action. Although the government has vowed that only unused land will be redistributed, the large Bolivian and Brazilian agricultural interests fear that their holdings are at risk. The new law on redistribution passed the Congress in November 2006[7], and the first parcels have already been awarded.

The final, more political conflict relates to the very nature of the state itself. The current MAS government views itself as the standard bearer for the indigenous population of Bolivia who, though a numerical majority, have been effectively excluded from exercising significant political power since Bolivia's independence in 1825.   These centuries of exclusion have created a strong mistrust of the 'colonial' or 'white' state, with a subsequent desire to re-found a more deliberative, participatory pre-colonial state with institutions and political processes more in line with the culture and traditions of Bolivia's various indigenous groups. Although the precise details of what such a state would look like are unclear, this has generated strong opposition from *mestizo* and urbanized Bolivians who fear marginalization under a system predicated on indigenous national identities.

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(2) Political System

Bolivia has a presidential system with a number of distinct characteristics. The most important of these is that if no presidential candidate gains at least 40% of the popular vote, it is the Congress which selects the President. In the past, the Congress has not hesitated to select the second place finisher depending on the prevailing political exigencies. The Bolivian Congress is composed of two houses, the Senate (upper) with 27 seats and the House of Deputies (lower) with 130 seats. Representatives to the Senate are elected through proportional representation, with the leading party gaining 2 of each department's 3 seats and the remaining seat going to the 2nd placed party. In the House of Deputies, 69 seats are single member districts and 61 are proportional representation. The single member districts were only introduced in 1997 in a bid to increase accountability. The Constituent Assembly has 255 seats also elected in a combination of direct and proportional systems; this system, however, gives greater weight to smaller parties by assigning seats to 3rd and 4th placed parties. All elected representatives have alternates; these alternates are empowered to act on the representatives' behalf in their absence and often carry out a range of functions in support of the representatives.

(3) Political Actors

The main players in Bolivia's politics are currently in a state of flux. Before the 2006 elections, national politics consisted largely of three parties of the left, right, and centre that had dominated national politics since the resumption of democracy in 1982. These parties, however, were largely discredited during the 1990s and early 2000s by their focus on dividing government patronage among themselves, rather than genuinely representing the interests of their constituents or providing needed services. Their progressively increasing illegitimacy led to their virtual collapse in 2005. It was during the elections in December 2005 that Evo Morales' MAS became the preeminent political force in the country, capitalizing on gains achieved in the previous election of June 2002. Opposition to MAS, consisting

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7   As a measure of how controversial the law has been, the ruling party had been unable to pass it due to an opposition boycott which did not allow the senate to reach quorum. In the end, one opposition senator and two opposition substitutes returned to vote for the measure, causing uproar in the parties opposed to the law.

of many members of the old parties as well as conservatives from the east crystallized in *Poder Democrático y Social* (PODEMOS), a newly created party led by the former President Jorge Quiroga. Although these two groups captured between them over 82% of votes, their dominance is far from assured. Representatives from other centrist, regional, and single-issue parties and organizations gained 68 of the 255 seats in the elections for the Constituent Assembly which were held in July 2006.

The representatives of these parties in both the Congress and the Constituent Assembly largely reflect the social groups from which they draw their influence. MAS representatives are overwhelmingly indigenous, having little or no previous formal political experience, low levels of education and literacy, and lower socio-economic backgrounds. Despite their lack of experience on the national stage, many have decades of experience organizing and leading social groups ranging from miners' unions to indigenous civil society organizations. As a group, they tend to be highly dependent on the party and have weak personal legitimacy; many were chosen in order to assure the buy-in of the diverse interest groups that compose MAS. PODEMOS representatives tend to be wealthier and more *mestizo*, have backgrounds in politics and business, and are more closely associated with the traditional political elites.

Paradoxically, though MAS controls the legislative branch, they remain wary of what they perceive as foreign/colonial institutions and are loath to strengthen them. PODEMOS, on the other hand, after attempting to bring into question the actions of MAS-dominated institutions (in particular the Constituent Assembly) for the past year, now appears to be more willing to work within these institutions to pursue their autonomy agenda as a counter-strategy to MAS efforts to completely re-found the Bolivian state. It is also worth noting that in addition to the formal parties within the institutions described above, there are powerful political interest groups on the left (miners' unions, indigenous peoples' associations, coca growers, etc.) and the right (landowners, business associations) that exert significant influence over the legislature. This influence tends not to be exercised in ways that might strengthen the legitimacy of the legislative branch such as formal lobbying or participating in hearings, but instead tends to take less institutional forms like marches, protests, boycotts, and strikes.

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SECTION III: UNDP BOLIVIA'S DEMOCRATIC GOVERNANCE PROGRAMME

UNDP is intimately engaged in a variety of projects that seek to expand and deepen democratization in Bolivia. Some projects primarily involve the provision of technical assistance: UNDP helped local officials administer elections for a new Constituent Assembly in July 2006, supplied financing for a technological modernization of Congress in December 2005, and is providing ongoing assistance in drafting regional yearly plans for three Bolivian departments. UNDP also promotes communication among legislators and between legislators and constituents. In particular, its Bolivia office is currently working with elected representatives to design processes of dialogue and consensus-construction in the newly formed Constituent Assembly, and is joining in efforts to inform citizens about the Assembly's intended function and provide them with opportunities to discuss and offer their own suggestions on proposed reforms. Finally, UNDP plays an important role in providing fresh ideas to those working on governance in Bolivia, especially by disseminating relevant information on practices employed by other countries in the region and in countries further abroad.

SECTION IV: BRIGADAS AND THEIR FUNCTION

(1) Origins
Bolivia's parliamentary *brigadas* operated informally for many years before they were formally institutionalized as structures with dedicated infrastructures, budgets, and regulations. Such *brigadas*, including all the representatives of any party from both Houses of Congress, first began to operate in the 1980s with the original intent of managing

budgetary allocations for each department. In 1997, some leading legislators used the support of international donors to finally draw up rules for *brigada* operations, using interviews with brigada members to devise regulations meant to establish common patterns of departmental legislative advocacy, oversight, and representation. The hope was that these rules would allow each *brigada* to avoid duplicating or contradicting each other's actions, but the institutionalization of these brigadas also gave them the continuity and resources they needed to significantly expand their clout in the government.

(2) Structure

Each of Bolivia's nine departments has a parliamentary *brigada*, though these *brigadas* are far from uniform in their organization. All *brigadas*, as mentioned, are composed of all congressional representatives from a particular department. In addition, each titular representative (or deputy) has a substitute, elected along with the deputy on a single "ticket", that participates in *brigada* proceedings when the deputy is away from the department (as is true most of the time). *Brigadas* do have a leadership structure, with presidents, vice-presidents, and secretaries. These positions are generally elective, with all the members of each *brigada* able to vote and all members, including substitutes, eligible for election. Some *brigada* members report, however, that *brigada* leadership is usually not chosen by an actual vote, but rather is settled through a consensual negotiating process between parties with occupation of these positions even rotated among major parties on a yearly basis in some departments, such as Santa Cruz.

Brigadas carry out much of their business not in plenary sessions, but in commissions devoted to particular issues. These commissions are not very highly institutionalized, and each *brigada* generally decides the number and level of activity of its commissions on its own. Oftentimes, stronger and more effective brigadas will have more commissions, and such commissions will feature some members with particular expertise in the *brigadas* the commission is meant to address. Weaker *brigadas*, in contrast, may have few commissions that rarely meet, and their members may have little subject area expertise.

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The president and secretary of each *brigada* commission are generally chosen through some kind of political process. Though, again, in some *brigadas* this process seems to occur less through a vote than through a consensual process of negotiation. The rules drafted in 1997 seem to indicate that at least some of the commissions in each *brigada* should be led by opposition party members, but in practice, (particularly when the departmental majority party is extremely strong) this does not always occur. When such rules violations do occur, there appears to be no central authority with the capacity to mandate compliance. This has been a serious complaint in La Paz, where MAS controls the *brigada*, and in Beni, where it is controlled by PODEMOS. The second vice-president of the lower chamber of Congress is tasked with overseeing *brigada* operations, but in practice he has no real power to demand that *brigadas* abide by the rules. Conflicts within *brigadas* must generally be settled by negotiation and persuasion, not through forced compliance with the rules.

Aside from those selected to occupy leadership positions in commissions, participation by *brigada* members in commissions is strictly voluntary.

(3) Functions and Operations

The frequency with which *brigadas* and *brigada* commissions meet vary from department to department, with strong *brigadas* meeting more frequently (in Santa Cruz they meet as often as once a week). *Brigadas* are meant to fulfill multiple functions. Originally constituted to organize departmental budget policy, they now pursue a variety of aims with different legislators citing different reasons for their existence. Those most commonly mentioned include representing departmental interests to the national legislature; mediating between the national executive and the national legislature; advocating particular policies to the municipal government and the departmental prefecture that, in part,

administer each department; interacting with civil society to learn about local needs; and coordinating departmental projects and programs with other local government institutions. In addition, in a more practical sense, *brigadas* are tasked with producing yearly regional budgetary and programming plans, and they also occasionally (but quite rarely) organize hearings and regional excursions meant to connect *brigada* members more closely to their constituents.

Generally speaking, in order to achieve these multiple goals (particularly those related to the advocacy of departmental interests) commissions with substitutes in attendance produce reports that are then voted upon by deputies in plenary sessions. Both commission meetings and plenary meetings are usually open to the public, though *brigada* members can vote by a two-thirds majority to close these proceedings if the matters under discussion will be of a sensitive nature. Some *brigada* members assert that these meetings, and specifically commission meetings, always involve all members of a *brigada* interested in participating. But opposition members of some *brigadas*, like La Paz, charge that they are systematically excluded from many meetings. In any case, as with the assignment of leadership positions within each *brigada*, there is no authoritative central entity with the power to regulate *brigada* behavior. Nonetheless, many *brigada* members agree that most *brigada* decisions are highly consensual and involve little overt conflict between competing parties, noting that the local nature of many of the issues that *brigadas* address prevent deep conflicts from arising.

A somewhat contradictory picture emerges, then, regarding both leadership selection and decisions in *brigadas*. Consensual, low-conflict decision-making seems to characterize much *brigada* activity, but bitter conflicts do sometimes arise. When they do, parties are not averse to violating regulations in order to improve their positions.

(4) Effectiveness

As has already been noted, parliamentary *brigada* in Bolivia vary widely in their structure and level of activity. They also, unsurprisingly, vary a great deal in their degree of effectiveness. There is general consensus that some *brigadas* – like those in Beni, Oruro, La Paz, and Potosi – are weak, while others – like those in Chuquisaca, Cochabamba, and Tarija – are more active and effective. The *brigada* of Santa Cruz elicits contrasting opinions, with some arguing that it is highly conflictual and polarized and others claiming that it is quite unified. All, though, seem to agree that the Santa Cruz *brigada* wields a lot of power.

Those we interviewed proposed a number of hypotheses for why some *brigadas* are active, effective, and powerful, while others are not. Some posited that *brigadas* from departments with stronger regional identities, like Santa Cruz, have an easier time uniting to work together on common causes. One legislator, however, did argue that party politics generally dominate any concept of regional identity in *brigadas* unless the matters under discussion explicitly involve inter-regional competition (e.g. apportionment of legislative seats and legislative funds, or regional control of hydrocarbon reserves). Other interviewees attributed strong *brigadas* to regional cultures of cooperation and respect for rules, which, they asserted, simply existed in some departments (such as Santa Cruz) and were absent in others. Along similar lines, one former legislator reasoned that departments with strong unionist or syndicalist heritages that discouraged discussion and deliberative decision-making, such as Oruro and Potosi, were more likely to have conflict-ridden, weak *brigadas*. More than one interviewee stressed the importance of individual leadership in promoting *brigada* effectiveness and inclusiveness, particularly given the as-yet relatively weak institutionalization of *brigadas*. A consultative, democratically minded *brigada* president, they averred, could produce an equitable, fairly operating brigada, while a divisive, partisan, autocratic president (like that allegedly found in La Paz) could exclude opposition parties and yield conflict and gridlock.

Several representatives suggested that *brigada* effectiveness can stem from regional potency. Because Santa Cruz has so much economic power, because its population is so large, because it is the seat of so many media outlets, and because

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so many key policy issues primarily concern its interests, Santa Cruz's *brigada* is always relevant, and this leads its members to take their roles in it more seriously. Conversely, a *brigada* can be weakened if it is rendered redundant or irrelevant, as one legislator argued was the case with the La Paz *brigada*, which is forced to share its field of operations with the national government. Finally, one former legislator proposed that levels of education of *brigada* members are correlated with brigada effectiveness, while another, current legislator hypothesized that small *brigadas* are generally more ineffective because their small size allows inter-personal rivalries to completely frustrate *brigada* business.

What does it mean for a *brigada* to be effective? Interviewees suggested that effective *brigadas* not only succeed in bringing needed government funds back to their department for investment in local projects, but also successfully represent regional interests at the national level when issues concerning their regions – like land distribution, or division of hydrocarbon revenues, or the apportionment of legislative seats – are discussed. Another important function of successful *brigadas* is that they possess the expertise and coordination capacities needed to develop feasible yearly plans and budgets, in cooperation with municipal governments and prefectures, and work efficiently with local government institutions to implement these plans.

(5) Challenges and Successes

What, then, are the challenges that *brigadas* in Bolivia currently face? We have already mentioned that some *brigadas* fail to follow the rules concerning distribution of leadership positions and participation in brigada proceedings, some *brigadas* are plagued by inter-party conflict and others are simply impotent. Our interviewees identified a few other general problems afflicting *brigadas* as well. While one former legislator stated that *brigadas* now have enough resources to hire qualified personnel and conduct regular public hearings, current legislators did not generally agree with this assessment, noting that *brigadas* are severely underfunded and can usually afford only to hire one secretary. Also noted was that legislators must pay for hearings and other constituent outreach out of their own relatively small salaries. Indeed, one representative claims that the under-resourcing of *brigadas* and legislators is part of a concerted effort on the part of the executive to weaken the legislature, an effort that is enabled by the general lack of popular legitimacy that afflicts the legislature.

Sometimes, according to a few respondents, *brigadas* will attempt to marginalize departmental prefectures or refuse to coordinate budgetary and project planning with them, particularly when the prefectures represent a different party than the majority party in the *brigada*. Given that one stated purpose of the *brigadas* is to improve vertical coordination between the national and departmental governments, this kind of purposeful lack of cooperation is particularly troubling. More than one interviewee also noted that there is currently insufficient inter-*brigada* coordination, even on issues (like transport systems) where such coordination is essential. Interestingly, the problem that most seems to concern outside observers of Bolivian politics – that *brigadas* may be exacerbating regional conflict – did not really surface in our interviews at all.

On the bright side, our interviewees did identify several ways in which *brigadas* are improving governance in Bolivia, and ways the *brigadas* themselves are becoming more effective with time. An ex-legislator notes that the yearly regional plans for which the *brigadas* are responsible are becoming more and more feasible each year as *brigada* members learn better to manage the expectations of constituents and to moderate their own promises. Political learning and constituent dissatisfaction with conflictual politics are leading members of some *brigadas* to adopt less adversarial stances. And, generally speaking, the increasing strength of the departmental *brigadas* is doing a great deal to place regional and local interests on the national agenda.

(6) Recommendations

If international donors are interested in improving the functioning of *brigadas* in Bolivia, what are some probable ac-

cess points for effective interventions? Drawing on the analysis of *brigada* problems offered by our interview subjects, we would recommend that donors push for the creation, and provide technical expertise with the establishment, of a non-partisan congressional office with real authority to receive and investigate complaints about *brigada* operations and to mandate compliance with the regulations meant to govern these operations. One good point of entry for this sort of intervention might be collaboration with the second vice president of the lower chamber of the Congress; he is already tasked with some responsibility for overseeing *brigada* operations, but lacks the real power needed to execute these responsibilities.

Donors should also provide budgetary support to increase the capacity of *brigadas* to hire qualified personnel and conduct constituent outreach. Additionally, they should help train these personnel and instruct legislators on using public hearings and other outreach as both top-down and bottom-up instruments of communication.

Finally, donor organizations should encourage *brigada* leaders to set up and institutionalize regular meetings whereby *brigadas* can coordinate their advocacy and policy on issues that affect more than one department. None of these interventions will necessary be easy. However, because the harms they address undermine each Bolivian political party in at least one department, their implementation should be politically feasible if the will and resources are available on the part of donors.

SECTION V: CONFLICT MANAGEMENT IN THE LEGISLATURE

In addition to the *brigadas*, a number of other institutions and mechanisms within the Congress were discussed in terms of their potential contributions to conflict management.

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(1) The Plenary
Although the plenary is obviously the most representative of institutions within the Congress, it was generally agreed by most actors that the plenary was not a great forum for managing serious conflicts. Many interviewees expressed the view that the plenary was mostly a talk-shop, an opportunity for representatives to make grandiose statements aimed primarily at impressing their constituents. It was also noted that the wide diversity of actors, with their varying personal, regional, economic, and other interests, makes coordination and conciliation particularly challenging.

One interesting point was that several people expressed the view that media coverage was too focused on the plenary, thereby giving a negative impression of an overly fractious and inefficient congress – the suggestion was that the media should give more coverage to committee, brigade, and other forums. On the other hand, one of the main criticisms of the plenary was that much of the discussion is purely for public consumption. This raises at least some questions as to the wisdom of encouraging the media to focus on other forums within the Congress.

(2) Commissions
Each chamber of Congress has 12 commissions, each of which can have several committees. Of the 12 commissions, 8 are headed by the ruling coalition while the remaining 4 are allocated to opposition parties. These commissions are tasked with undertaking more technical tasks and reporting back to the plenary; each commission focuses on a distinct subject area, such as Ethics, Economic Development, or Agriculture.

It has been suggested that the current number of commissions is appropriate in terms of efficiency, as the previous system from the 1980s of 22-24 commissions per chamber was too decentralized and unwieldy. While the commissions undoubtedly have contributed to improved technical capacity, their role in terms of conflict management remains unclear. One or two respondents suggested that commissions are able to help resolve conflicts by strengthening personal

relationships between representatives of different parties; other interviewees dismissed them and suggested that their primary role is to instrumentalize agreements that have already been made in other forums.

In terms of the Constituent Assembly, at least one observer commented on the need for a more broad agreement on fundamental principles before the commissions begin their work. It was argued that without a broader political mandate, the commissions were likely to exacerbate conflicts by proposing conflicting solutions to the various issues they are mandated to study.

(3) Meetings of Heads of Factions

Each political movement or party in the parliament will have a faction head (one in each chamber) who is elected by the members of that faction. These faction heads meet behind closed doors on both regular and ad-hoc bases to hammer out agreements on a range of issues, and most observers cited this mechanism as the most important venue for conflict management. Given the strong vertical party structure that exists in Bolivian politics, it has been argued that agreements made by this group are most likely to have weight and be actually implemented on the ground. In terms of geographical representation, although there are fewer factions than there are departments, those departments without direct representation are nonetheless able to ensure their interests are taken into account through party feedback mechanisms.

In addition to the meetings of these faction heads, broader forums have evolved informally to help overcome impasses in the congress. These include (among others):

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> (i) faction heads and president
> (ii) faction heads, the presidents of both chambers, and the vice president
> (iii) faction heads, presidents of both chambers, and heads of relevant brigades.

These types of meetings were credited for achieving the compromise between the government and the opposition whereby elections for the Constituent Assembly – a key demand of the government – were held on the same day as a referendum on decentralization and regional autonomy. This concession was a priority of the opposition. Similar meetings were also held to discuss the issue of land reform, although much of the opposition continues to oppose the government's policy in this area.

A similar mechanism has evolved in the Constituent Assembly. One member of the assembly explained that for the first three months, no such mechanism existed and the assembly was practically paralyzed. Regular meetings of the faction heads and the directorate of the assembly were organized starting in September, and only then was the assembly able to move forward in coming to compromises on its own rules and regulations.

(4) Conclusions and Recommendations

Overall, it is clear that a number of mechanisms to manage conflict exist at various levels within Bolivian legislative and constitutional institutions. It is perhaps interesting that many of these institutions seem to have evolved in an ad-hoc manner, and have only become institutionalized in recent years. Even in the case of the Constituent Assembly, several months passed before mechanisms almost identical to those in the Congress were adopted. Because of this gradualist and organic evolution, there remain some shortcomings that international donors may be able to help address.

As mentioned, the *brigadas* have played an important role in representing regional interests at the national legislative level, though it seems that the *brigadas* are sometimes hijacked by majority parties in certain departments and used as

partisan instruments. Thus, while the *brigadas* have helped to mitigate the kind of representational failures that lead to conflict (as discussed in Chapter 3), they have not necessarily made parties more inclined to compromise with one another. Greater institutionalization of these bodies and better enforcement of the regulations governing them may help in addressing this problem. As for the commissions, they have been useful in channeling expertise on particular issues, and in structuring policy solutions that would have been impossible through plenary sessions. However, the lack of clear agreement on the basic principles that should govern their operations, and the tendency of the commissions to cover overlapping subject areas and thereby develop conflicting proposals, has limited their general effectiveness. More explicit enumeration of their policy areas and responsibilities may be useful. The more informal meetings of heads of factions, on the other hand, have been essential in making conflict-resolution possible, allowing party (or "faction") heads to negotiate compromise in an apolitical, small-group atmosphere. Consideration should be given to formalizing and better resourcing these bodies.

Interaction between these three types of bodies has been limited. The *brigadas* do tend to focus on regional issues, while the commissions and the faction head meetings address more exclusively national interests. Because our interviewees did cite the lack of coordination between *brigadas* and commissions as a problem, replication of the faction-head-meeting approach may be useful here, with the presidents of *brigadas* and the heads of legislative commissions periodically meeting to bring their activities into alignment.

To improve legislative conflict-resolution capacities, one step might involve reconstituting the multi-party parliamentary modernization and reform group, although it might make more sense to wait until after the Constituent Assembly's recommendations on the legislative branch are finalized. A more short-term idea would be to hold a workshop/conference on conflict management within the legislature, providing a cross-party forum in which to discuss current strengths and weaknesses. A second approach would be to increase advocacy vis-à-vis the executive branch to build support for the view that far from threatening the authority of the executive, legislative strengthening programmes can help the executive branch improve its performance.

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Ultimately, many of the biggest gaps are not at the national but rather at the local level, where conflicts often become violent before they even attract the attention of senators or deputies. Thus efforts to strengthen the links between national-level representatives and local officials ranging from police to civil society organizations will be critical, hence the importance of taking advantage of the potential offered by the brigadas.

SECTION VI: UNDP COLLABORATION WITH BOLIVIAN STAKEHOLDERS

(1) Current situation
In the domain of strengthening governance, UNDP has a number of advantages. As a UN organization, it has the potential to be viewed as both non-partisan and as less likely to be the vehicle of specific foreign interests, in contrast with other donors in the field like NDI or bilateral donors like USAID. UNDP has a solid network of experienced professionals in the field, and can draw upon experts and experiences from countries in Latin America that are viewed as friendly to the current government in Bolivia.

On the other hand, UNDP also faces a number of challenges. The current government is quite inward focused, drawing its inspiration and direction from traditional indigenous practices. It tends to view outside offers of assistance with suspicion, as evidenced by the law on the Constituent Assembly which forbids foreign support to the process with the exception of in-kind donations. There is clearly some openness to foreign support, as Morales has welcomed the contributions of both Cuba and Venezuela; both of these are, however, quite explicitly politically aligned with Morales' own objectives in a way which would be impossible for an agency like UNDP.

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MAS is also suspicious of the very government institutions that UNDP is mandated to strengthen and work with. Their ultimate plan appears to involve seriously reforming or even eliminating many of these institutions, not strengthening them. To this difficulty is added the lack of certainty in the long-term form of the state engendered by the constitutional revision process, making it difficult to provide long-term, strategically coherent support. Thus even if MAS were willing to accept international support, it is unclear where the most appropriate point of intervention would be.

Finally, several of the interviewees we met with expressed some reservations about UNDP's neutrality. They cited years of UN financial and public support to corrupt and unresponsive regimes that have de-legitimized the UN and other international donors. They voiced the impression that very few of UNDP's staff come from indigenous and/or working class backgrounds. They also mentioned that UNDP, in its search to capitalize on the knowledge and skills of Bolivians in the political arena, had hired a number of people associated with previous governments and political forces that are viewed as anathema by MAS and its allies. It should be noted that this criticism was also leveled at other foreign donors, and that our interlocutors were quick to note that not *all* UNDP staff associated with the *ancien régime* were problematic. However there was a definite perception that UNDP's support could not be neutral given the past affiliation of some staff members and/or partner organizations.

(2) Recommendations

It is important to address perceptions about UNDP's current staff biases, regardless of whether they are accurate or not. Proactive attempts should be made to bring in more qualified indigenous candidates, and to ensure that the staff has an overall balance when it comes to the political inclinations of staff members who have spent a significant amount of time in government. UNDP should also be sensitive to external perceptions when selecting partner organizations to work on governance programmes.

In the short term, UNDP and other international donors may consider supporting activities which are designed around building trust with the new political forces in Bolivia. In-kind and other non-political technical support in fields such as documentation and technology can be one point of entry, and efforts could be made to bring officials from politically sympathetic countries to share both best practices and their experiences of the value of UNDP assistance in governance.

ANNEX B: THE LEGISLATIVE OUTPUT OF BOLIVIA'S NATIONAL PARLIAMENTARY ASSEMBLY

ASSIGNMENT FROM UNDP

UNDP has a strong Public Administration Reform programme in Bosnia and Herzegovina[8]; this assignment from UNDP falls under the programme objective of 'building the strategic policy and planning objectives of BiH governments'. For legislation, the objective relates to the conduct of impact assessments to investigate the likely effect (legal, financial, social, economic) of proposed laws. Too often, legislation is promulgated that is incomplete, poorly drafted, financially infeasible or socially impracticable. This results in legislation that, although it is an act of law, cannot or will not be implemented for legal, political and technical reasons.

As UNDP and other donor organizations continued to assist the Bosnian government and Parliamentary Assembly to strengthen its capability to draft sound, properly considered legislation, it became evident that the actors involved required a procedural framework. After consultation with key actors and experts, the national government and Parliamentary Assembly adopted the 'Unified Rules for Legislative Drafting in the Institutions of Bosnia and Herzegovina' in January 2005. This document 'define[s] the rules to be observed by those in charge of legislative and normative tasks when drafting the rules in the institutions of Bosnia and Herzegovina' (Unified Rules). These drafting rules were put in place to serve as somewhat of a checklist to ensure that any proposed legislation goes through a rigorous process that includes consultation, legal examination, investigation of the implementation mechanisms, impact assessment and an assessment of financial resources.

Even after the adoption of these drafting rules, the quality of the legislation showed little improvement. The European Commission's 2006 Progress report found 'the Parliamentary Assembly met more regularly, but the pace and quality of legislative output remains affected by slow input from the Council of Ministers. The Assembly is still hampered by insufficient technical resources, an unqualified parliamentary administration and cumbersome parliamentary procedures.' As before, laws were being passed without proper consultation with experts or civil society groups. There were insufficient studies conducted on how a law would be implemented or the impact of the legislation, including the financial cost. Even though the Unified Rules required coordination between the different levels of government, this was not a common feature of the drafting process.

The question posited by the UNDP office for Bosnia and Herzegovina was: what were the factors that prevented the implementation of these drafting rules in Bosnia's national-level Parliamentary Assembly? This was not an investigation of the adequacy of the rules themselves, but rather the factors that hindered Bosnia's legislature from implementing or overseeing the implementation of these rules..

> The purpose of this study is to examine what factors contributed to this lack of improvement in the quality of the Parliamentary Assembly's legislative output. This study outlines the current obstacles that the state legislature faces that prevent the effective implementation of these rules. The answers are not simple. Overriding technical, structural and political reasons have hampered the Parliament's ability to promulgate legislation of sound quality. The situation is not without hope, however. Improvements in key, identified areas can assist legislators improve the quality of Bosnia's legislation.

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8 Bosnia and Herzegovina is often shortened to Bosnia. We adopt this title for convenience and do not wish a disservice to the people of Herzegovina.

Annex B

SECTION I: BACKGROUND

(1) The Conflict and the Creation of Bosnia and Herzegovina

The Bosnian war lasted from 1992 until 1995, sparked by dispute over the very existence of a Bosnian state, independent of Yugoslavia. The conflict and destruction began after the 1992 referendum where 98 percent of voters supported Bosnia's independence, based on a 63 per cent voter turnout (Bose 2005, 2).   Bosnian Serbs, who overwhelmingly boycotted the referendum, responded with a military offensive. The international community's many attempts at mediation eventually culminated in the U.S.-brokered peace settlement, the 1995 Dayton Agreement, which laid the foundation for the post-war Bosnian political system. The brutal civil war irrevocably carved out Bosnia into mono-ethnic zones through a campaign of combat and ethnic cleansing. In a sense, Bosnia was a 'mini-Yugoslavia' populated by 45 percent Muslim Bosnians (Bosniaks), 18 per cent Croats and 35 per cent Serbs. The ferocity of the war displaced over half of Bosnia's 4.4 million population, shifting Bosnia away from its history of multi-ethnic towns and areas.

Bosnia's constitution is contained in Annex Four of the Dayton Agreement and was a central part of the political settlement hammered out by Bosnia's three ethnic groups. The drafters emphasized representativeness and measures to ensure no one ethnic group could dominate the political system. The Agreement put an end to the conflict, but the adequacy of its constitutional system for present-day Bosnia remains in question. The Dayton constitution was intended as an initial constitution that would be reformed as stability cemented in Bosnia (Commission of European Communities 2006, 6). Efforts for gradual constitutional reform have so far failed, with the ongoing political entrenchment along ethnic lines making progress difficult.

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A weak national government was instituted with the country being divided into two entities – the Republic of Sprska and the Federation of Bosnia and Herzegovina. The Federation was established in 1994 before the Dayton Accord as part of the Washington Agreement to ally the Bosniaks and the Croats. The country is divided into municipalities throughout, but the Federation is also divided into ten cantons, a division largely implemented on ethnic lines. In addition to these two entities, Bosnia also includes the autonomous Brcko District, which comprises the city of Brcko and the surrounding land in the northeast.

(2) Principal Governance Institutions

Bosnia's governance framework is defined by strict power-sharing arrangements. Bosnia has a bicameral national legislature, also known as the state-level legislature, as well as parliaments in the Brcko district and at the entity and cantonal level. The Parliamentary Assembly consists of two houses – the House of Representatives and the House of Peoples. The House of Peoples, or the upper house, has 15 delegates (five Serb, five Croat and five Bosniak). The upper house has the power to protect the Vital National Interest, or VNI, of each ethnic group, and the ethnic caucuses can veto legislation if it contravenes this interest. The House of Representatives has 42 delegates, 28 members from the Federation and 14 from the Republic of Srpska. The Presidency, the head of the executive, rotates every eight months between three delegates. The Serb delegate is directly elected by Republic of Srpska voters, and the Bosniak and Croat delegates are directly elected by Federation voters. All legislators and the Presidency delegates are elected for four-year terms.

The Dayton Agreement also created an ad hoc international institution, the Office of the High Representative, or OHR, to oversee the implementation of the peace accords in Bosnia and Herzegovina. Under the powers conferred to the OHR by the Bonn Implementation Conference, it is the final legal authority to interpret the Dayton accords. Among other powers, the OHR representative had the power to remove any Bosnian politician as s/he sees fit and

to enact legislation essential for the working of the country. OHR's direct interventionism under the current High Representative Christian Schwartz-Schilling is declining, but it remains active in lobbying the government. The OHR is scheduled to close on 30 June 2007, subject to a review of this timetable in early 2007. Commentators note that as OHR's activism declines, international pressure for certain legislation and reforms increasingly comes from individual embassies. Although High Representative Schwartz-Schilling will remain in Bosnia in his other role as European Union Special Representative, the OHR's closure will mean the end of the Bonn powers with all legislative powers residing with Bosnia's governments at all levels.

(3) Political Dynamics

Politics in Bosnia has sharp ethnic divisions. Although some national parties have come to the fore, members of the Parliamentary Assembly tend to, as one politician put it, 'vote with the ethnic group first, then with the entity and then they might remember their party.' Members of the rotating Presidency also mostly show allegiance first to their entity, with only little reference to a broad political platform for the country's future. This trend toward ethnic allegiance is unlikely to lessen with the newly-elected Assembly, given the high level of nationalist rhetoric that was part of the October 2006 election campaign. Some issues arising from Bosnia's war continue in the country's emotive political debates. For example, in May 2006, the Parliamentary Assembly was stalled when Serb representatives boycotted its sessions as a protest against delays in establishing a 'Truth Commission on the suffering of Serbs, Croats, Bosniaks, Jews and Others' in Sarajevo during the war.

The proportional-representation electoral system of Bosnia leaves few incentives for politicians to engage in active grassroots campaigning. As one commentator noted, 'there is not a lot of political dynamism or even interaction between voters and their representatives.' The October 2006 election campaign was characterized by high nationalist sentiment with little reference to grassroots or local issues. Politicians explained that 'to get votes, we must be radical.' In the Republic of Srpska, for example, the leader of the reasonably moderate Alliance for Independent Social Democrats, Milorad Dodik, threatened an independence referendum for the entity, if the autonomy of the Republic of Srpska was in danger. These politicians, who talked publicly of the independence referendum, step away from this pledge in private, saying it was purely a campaign tactic to ensure extreme nationalist parties did not gain electoral traction.

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Bosnia's political party spectrum is characterized by increasing fragmentation and proliferation of political parties within the three large ethno-national divisions. Forty-eight parties, eight coalitions and twelve independents contested the October 2006 election (Commission of European Communities 2006, 7). Politicians switch parties, and parties switch coalitions easily in an effort to improve political careers. Voters do not tend to punish this political fickleness. Only the Social Democratic Party, the successor to the once-powerful communist party, can rightly claim a party platform not primarily devoted to ethno-nationalist agenda (Bose 2005, 9). The ethno-nationalist parties did well in the election, particularly Milorad Dodik's party in the Republic of Srpska. Despite these successes, there was a slight shift to more moderate parties in the Presidency voting with the election of a non-nationalist to the Bosnian-Croat seat. The influence of the earlier debate in the legislature on constitutional reform was evident in the election. Constitutional reform was considered and voted down by the Parliamentary Assembly in April 2006. Support for the reform cost several politicians reelection, particularly from the Party of Democratic Action (SDA), because Bosniak and Croat voters saw support for the meager reform package as a betrayal. Even though constitutional reform is required, in the words of Bosnia's then foreign minister, Mladen Ivanic, 'Several years will be necessary in order to launch new constitutional changes and reach new compromise' (Reuters 2006).

OHR's intervention has long been a source of tension in the country. In one view, this 'non-democratic' institution has contributed to the public cynicism about Bosnia's democracy. Others direct their disparagement at Bosnia's politicians, seeing OHR as the only vehicle that produces the necessary reforms for the country. Some citizens, if they have

a complaint, lodge it directly with OHR rather than approaching local authorities. The European Union integration process appears to enjoy bipartisan support in principle, although the detail of the necessary reforms remains contentious.

SECTION II: RESEARCH PROCESS AND FINDINGS

(1) Research Process

This research on the legislative process in Bosnia was conducted as part of broader research on legislatures managing conflict in fragile states. As such, the research concentrated on the work of the legislature, its secretariat and its members. After preliminary research on the theory of the role of legislatures in democracies and in post-conflict society, field research was conducted for one week in Sarajevo and Banja Luka. Those interviewed included newly-elected members of the Parliamentary Assembly, secretariat officials from different levels of government, project managers of legislative strengthening programs, donor representatives, civil society representatives, political advisers, OHR representatives and Bosnian legal experts. Follow-up interviews were conducted with donors and project managers based in the United States and Canada.

The research was constrained by the short time permitted for field research and the timing of the visit to Bosnia. As it was conducted only weeks after the October 2006 election, legislators were still deeply involved in coalition negotiations. Few Parliamentary Assembly members were reelected (only 14 of 42). The research targeted those politicians with previous experience of the workings of the Parliamentary Assembly, but this report acknowledges that, although unlikely, the operation of the Parliamentary Assembly could diverge significantly from previous experience.

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This is a report about Bosnia's national legislature and legislative processes and it does not give detailed consideration to the drafting process for legislation before it enters the Parliamentary Assembly. Bosnia's legislative capacity also suffers from hindrances in the executive, such as the lack of impact assessments conducted by ministries and weak coordination agencies on harmonizing national and entity agendas on economic development and European integration (Commission of European Communities 2006, 8). These issues, although significant, are beyond the scope of this report. This report does not consider the legislative processes at the entity and cantonal levels of government, although several of its findings would apply at all levels of Bosnia's governance framework.

SECTION III: FINDINGS

(1) Legislative Process

The Council of Ministers initiates 90 percent of the legislation proposed in the Parliamentary Assembly. After review by the government's Ministry of Justice, Ministry of Finance and Treasury and the Legislative Office (the legislative legal adviser to the Council of Ministers), the draft legislation is put to the Council and then to the legislature. The legislation can either be promulgated under normal procedures, summary procedures (for laws deemed to lack complexity or controversy) or urgent procedures. The normal procedure allows for committee debate and consideration and on average takes around two months. Urgent and shortened procedures do not allow for committee consideration of the law nor for any amendments. Under these procedures, the law must be either accepted or rejected in its entirety. Urgency procedures are instigated with a majority vote in the House of Representatives.

For regular procedures, the Collegium of the Parliament determines which committee should review the legislation. The Collegium is the speaker of the house and in both houses it comprises three delegates, one from each ethnic group. The speaker position rotates every three months. After the committee review process, the legislation moves to the floor, then to the Joint Session. External stakeholders in the executive or the OHR and foreign governments are

also known to apply pressure on the Parliamentary Assembly to follow urgent procedures. Under the Bonn powers, OHR can amend or veto any legislation passed by the Parliamentary Assembly. OHR also possesses the power to enact binding legislation.

FACTORS THAT HINDER THE QUALITY OF LEGISLATIVE OUTPUT

(2) Technical obstacles

(i) Knowledge of the unified drafting rules varies and is generally poor
Knowledge of the drafting rules varies; they are not widely known. Members of the secretariat in the Parliamentary Assembly seemed most knowledgeable about the rules, with politicians and advisers being less so. Particularly in the legal office the officers appeared to know the detail of the provisions. This knowledge, however, was not reflected on the part of politicians, even the experienced politicians who had already served one term and had been reelected in the 2006 election. Their political advisers too did not know about the drafting guidelines. This is in spite of the fact that the rules were posted in the hallways of the Parliamentary Assembly building. Consequently politicians do not consider legislation in terms of the drafting rules. The members of the Parliamentary Assembly do not return laws to the Council of Ministers because the rules were not followed.

More worrisome is that the draft guidelines are not widely known among Bosnia's legal experts. The lawyers tasked with drafting Bosnia's laws tend to work as consultants rather than as officials of the Ministry of Justice. They draft laws while at the same time running a legal practice. By one estimate, 90 percent of lawyers do not know of the existence of these guidelines when drafting the laws. Even fewer refer to the guidelines when they are working on the laws.

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(ii) The legislature suffers from resource constraints
There are several resource constraints, which impede the proper consideration of laws before the legislature. The Parliamentary Assembly has an established committee structure. Most of the work of the committees is devoted to considering the draft laws before the Parliamentary Assembly. Understaffed, the committees are heavily burdened by the number of laws that they must consider at any one time; by one estimate, the Assembly considers on average 30 draft laws at every session. In addition, they rarely perform their oversight functions to undertake inquiries into the implementation of these laws.

Chart 1: The Legislative process for Bosnia's national government and legislature (the symbol "v" refers to veto power)

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BiH Legislative Process
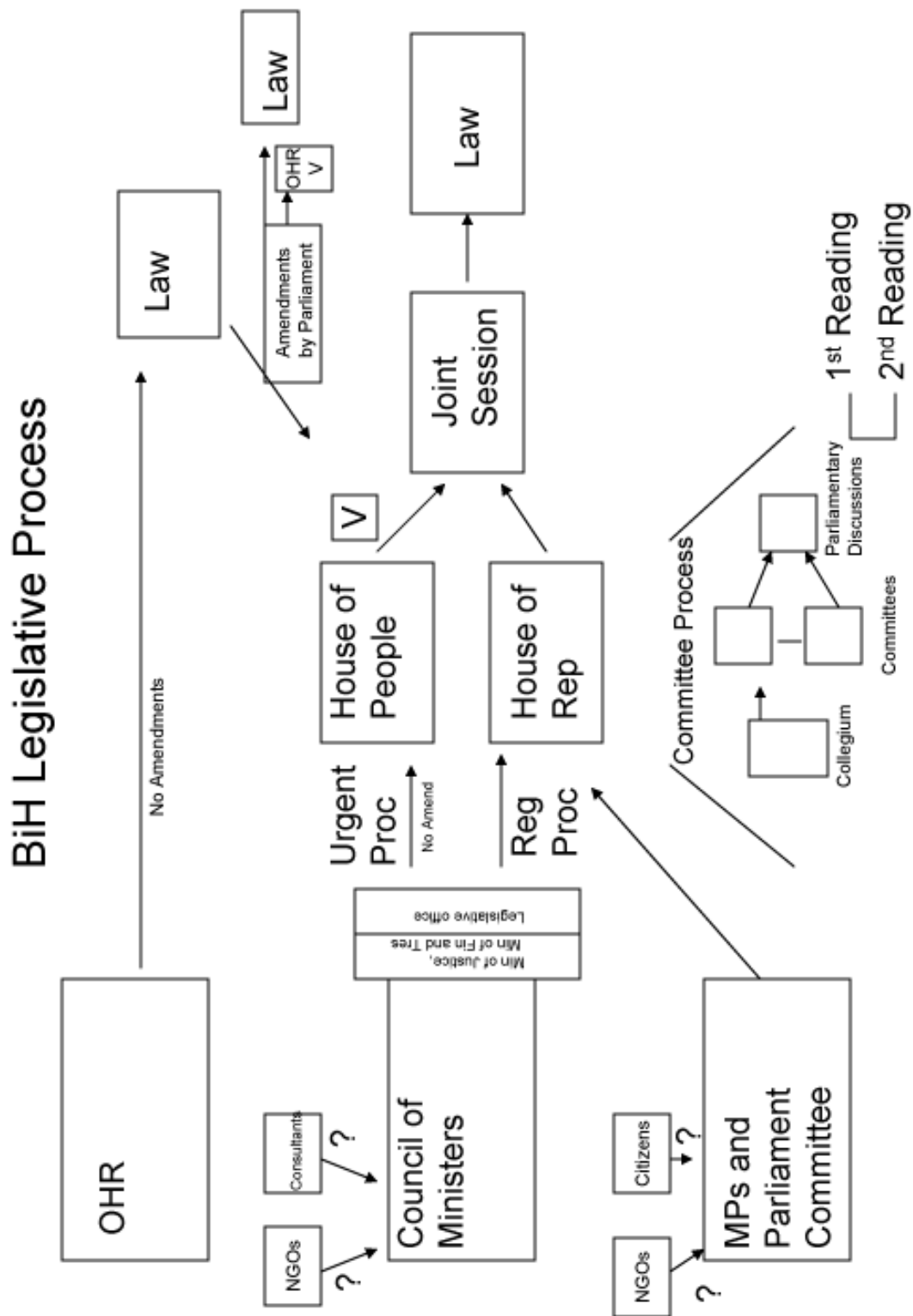
Time constraints are common to all politicians in all jurisdictions. Bosnian politicians struggle more with the political workload because they do not have a budget to employ their own advisers. Some with senior party positions receive a political adviser paid for through party funds, but most manage their workload on their own. Beyond their party structure, the Assembly members can seek assistance from the Assembly Secretariat, in particular its Research Center (established by the Canadian organization, the Parliamentary Centre and now assisted by the OSCE). Although well-trained, Bosnia's Center is not large and specifically does not take on tasks that have a political motive. Parliamentarians can draw on them for research questions and assistance in drafting amendments to bills. The Center, like the entire Parliamentarian Assembly, has limited office space, so the working environment also constrains how much the Center is able to achieve. They do not summarize the key details of any draft bill for a politician, like a political adviser would. The Committee Secretariat system is also seriously understaffed. Most committees operate with one permanent staff member, the Secretary, and this person performs other secretariat duties, with some working in two Committee Secretary positions to cover vacancies. Therefore, parliamentarians conduct most of their consideration of draft laws unaided.

The secretariat also tends to suffer staff shortages, a result of the cumbersome civil service hiring system. In the Parliamentary Assembly, the secretariat staff are classified as non-partisan civil servants – unlike in the Assembly of the Republic of Srpska where the secretariat contains political appointees. Despite improvements to the Civil Service Agency, the hiring structure remains slow, meaning that vacant positions can remain open for several months as the recruitment process runs (Commission for European Communities 2006, 9). UNDP's public administration programs, supporting Bosnia's public administration review, have targeted this issue already and the system has been improved. However, complaints about these vacancies in the secretariat are still common.

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(iii) Bosnia has few legal experts who understand Bosnia's very complex system of laws

Bosnia has an extremely complex system of laws. Bosnia has thirteen constitutions; the national constitution, the constitutions of the two entities and ten cantonal constitutions. The default system of law at independence was that of the communist Yugoslavia. Some of these laws of the former Yugoslavia have been repealed, in ad hoc fashion, but many remain in force. The post-independence international influence meant that certain elements of the Anglo-common law system were adopted, as well as certain elements of the European system. Bosnia's constitution also contains a strict requirement to harmonize its laws with UN standards and treaties signed, such as that of the Council of Europe, which brings European and international laws into force in Bosnia. Added to this are the various levels of law making at the local, entity, canton and national level. One lawyer estimated that 80,000 regulations required harmonization.

There is a dearth of lawyers who understand the interplay of all these legal systems and the law schools are only now beginning to graduate qualified students. Not all legislative drafters are properly qualified to undertake the complex legal analysis involved in legislative drafting. UNDP's project to develop a comprehensive internet database for all Bosnian legislation will be particularly useful for legislative drafters. It is common for drafters to use laws from other jurisdictions, from neighboring countries or from Europe or the US, as the basis for Bosnian laws. There is nothing incorrect with this approach per se, but it does require a proper consideration of the application of the law to Bosnia's political, social, economic and legal context. The implementation of the law further suffers from Bosnia's Yugoslav legal tradition. Under this tradition, legislation is not seen as rules to be abided by and enforced; rather it is a policy framework or enabling guidelines (Austermiller 2006). Where legislation in the Anglo or European system prescribes the activities prohibited by law, under the Yugoslav tradition legislation prescribes the activities permitted by law. This leads to highly legalistic and bureaucratic governance systems, requiring high volumes of rules, regulations and legislation.

With these constraints, it is only to be expected that new legislation could violate existing laws or require entity or local-level implementing legislation that is not forthcoming. Even though the Unified Drafting Rules require coordination between levels of government, these coordination mechanisms are generally poor and do not result in the proper implementation of the law. For example, the implementation of the national traffic law requires 22 other by-laws. While responsibility for this coordination falls largely on the executive branch (Council of Ministers), the legislatures could also engage in coordination. There have been some informal networks established (see discussion of NDI's program below), but harmonization meetings between the secretariats are few. Some secretariat staff commented that coordination between the cantonal and entity level in the Federation was stronger than that between the national and entity level.

(3) Structural Obstacles

(i) Constitutional framework for the legislature constrains its operations

Several politicians complain that there are too many committees in the Parliamentary Assembly and too few politicians to work on these committees. Bosnia has a committee structure in both the House of Representatives and the House of Peoples. It is, however, constrained by the constitutional framework. Bosnia's constitution was drafted as part of the 1995 Dayton Peace agreements and was intended as the starting point for further constitutional reform. For one thing, it created a weak national government limiting its portfolios to a short list, such as foreign policy and immigration. The entity governments have very gradually transferred some responsibilities to the national government. This operating environment creates considerable strains for the legislature. The increase in portfolio responsibilities at the national level did not also translate into an increase in the number of legislators to oversee these new portfolios. The 42 members of the House of Representatives service eight permanent committees and three joint committees, a number likely to grow with further increased responsibilities. The strains on members are more dire in the House of Peoples, the upper house, which has only 15 members to service three permanent committees and three joint committees. The schedules of these committees also impede the proper consideration of the laws. There is also no system of forward agenda planning of the committee's work. The committee documents are supposed to be distributed to the members well in advance of the meeting. In reality, politicians received them a day before or on the day of the meeting and thus do not have sufficient time to read through the laws in time for the meeting.

Constitutional reform was proposed to the Parliamentary Assembly in April 2006, barely five months before the general election. Part of the reform packages was to double the number of members in the House of Representatives, which would have reduced the strain of committee work. The reforms were voted down, amid a highly nationalistic and emotive debate. The controversy did not surround the legislative strengthening measures, rather the division rested on the ethic voting mechanisms and the attempt to renegotiate the federalist structure, shifting more powers away from the entities. On one side, many Croat and Bosniak politicians wanted to see greater steps to abolish ethnic voting mechanisms, some calling for the immediate abolition of the Republic of Srpska; they saw the reform package as too meager. On the other side, the radical Serbian view was that the package went too far, diluting the powers of the Republic of Srpska. The increased size of the legislature, however, would have brought with it further problems. As it currently stands, the legislature's secretariat is overburdened at its 'staff to legislator' ratio of one to one (the average ratio is three to one). This ratio would only worsen with a larger number of legislators, and the secretariat would require considerable extra resources.

A second constitutional measure that can impede the quality of legislative output is the Vital National Interest veto. This power allows ethnic groups to stall the legislative process and there are several allegations that the power is abused as a political tool to block legislation that in actuality does not disproportionately affect one ethnic group over another. Although there are clear examples of abuse of the power at entity level (to block the law on organic foods for example),

at the national level it has been invoked only four times in the last four-year term. However, groups threaten to use the veto more frequently and it is perhaps this power to threaten to veto that is more often abused. The problem is that the constitutional term 'Vital National Interest' is not clearly defined, leaving it open to broad interpretation. For this reason the unsuccessful April2006 constitutional package proposed to define the term[9]. The system as it stands, the Council of Europe Venice Commission found, is 'neither efficient nor rational, but open to too many possible blockages in the decision-making process' (Venice Commission 2005, 5).

(ii) The legislature's oversight function is not exercised fully

The government and responsible authorities would have greater incentive to implement legislation fully if the legislature exercised its proper oversight role to question and scrutinize the government on the implementation of legislation. As it stands currently, the Parliamentary Assembly's oversight role is weak. Each ministry and state agency submits a yearly report to the legislature. Some are more superficial than others, and on occasion the legislature requests further detail from the ministry. In general, politicians, commentators and civil society all complained that the reports were not significantly detailed and insufficiently questioned and debated by the Parliamentary Assembly.

Committees rarely have the opportunity to question ministers. Ministers rarely attend, normally sending lower ranking officials or outside experts to the committee sessions. While this is appropriate for the technical questions of the committees, it lessens the individual responsibility of the government minister. Moreover, committee agendas are filled with considering the many draft laws before the Assembly and they do not investigate or question ministers or officials on the implementation of these laws.

The procedures for the National Assembly questioning of ministers also inhibit their oversight powers. Questions are sent to ministers in writing. The answers tend to be very technical or succinct. By the time the answer arrives, the issue might have outdated political attention; moreover the legislator who posed the question has no opportunity to ask for supplementary information. The interaction that most regularly occurs between a committee and the executive is where the committee asks for additional explanation on a proposed law. For example, the Assembly Secretariat complained that the Ministry of Finance and Treasury's budgetary assessment of a draft law is often cursory. If the draft law is submitted for committee consideration, then they will call on the Ministry of Finance to provide further explanation.

Efforts are underway to improve the oversight procedures of the Parliamentary Assembly. The new Rules of Procedure of both the House of Representatives and the House of Peoples adopted in 2006 allow for better oversight of the executive. Some legislators are lobbying to establish in-person questioning of ministers. Politics, however, also plays a role here. As politicians jostle to form political coalitions, many would be reluctant to be seen overseeing and publicly criticizing politicians, who could otherwise have become useful political allies. It then remains to be seen whether these rules will see a more active Parliamentary Assembly.

(iii) Legislative procedures are abused

Many blame the misuse of urgent procedures for the passage of incomplete and ill-considered laws. The regular time frame for passing legislation is two months, so the legislature can incur considerable pressure from the executive, OHR or the international community to invoke the urgent procedures. These mechanisms do not allow for the legislature to make amendments to the law. Not being able to amend the law and rather than rejecting it outright and causing political embarrassment, the legislature passes ill-drafted or problematic laws back to the Council of Ministers for revision. Some laws are passed back two or three times.

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9   The term 'Vital National Interest' is more clearly defined at the entity level by an OHR decision imposed in 2002. The constitutional reform proposed to use this definition at the national level.

(iv) OHR and the international community bear some responsibility

Bosnia suffers from the classic dilemma of a country in transition: tension between democratic deliberation and the need to make change quickly. The OHR was put in place to take on the governance burden while Bosnia's political system was being established. OHR answers to its own political imperatives to produce results. An additional consideration is the prize of European Union accession, and a complex legal infrastructure must be created to meet even the basic requirements as part of the ongoing negotiations on the Stabilisation and Association Agreement (SAA). This results in a large number of laws before every legislative session (usually around 30 agenda items). More often than not the committee stage is then completely neglected (NDI 2006, 9).

Given these circumstances, the international community is partly to blame for pressuring Bosnia's government and legislature to pass certain reforms, which can have the effect of prioritizing the quantity of laws over their quality. There are also examples where the international community pressured for the quick passage of a law, such as defense reform, only to request the subsequent amendment of the law to repair legal and practical oversights. Traditionally OHR has taken on much of the legislative drafting, impact assessment and consideration process. For example the Legislative Office, which was established to review legislation before it reaches the Council of Ministers, is often unable or not needed to perform this task. This is partly because it has a small staff of only three, but it is mainly because the majority of legislation, though to a decreasing degree, comes from OHR (OECD 2004, 3).   As dependence on the international community for legislative drafting declines, the burden on Bosnia's few legal experts and legislative office staff will only increase.

56 OHR's legislative powers have also insulated the legislature from taking full political responsibility of the legislative process. They do not need to make politically difficult decisions or pass difficult laws because the stalled process would compel OHR to act and impose these laws. For this reason, the legislature also passes politically popular, but highly impractical laws, such as the law to compensate war veterans. Bosnia does not have the financial capacity to implement this law, but it was not in the political interest of any legislator to vote against this popular initiative.

(4) Broader Political Obstacles

(i) There is no consensus on the need for strong national political institutions, particularly in the Republic of Srpksa

Bosnia was a state created out of a war fought partly against its very existence. As a result, there remains a lack of consensus on the need for a strong state government and strong state institutions. Centrally passed legislation can be seen as laws passed at the expense of the powers of the entities. So controversial is the issue that transfer agreements, which the entities voluntarily enact to transfer powers to the states, have been embroiled in constitutional controversy. In the national legislature, this attitude translates into a lack of political will by some legislators to strengthen the institutions. Some parliamentarians do not believe in a strong national government. They see their role as confining the activities of the national legislature, to allow the entity-level governments to retain power. One example is that the Parliamentary Assembly failed to agree on the creation of two new ministries within the Council of Ministers (Commission of European Communities 2006, 8). Politicians with these views do not give much attention to the detailed and technical aspects of the central government's work. There have been cases where members of an individual committee do not attend a single session (Open Society 2006, 210). They are generally unperturbed if national-level laws are not implemented.

(ii) Opposition parties are inactive and do not understand their role

In addition to the resource constraints on the work of the legislation, a reason that the Parliamentary Assembly does not exercise its oversight function is that the opposition does not take advantage of these mechanisms. Donors say

that an understanding of the opposition's role does not derive from Yugoslavia's political history, and it is only after some initial work and discussions with political parties that opposition parties are coming to understand oversight mechanisms. One politician spoke of his visit to Britain where he saw the question time session in the UK Parliament and for the first time realized the political power of oversight mechanisms in increasing the profile and popularity of the opposition.

Political incentives for an opposition to pursue high-profile oversight of the government are also lacking. Political parties jostle to align and realign in coalitions – politicians openly admit they fear that open criticism of the government jeopardizes their political chances.

(iii) Civil society and media monitoring of the legislature is minimal

UNDP's early warning report found that political apathy and the lack of political, civil or any other form of activism are chronic problems in Bosnian society (UNDP 2006). As described by one OHR representative, civil society in Bosnia is generally an under-developed sector that is 'not quite sure what participatory democracy is all about'. Civil society does not have a sufficient understanding of the complex workings of government to oversee its activities and advocate change. The legislature then largely pursues its role in considering the enactment and implementation of legislation without civil society attention. From the experience of the secretariat and some donors, some public hearings held by the legislature at various levels were unproductive, not for any fault of the government institution, but rather because they were not well attended by civil society and the public. The Centre for Promotion of Civil Society, an organization established through USAID funding, put together a directory of civil society organizations to facilitate communication between civil society and the public and civil society and government. The directory also aims to overcome complaints that key civil society organizations were not invited to some of the National Assembly's public hearings.

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Civil society suffers from the broader problem of societal perceptions. The third sector's role traditionally was not as advocates but rather to provide services that the government had neglected. There is no public tradition of organizing into groups to carry an opinion to government. Additionally, civil society is traditionally viewed with suspicion by both politicians and the public, as organizations dedicated to making profit rather than dedicated to public action. This political apathy is the result of the public experience under the former Yugoslavia, which was a political culture of citizens as subjects rather than political actors.

As one donor put it, 'the challenge is not making government transparent, but it is to increase the demand for transparent government.' The media's role in ensuring a proper legislative process is also problematic. Commentators complain that journalists do not investigate and pursue allegations of government mismanagement or political scandal. Stories are reported one day and not followed up with investigative journalism. Others allege that Bosnia's anti-defamation laws provide the media with too much freedom and foster unscrupulous reporting. All agree, however, that the media's reporting of government workings is poor, allowing for little inquiry into the implementation of legislation.

SECTION IV: RECOMMENDATIONS

The main aim of Bosnia's transition should have been and should be to create sustainable long-term political outcomes. One such outcome should be the ability of government and the legislature to assess the impact of its proposed legislation and to implement enacted legislation. The Unified Rules were a sound initiative. The following recommendations aim to identify mechanisms that donors can fund to improve the legislature's institutional capacity to oversee the implementation of these rules:

Annex B

1. Establish a legal office for the legislature and create a linkage between the legal office of the legislature and the legal office of the Council of Ministers.

A legal office is slowly being established in the Parliamentary Assembly. Although the office and its functions were outlined in the Rulebook on the Internal Structure of the Secretariat, it was only in 2006 that the positions in that office were advertised. This process is now caught up in the recruitment delays of the Civil Service Agency. The office is to be staffed by five lawyers, but only the Head of the Legal Section has been recruited. The newly recruited official, who is the former and acting Secretary of the Constitutional-Legal Committee of the House of Representatives, will cover both positions until a new Committee Secretary is recruited. As one commentator put it, 'this is not much progress in real terms so far.'

The rulebook (article 38) lays out that the responsibilities of the office. It would provide legal assistance for drafting bills and preparing opinions on the compatibility and effect of draft bills with regard to all aspects of Bosnia's legal system. This legal office in the legislature is essential to improving the quality of legislative output. Even where laws have been thoroughly drafted or checked by the Council of Ministers' Legislative Office, the legislature's legal office can advise on the potentially significant legal impact of amendments proposed in the legislature.

It will be important for the new agency to coordinate its work with the Legislative Office that advises the Council of Ministers. This Legislative Office of five persons does not exercise sufficient authority over the ministries' drafting of legislation (SIGMA 2006, 4), but coordination between it and the legislature's legal office would result in improved legal review of legislation. With information channels between the two offices, the legislature's legal office could consider the laws well in advance of their introduction to the legislature and this information could be used to develop a workplan for the legislature.

2. Include the legislature in efforts to improve coordination between the levels of government in Bosnia's federalist structure

As the discussions on the European Stabilization project continue, the management of Bosnia's federal structure will become increasingly important (OECD 2004, 4). OECD and European investigations of Bosnia's central policy capacity recommend that donors focus on coordination between the executive branches of the various levels of government. There have since been initiatives to improve coordination. The Public Administration Review Strategy, for example, instituted a National Coordinator to work with the central and entity governments. The SAA negotiations are also an area where cooperation between the levels of government is evolving (SIGMA 2006, 2).

It is important that Bosnia's legislative structures are not left out of these coordination initiatives. The members of Bosnia's various legislatures and their secretariats need to understand the coordination mechanisms for legislative harmonization, so they can oversee and enforce their proper use. Institutional coordination is a focus for donor efforts in the executive branch and the legislature's capacity to coordinate issues within Bosnia's federalist structure should be similarly developed. Through NDI's efforts working with legislatures, legislature secretariats have developed a closed website for informal coordination and communication. Coordination between the legislative committees on similar issues is another possibility. The principle should be the inclusion of the legislature in improved executive coordination mechanism, so that the legislature keeps apace with the executive. It would also be useful for international advisers engaged in legal harmonization and legislative programs to have experience working in federal systems.

3. Run legislative strengthening projects in tandem with other governance/civil society projects

Civil society and the media can assist legislatures in their oversight mechanism of government. For example, public participation mechanisms rely on engaged and active civil society. Running programs in tandem would mean both training the legislature's secretariat in public hearings and participatory democracy and matching this with civil society training on the same provisions. External oversight of the legislature by civil society can encourage the legislature to adopt participatory democratic methods that encourage both a proper impact assessment of legislation and could highlight difficulties in the implementation of existing laws.

The media too would benefit from an improved understanding of the legislature's procedures, so it can hold the legislature to account. Existing media training should include modules on the legislature. Donors could also investigate mechanisms to improve media and public access to the legislature, such as establishing a media and public relations office or focal point within the legislature.

A model program for linking civil society and the political governance networks is the Women's Citizen Initiative Program, established with NDI assistance and funding, which trains and coordinates women political activists, civic leaders and citizens, bringing them into a multiethnic advocacy network. The group learned advocacy skills and was able to target the correct level of government to effect the amendment of the municipal maternity law.

4. Match any training for the Executive (Council of Ministers, Ministries, etc.) with training for the legislature's secretariat and committees

The legislature's role in the national planning for economic development and European Union integration must be recognized. Its inclusion in these processes ensures that it is better able to understand and oversee the proper drafting of legislation. For example, the international assistance that Bosnia receives to conduct its Poverty Reduction Strategy Process (PRSP) should also involve the legislature's secretariat. European Union pre-accession financial assistance should also include the legislature, particularly the committee secretary and members of the Joint Committee for European Integration.

There have been several other donor-funded programs to train members of the national government to develop their specialized skills. These have ranged from programs to develop legal skills in the Ministry of Justice or budgeting and accounting skills in the Ministry of Finance and Treasury and the Auditor General's office. These programs should also include members of the National Assembly secretariat. Not only would this develop the expertise of the secretariat, but it would also build the informal connections, the people-to-people links, between the legislature and the executive branches. When the committees or the plenary require further information in their consideration of the proposed laws, the secretariat would already have an informal network in the executive to draw on for this information.

SECTION V: CONCLUSION

The success of Bosnia's political system is avoiding a reversion to conflict. Although cumbersome and of questionable governmental efficacy, the structures created by the Dayton Agreement have cemented peaceful coexistence of the ethnic groups. Nationalistic rhetoric continues to drive emotive politics, but as UNDP public opinion polls illustrate, Bosnians do not expect lingering ethnic tensions to boil over into violence (UNDP 2006).

Democratization is a generational project and amid many worthwhile competing priorities, legislative strengthening programs have not attracted significant resources. Operating in the shadow of OHR's legislative powers, Bosnia's state

parliament has floundered in its efforts to meet its oversight and legislative responsibilities. One consequence is the poorly drafted, ill-considered and ineffectual legislation promulgated by the institution. The Unified Drafting Rules were a judicious step to address the problem. However, the obstacles to producing quality legislation are so many and varied that the Unified Rules are insufficient to solve the issues at hand. Technical knowledge alone cannot overcome the broader structural and political questions that impede the implementation of these rules.

Underlying Bosnia's complex legal and coordination difficulties of federalism is the crisis of the weak central government. This is the crucial question of Bosnia's political tensions – how to strengthen the national government without undermining any one group's ethnic interests. Stymied constitutional reform efforts have not assisted this cause. Donor efforts in Bosnia in legislative strengthening are laudable and are examples of model projects. They will continue to achieve gradual successes in building a vibrant democracy for Bosnia. Without fundamental restructuring of the political system to support the national governance structure, the legislature will always experience some difficulties in fulfilling its role.

There is some reason for optimism that Bosnia's central legislative capacity will improve (SIGMA 2006, 2). The European Union provides a strong political incentive to bring Bosnia together under its national governance system. The European Union process enjoys multi-party, multi-ethnic support, raising hopes that the European Union could eventually achieve its aim of negotiating with a central Bosnian government that is able to enact and implement its decisions. T-shirts in Sarajevo display the Bosnian flag under the slogan 'our flag, our country' next to the European flag with the slogan 'our future'. The realization of this edict bodes well for the future quality and efficacy of Bosnia's national legislation.

ANNEX C: UGANDA CASE STUDY

SECTION I: BACKGROUND

(1) Principal Conflict

Uganda is a plural society that comprises 26 different ethnic groups. As in many plural societies, ethnic, social and political cleavages have at times engendered conflict. The root cause of the ongoing war in Northern Uganda lies in the political and social cleavages between the country's constituent groups, especially between the relatively developed and prosperous South and the comparatively less prosperous North. People living in the poor North have deep-rooted grievances against the current government, which is dominated by Southerners.

Uganda has gone through political upheavals and violent conflicts between various political and ethnic groups in a large part of its post-colonial period. Shortly after it gained independence from Britain in 1962, the conflict first appeared as a struggle over political control between the then Prime Minister, Milton Obote and the Constitutional Monarch Kabaka Mutesa II who commanded support from the royalist Baganda, the largest ethnic group in Uganda.[10] In 1966, Obote tried to consolidate the power of the central government by ordering a military raid on the Kabaka's palace and driving the monarch into permanent exile in the United Kingdom.

However, the use of force intensified the ethnic cleavages in newly independent Uganda. In 1971 the army, led by Idi Amin, overthrew Obote's government. This marked the beginning of eight years of violent conflicts, fuelling ethnic hatred.[11] Idi Amin was overthrown in 1979 by a combined force made up of Tanzanian army officers and Ugandan exiles. Violent conflicts continued. The North has often been the military home base of armed insurgent groups and the battlefields of violent conflicts between the government army and the rebel militias, so that many civilians in the North have been surrounded by, witnessed, or experienced significant violence throughout their lives.

From 1981 to 1986, Uganda experienced a bloody civil war. The central government had been waging wars with a number of rebel groups including the National Resistance Army (NRA), a guerrilla movement launched in the 1980s and led by Yoweri Museveni. In 1985, General Tito Okello staged a coup and formed a short-lived government, which eventually collapsed in January 1986 after the military victory of the NRA.

After his troops took control of the country, Museveni instituted a no-party system ostensibly designed to reduce the ethnic tensions. His attempt failed, mainly because of his failure (or reluctance) to bring the Acholi from the North into the mainstream political system of the country. This failure to reach out to a key community in the North gave rise to a brutal civil war between the Lord's Resistance Army (LRA) – an insurgent group of Northerners – and government forces, which since 1987 has claimed the lives of tens of thousands of innocent people and displaced more than a million people. The conflict has reinforced the perceived disenfranchisement and marginalization of the Northerners, and deepened the economic inequality. The prolonged state of war suspended economic activities and deprived the North of development opportunities. The conflict in the North has now become one of Africa's longest-running conflicts between the government and a major ethnic group in the country. Although peace negotiations between the

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10   Uganda society is multi-cultural and diverse in many respects. There are many ethnic groups, languages and religious groups. The Baganda, the largest ethnic group, make up almost 17 percent of the population. They inhabit the area that was once the former Kingdom of Buganda in Southern Uganda. They are among the Southern Bantu-speaking ethnic groups, which are linguistically different from Northern ethnic groups. These Southerners benefited greatly under the British colonial system: they were economically better off and were considered more highly educated than the rest of the population since a disproportional number of them received Western education. As a result, a large number of colonial civil servants were Baganda. Northern Uganda is composed of areas from the West Nile on the Democratic Republic of Congo's border, the Acholi districts of Gulu, Kitgum, and Pader, and the Karamojo districts on the Kenyan border. The North is therefore perceived as marginalized citizenry, having little voice in the national government, which is dominated by the South.

11   The army composition, especially the key positions, was largely made up of ethnic groups from the homelands of the leaders. For example, Amin appointed northerners from his home district in the West Nile to the key positions in the Army. Okello's army was dominated by the Acholi. For more detail, see Barkan et al. 2004, 7.

Ugandan government and the LRA have gained momentum since 2005, the conflict in the North remains unresolved. In addition, the conflict in the North was not simply a civil war between the government and a major ethnic community from the North; the war has also given rise to disputes among the Acholi themselves.

(2) Political Institutions

Uganda is a presidential republic, with a directly elected President, a National Assembly (usually referred to as the 'Parliament'), and an independent judiciary. The current President Yoweri Museveni was elected in February 2006 to his third elected term in office, following the adoption in 2005 of a constitutional change allowing the President to serve more than two terms in office. Also in 2005, the constitution was changed to end the 19-year ban on political parties. Prior to this change, the country operated under the 'Movement' system, so called for the National Resistance Movement (NRM) which had been the dominant political organization for the past two decades. It is now the dominant political party in Parliament and the government. Under the earlier system, political parties were allowed to exist, but were not allowed to field candidates or campaign in elections. There are now representatives of six political parties, plus 37 legislators elected as 'independents,' serving in Parliament. Of a total of 319 legislators, a large majority (205) are affiliated with the NRM. The largest minority party is the Forum for Democratic Change (FDC), with 37 legislators.

The power of the Parliament vis-à-vis the executive has varied since the adoption of the 1995 Constitution. The first Parliament to serve after the new Constitution was adopted, the 6th Parliament, was characterized by the presence of a critical mass of 'reformers' who had a sincere interest in exercising the constitutionally-granted powers of Parliament and in expanding the role of Parliament in policy making. The 6th Parliament challenged President Museveni on a number of issues, in some cases thwarting his intentions. Key factors that contributed to the 6th Parliament's independence and relative strength vis-à-vis the executive included: (1) the Constitution's granting of new powers to the Parliament, and the willingness of legislators to exercise these powers; (2) the development of a committee system in Parliament; (3) an increase in the resources available to Parliament; and (4) a lack of party discipline under the Movement system, which allowed legislators to form issue-based coalitions to challenge the executive. This lack of party discipline also worked against Parliament, however, by allowing pro-government legislators to form their own extra-party coalitions. In addition, the financial demands of campaigns and constituent services coupled with the lack of resources available to Parliament (compared to the vastly greater resources of the executive) increased the need for legislators to rely on government patronage, thereby reducing the willingness of legislators to contradict the government (Kasfir and Twebaze 2006, 7-8).

The 7th Parliament included fewer 'reformers', and its power vis-à-vis the executive declined somewhat from the levels observed during the 6th Parliament. It remained more powerful, however, than the pre-1995 Constitution Parliaments had been. The 8th Parliament was elected in February 2006, at the same time that President Museveni was elected to a third term. The extent to which this Parliament exercises its powers to challenge the Executive and undertake its own policymaking activities remains to be seen.

(3) Political Dynamics Surrounding Land Issues in Northern Uganda

The issue of land throughout Uganda is contentious, and particularly contentious in the North. Recently there has been a plethora of donor publications asserting that conflicts over land must be addressed now before they threaten the fragile peace of the North. Donors are particularly interested in what Parliament can do to address potential land disputes in the North.

It is important to note that land is administered differently in the North than in the South. In the South the majority of land is individually owned through titles whereas in the North, most land is customarily owned. The 1998 Land

Act introduced certificates of customary ownership (CCO), which were designed to allow clan members to hold the land collectively, while also having legal proof of ownership. The Act called for the creation of community land associations to administer the land, and for the utilization of district land boards for resolving disputes that could not be resolved through traditional mechanisms. In reality very few CCOs have been issued due to the lack of local government capacity and community land boards and, more problematically, the lack of awareness on the part of the population of these alternative options to title land holding.

There are two main documents that address land policy in Uganda: The Land Sector Strategic Plan 2001-2011 (LSPP) and the Draft National Land Policy. The LSPP is the operational, institutional and financial framework for the implementation of sector wide reforms and land management including the implementation of the Land Act. The overall purpose of the draft national land policy is to create a permanent agenda for development and change in the land sector, provide guidance for land governance, create an integrating mechanism for all land related sectors and a framework for sustainable land use. In theory, both the LSPP and the national land policy aim to protect the interests of internally displaced person (IDPs) by acknowledging their vulnerable situation and extreme dependence on land, and by creating opportunities for devolution of land management to the community and district level. Conspicuously, both these documents fail to specify how traditional land administration systems will relate and work with the statutory mechanisms that are currently in place, such as the District Land Boards.

Despite the rhetoric of the Government of Uganda's insistence on protecting the land rights of minorities, there are high levels of distrust among Northern politicians and their constituents about the government's true motives. Many believe that the government's main interest is to use fertile Northern land for economic gain. Recent government actions have not helped dissuade this perception. In the recent past, the ruling government attempted to pass a constitutional amendment that would have allowed them to have rights to some of the land in the North. This further politicized the entire land issue as many Northerners felt this was the beginning of government efforts to 'grab' land for investment. Opposition leaders quickly rallied against this amendment and overwhelmingly won Parliamentary seats in the North by promising the people that they would not allow the government to take their land.

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Based on a number of interviews with legislators, it appears that there are two distinct camps of thought regarding land in the North. One, mainly supported by those in the NRM, believes that the North has been underdeveloped for so long that the land should be used for investment and economic growth. Conversely, opposition party members believe that the government should not interfere with land issues and that the clan members themselves can solve land disputes.

In reality, our inquiries with leaders of both parties show that there are a wide range of views which fall between these two politicized viewpoints. There are some in the opposition who feel that all land disputes can be handled by the clans. They state that based on their interactions with constituents, they feel that IDPs definitely know where their land is located and that the clan system is strong enough to handle disputes. They further add that even marginalized people (e.g. women without husbands or fatherless children) will be protected by the clan, and in fact may be better protected under the traditional land tenure system than they would be under a new legal system. Other opposition members feel that land disputes will arise and that the clan may not be able to handle them. They welcome the idea of CCOs, and feel that while land should continue to be customarily owned, the district land boards and traditional structures should be strengthened to handle land disputes. Some opposition leaders even support the idea that investing in land in the North is good for the people and state that they would like to see their people not lose ownership of the land, but become partners with investors to further develop the land to reap the fruits of profits.

There are those in the ruling party who also question why the government should be discussing issues of land at a time

when reconciliation and development should be the priority for the North. They also feel that land should continue to be owned customarily but processes should be developed to bring economic partnerships to the North. When interviewing legislators it becomes clear that there is room for collaboration on this issue but public politicization has made it difficult for politicians to voice their opinions publicly. More troubling is that neither the opposition nor the ruling party has one clear policy or ideology. Both sides of the debate support the idea that development, in the form of schools, health clinics, roads and economic growth, is crucially important and should be the priority of both sides of the political aisle in the upcoming parliamentary agenda.

Though there is ample rhetoric and passion surrounding the land debate, most parliamentarians do not know the specifics of the legislation that currently exists surrounding land. This lack of knowledge makes it difficult for politicians to give nuanced descriptions of what kinds of changes they would like to see in the law. One likely reason that most representatives do not know the details of the laws is that, due to a lack of resources, many of the laws are not being implemented in the North.

SECTION II: CLIENT ROLE AND OBJECTIVE

(1) USAID's role in strengthening the legislature

With regard to strengthening the legislature in Uganda, USAID has sponsored a number of training programs that were designed to enhance the efficiency and skill of legislatures and parliamentary staff in 'budget analysis, oversight of public accounts, health and social services analysis, reform of election laws, anti-corruption initiatives, and peace and reconciliation activities.' USAID has also helped civil society organizations to develop their advocacy skills and strategy and tactics in working with the Parliament, especially in promoting the bills that are important for solving both short-term and long-term problems of the country such as transparency, economic growth and HIV/AIDS and conflict resolution. In addition, USAID has helped the parliament to organize anti-HIV/AIDS, anti-corruption and peace campaigns. USAID has also supported the parliamentary budget office 'which provides financial analysis on budget proposals and bills introduced' (USAID 2006).

USAID has recently completed the Legislative Support Activity (LSA) Project in Uganda. Under LSA Project, USAID provided supports to the legislature in a number of activities such as Northern Uganda field visits; planning workshops for Government Assurances Committee, HIV/AIDS Committee, Local Governments Accounts Committee, Social Services Committee; parliamentary internship program. USAID also assisted the legislative body in organizing training and seminars, for example, a seminar on media skills for legislators and the Law on Defamation, a legislative drafting course through International Law Institute, training for committee clerks on effective support to committees, training for clerks on roles of clerks in multi-party parliaments, and encouraging the effective use of question time and parliamentary debate.

From a point of view of an aid agency, USAID believes that effective policy on land tenure could have an impact on post-conflict Uganda's environment, economic growth and post-war resettlement. For the IDPs who are resettling to their original villages, land is the most valuable (and in some cases the only) asset they have. Since most residents of Northern Uganda make their living in agriculture or livestock, they need access and rights to land. The peaceful resettlement of displaced people is impossible unless returning IDPs can secure access to their land to resume their livelihoods. It will be impossible to sustain the hard fought peace if people have to fight for access to their land. Since the Ugandan traditional rules and regulations might not be good enough to handle post-conflict land issues, the National Assembly should play a crucial role in creating new rules and institutions to govern post-conflict land issues.

(2) Objective

As the government has started to resettle the IDPs to their original land, land-related issues, especially issues regarding rights of access and use of land, will play an important role in peacebuilding and economic reconstruction. Because

land tenure in the North is governed by a complex traditional system, the land issue could become a source of new conflict in Northern Uganda. As generations of Northerners, especially in the Acholi region, have adopted customary land tenure, any efforts by the government to introduce a modern system of land tenure and land administration would likely be met with suspicion, potentially engendering a new conflict. The sensitivity of the land issues and the difference between the way the legislators from the North and those from other regions view land issues, as well as the difference among the Northern legislators themselves, are the topics to be examined in this report and incorporated into the recommendations for future assistance to the Parliament. The purpose of this study is to provide USAID with the recommendations as to the role the Ugandan Parliament could play in addressing land tenure issues in the North. USAID may use these recommendations in planning its upcoming legislative strengthening program.

SECTION III: RESEARCH PROCESS

A team of three graduate students from the Woodrow Wilson School of Public and International Affairs at Princeton University traveled to Uganda from October 27 through November 4, 2006 to conduct field research. Prior to arriving in the country, the team conducted a thorough review of the literature on the conflict in Northern Uganda, the Ugandan Parliament and land tenure in Uganda. Based on this research and on the scope of work prepared by USAID, the team prepared a standardized research instrument for use with a range of interviewees (see Section IV: Research Questionnaire).

The team worked with the Planning and Development Coordination Office (PDCO) of the Ugandan Parliament to set up individual meetings with 26 legislators. The researchers sought to interview a cross-section of legislators that included individuals from many parties, regions and special constituencies. In addition, the team focused on setting up interviews with leaders and members of key committees with an interest in the land tenure issue, including the Committees on Natural Resources; Local Government Accounts; Budget; Public Service and Local Government; Government Assurances; Commissions, Statutory Authorities and State Enterprises; Defense and Internal Affairs; and Gender, Labor, and Social Development. The team focused as well on interviewing legislators elected from districts in the North, which have been most affected by the conflict and where land tenure issues are expected to arise.

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In addition to legislators, the team arranged interviews with 2 representatives from the Government 7 representatives from civil society organizations (CSOs) and journalists. The researchers selected CSO representatives to contact by reviewing existing literature on the land tenure issue, and by soliciting recommendations from the PDCO, from legislators, and from each CSO representative interviewed. Two journalists were selected for interviews from a list of leaders and members of the Uganda Parliament Press Association that was provided by country staff at USAID.

Interviews were conducted over four days. Interviews with legislators generally took place in the Parliament building; some were conducted at the homes or other places of work of legislators. Interviews with journalists were conducted in person at the Parliament building or over the phone. Interviews with CSO representatives were conducted at the offices of those organizations.

Each interview ranged in length from thirty to ninety minutes. Researchers did not record the interviews, but took notes by hand. Researchers then prepared detailed transcripts of interviews at the end of each day.

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SECTION IV: FINDINGS

(1) Findings: Legislators and Parliament

Legislators themselves had a wide variety of ideas regarding what Parliament's role should be in resolving land issues in the North. This medley of ideas can be attributed to the fact that there are varying views on what the issues are and what the outcomes should be. Almost every Northern legislator stated that they were advocates for the people and it was their duty to gather the opinions of the population regarding what the people themselves wanted to do regarding land. They unanimously stated that it was their duty to protect the people's right to land. More concretely, legislators knew it was important to gather the opinions of their constituents before representing those views in Parliament, but the difficulty came in describing how exactly views could be gathered in a systematic manner. As one legislator stated:

> 'We had a European Union workshop and we were talking about the necessity with intense dialogue with the people. We need to challenge them with possibilities. We need to hold consultations and community dialogues. What would be useful would be a physical demonstration of the options. If one community decides to try the new system and is an example, others would see the example. The communities would like to see the life experience and not the theory and see how a system would benefit them.'

Opposition legislators also saw their role as pressuring the ruling party to make statements that will reassure people that the government is not interested in taking their land and to compensate Northerners for land that had been confiscated. More specific ideas included revisiting the Land Act of 1998 to make it practical and applicable and creating an independent commission which would distribute money for development and resettlement, thus by-passing local government channels. Another legislator suggested involving civil society in the process of mobilizing and informing society on the value of their land, how to use it and how to reap economic gains without losing the land. Most of the Northern legislators had ideas regarding what they wanted to see happen in regard to land but few concrete ideas on how they could make that possible. There was no agreement on one plan of action or series of steps that should be taken to address this issue in either the ruling party or the opposition.

Parliamentarians from both the ruling and opposition parties admitted that there is very little information sharing between those who understand the issues in the North and those who are not familiar with the issue. Legislators also noted that there is no substantial debate on land issues in the Parliament. Information from the constituency is discussed in regional caucuses and never forwarded to the national Parliament.

Some opposition leaders felt especially helpless to engage on the land issue, complaining that they felt their power to influence decisions in the Parliament was weak. Legislators in committees acknowledged that they mainly worked on the issues that were presented to them by the executive. Many legislators felt that though they would have liked Parliament to play a greater role in addressing land issues, the executive branch was the main actor in dictating the agenda. The main mechanism that Parliament felt they could use to take actions was the Committees. For instance, the Committee of Natural Resources Management would take action when the problem of the encroachment of gazetted land and public land such as national parks, forests or wetlands was presented to the Committee.

Despite these constraints, other legislators did feel that they had the ability to engage on land issues. Many Northern legislators felt that even though they were a minority they could be effective in gathering the views of their constituents and raising opposition to policies that would affect their constituents negatively. All parties were interested in the development of the North and how Parliament could be better involved in the planning process that many felt had been taken over by the executive.

(2) Findings: Legislators and CSOs

Although there are civil society organizations that are engaged in the land issues, only some legislators are aware of the existence of these CSOs. Most legislators we interviewed, especially legislators who are not from the North, do not receive regular and useful information from these CSOs on land issues. Some believe that CSOs are poorly run, politically motivated, and contribute little information to legislators. Only some re-elected legislators (second- or third-term) from the North could describe past successful collaborations with CSOs in drafting law and sensitizing citizens, including those in IDP camps.

Both legislators and CSOs acknowledge that the general public, especially those in the IDP camps, have not been educated on the matters of land rights and land administration. Legislators realize that CSOs have contacts and networks in local communities to disseminate information to the people effectively. However, they have not yet fully utilized what CSOs could offer. The interactions between legislators and CSOs are still limited. Most of the time, interactions between CSOs and legislators have been initiated by the CSOs. A CSO officer complained that legislators, when invited, often did not attend workshops that CSOs organized. Although legislators understood that civil society organizations could play a crucial role in educating the public on their land rights, many admitted that they have yet to work with civil society organizations closely.

Some CSOs feel powerless in dealing with the Government and the Parliament. According to some CSO staff, the Government views CSOs as a security threat. With the enactment of the new NGOs law, CSOs are required to register with the government annually. The registration process makes it difficult for CSOs to be truly independent and to criticize the government freely, because they depend on government approval for their right to operate. Moreover, the impact CSOs have on policies is minimal.

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(3) Findings: Media

Media coverage can help bring potentially explosive issues to the attention of legislators in a timely fashion, and can help disseminate information on the activities of legislators to their constituents. An effective media, then, can play an important role in increasing legislative accountability. The media can also contribute to civic education efforts by providing quality coverage of government and parliamentary procedures, activities, debates and decisions.

Evidence from our research indicates that the effectiveness of the media in Uganda could be improved. Though major newspapers and radio stations have reporters dedicated to covering parliamentary activities, they often face difficulties in obtaining timely information. According to legislators and journalists alike, there is a consistent lack of media savvy among legislators. Journalists complain that they are frequently viewed as the 'enemy' by legislators, and are excluded from covering meetings and debates about issues that are of crucial importance to constituents. Legislators rarely call press conferences to disseminate information. Parliament lacks a professional staff of experienced public relations officers, which would help coordinate communication between legislators and journalists, disseminate general information about parliamentary activities to journalists, and facilitate appropriate, effective media access to legislators and parliamentary staff and documents.

When asked about how they used the media to communicate with constituents, legislators focused almost exclusively on radio, noting that illiteracy is high and they do not depend on their constituents having regular access to print media. Many legislators mentioned that they participate regularly in radio shows to disseminate information to and gather feedback from constituents. Legislators seemed to have a high level of awareness of local radio stations in their districts, and most indicated that they believed the radio was the primary source of news information for their constituents. Few legislators made overtly negative comments about the print media, but none explicitly praised its coverage of Parliament.

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Journalists generally believe that the media provides adequate coverage of the conflict in the North, explaining that it is viewed as an important national issue worthy of 'front-page' coverage on an almost daily basis.

Journalists indicated that, like legislators, CSOs have a poor understanding of the role of media and do not generally use the media effectively. Journalists complain that they are rarely invited to cover meetings or conferences where CSOs discuss important policy issues, and that some CSOs are openly hostile to media coverage. They believe that if CSOs had a better understanding of the role of media (i.e. to disseminate information to the general public), they could better appreciate and utilize the media for their own benefit.

The observations of the CSOs themselves regarding the role of the media were similar to the observations made by legislators; that is, CSOs noted that most constituents get their news from the radio, and legislators frequently use the radio to disseminate information and collect feedback. CSOs did not indicate that the media played a significant role in civic education.

SECTION V: RECOMMENDATIONS

1. **Donors should help form an intersectoral working group led by legislators to monitor and facilitate the transfer of timely and accurate information to and from Parliament.** Legislators with a strong track record of good communication with constituents and local government should be approached to lead the group, and donors should work with these leaders to recruit other legislators, local government officials, civil society activists and community leaders to serve on the working group. The group would be tasked with devising strategies to improve communication between Parliament and local officials, legislators and their constituents, the local officials and the public. The group would also be expected to review the quality of information flows periodically and revise strategies as appropriate. Donors should help train the members of the working group in strategic planning and collaborative working skills, as group participants may lack experience in such intersectoral work groups, and productivity could be hampered by distrust, intra-group power struggles, or a lack of familiarity with strategic planning methods.

2. **Donors should work with international media experts to conduct periodic training for CSOs and legislators on effective coordination with the media.** Training should emphasize the role of the media in disseminating information and the importance of transparency in making this process effective. Information on print and radio media should be included in these training.

3. **Donors should assist Parliament in establishing a legislative media office within Parliament.** This office would provide ongoing media training and support to legislators to work with various media outlets, coordinate media access to legislators and parliamentary staff and documents and assist legislators in formulating their own media outreach strategies. Improving cooperation between legislators and media will improve citizen awareness of Parliamentary activity on important policy issues, including land policy.

4. **Recognizing that media can play an important role in civic education, donors should organize a task force made up of representatives from government, media and CSOs to develop a strategy for improving civic education through the media.** Such a strategy might include using focus groups of constituents to help determine the most effective methods for disseminating information about parliamentary or government activities. The strategy might also include conducting surveys to determine the most urgent gaps in civic awareness that must be filled in order for constituents to better engage with their representative government.

5. **Donors should assist Northern politicians in raising land issues with their constituents.** Donors should help legislators create forums where constituents can present their views on potential conflicts, solutions and opportunities for innovation regarding the customary land holding system. Such forums would also give legislators an opportunity to share their views with their constituents on different ideas that are being debated in Parliament regarding the issue of land. For example, donors could train legislators on how to hold successful 'town hall meetings' in their districts. Sponsoring regional tours, in which a number of legislators visit several districts together, might be a good way to ensure that a number of key Northern legislators hear from a greater number of constituents from across the region.

6. **Donors should help organize and facilitate meetings and/or conferences to bring politicians from all parts of Uganda together to discuss land issues.** Currently, the debate on land is limited to a small group of concerned legislators; most legislators are not well informed on the issue. There is a pressing need to better inform all legislators about land, and to develop specialized expertise among a subgroup of legislators who can then lead Parliamentary action on the land issue. For example, donors could support the creation of a special bi-partisan working group on land within Parliament, which could take on the task of reviewing the Land Act, assessing inadequacies in its content and implementation and advising the executive and their fellow legislators on recommended action.

SECTION VI: RESEARCH QUESTIONNAIRE

Questions surrounding information *acquisition* and *utilization*:

1. What do you consider are the most pressing issues facing people affected by the conflict in Northern Uganda that Parliament should address?
2. What current knowledge do you have regarding land issues in the North?
   a. How did you receive this information?
   b. How informed do you think Parliament is in general on this issue?
3. What role have civil society and experts played in informing Parliament about land issues?
   a. What mechanisms exist to promote the role of civil society and experts in the legislative process?
   b. What improvements could you suggest? What is preventing these improvements from taking place?
4. Can you please describe the process currently in place of getting information from the grassroots level (displaced people) regarding land issues? (this question might not be useful if the person feels there are no land issues)
   a. How can this process be improved?
   b. What is preventing these improvements from taking place?
5. Can you please describe the process by which information about land issues that is drawn from constituents and civil society affects debates and law making? What kinds of actions has Parliament taken as a result of receiving information about land issues?
   a. How can this process be improved?
   b. What is hindering these improvements from taking place?
6. What are the formal and informal avenues by which constituents can contact you?
   a. How often are these utilized?
   b. Who utilizes them? (cross section of the population or one particular class)
   c. What mechanisms do you think would be useful to gather information from your constituents that would appeal to a broad-section of society?
      i. In your opinion, why aren't these mechanisms in place?
   d. Do constituents ever offer suggestions for things that Parliament or you in particular as their legislator should do differently?

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7. Can you please describe the process by which national/local government shares information with parliamentarians?
   a. What can be done to enhance this process?
   b. What, if anything, is currently impeding this process?
   c. Do local governments ever offer suggestions for things that Parliament or you in particular as their legislator should do differently?
8. What is the level of information sharing between Parliamentarians?
   a. Are there formal avenues for information sharing?
   b. What suggestions do you have for improvement?
   c. What challenges hinder the implementation of these suggestions?
9. What has the legislature done or is planning to do to promote awareness among affected communities regarding land rights and property rights?
   a. Do you think local communities in Northern Uganda receive information about land rights from other sources besides Parliament?
10. In discussions about the land issue in Northern Uganda, have you heard discussions regarding eminent domain?
    a. What is the nature of these discussions?
    b. Who seems interested in eminent domain?
    c. What information do you have regarding the concept of eminent domain as described in the constitution?

11. Are you involved with any caucuses, groups, or committees that are addressing issues facing people of Northern Uganda, particularly land?
    a. What actions have these groupings taken?
    b. (For women Parliamentarians): What discussions has the Women's Caucus had regarding issues affecting female IDPs?

Questions focused on *outcomes* of parliamentary information acquisition:

12. What actions, if any, has the Parliament taken to date with regard to land issues?
13. What would be your ideal outcome in terms of Parliament's role in addressing land issues in the North?
    a. Do you believe the IDP Policy and Land Act are sufficient to guide future action on this issue?
    b. Are there particular policies you think should be enacted?
14. How do legislators evaluate expected impacts of their decisions? Is the output similar to or different from the inputs from constituents, experts, and civil society?

Questions focused on parliamentary role of *oversight*:

15. What is the level of Parliament's interaction with the Ministry of Water, Lands and Environment?
16. What actions has Parliament taken in response to decisions by the Ministry of Water, Lands and Environment?
    a. What actions has parliament planned to take and is planning to take?
17. How can the Parliament more effectively monitor the collection and use of revenues from the management and exploitation of natural resources?

ANNEX D: TABLE OF INTERVIEWS

Bolivia

Donor Representatives
- Alfonso Ferrufino, UNDP La Paz
- Franco Gamboa, UNDP Sucre
- Jaime Vargas, UNDP Santa Cruz
- Walter Guevara, USAID
- Luis Luna, USAID

Political Representatives
- Erica Brockman, former Senator, (MIR-Cochabamba)
- Hugo Carvajal, former President, Chamber of Deputies (MIR-Tarija)
- Oscar Ortiz, Senator, (PODEMOS-Santa Cruz)
- Roberto Pol, Constituent Assembly Member, (UN-Cochabamba)
- Maurice Paz, 2nd Vice President, Constituent Assembly (PODEMOS-Beni)
- Antonio Peredo, Senator, (MAS-La Paz)
- Fernando Messmer, Representative, Chamber of Deputies (PODEMOS-La Paz)
- Edmundo Novillo, President, Chamber of Deputies, (MAS-Cochabamba)
- Guillermo Richter, Constituent Assembly Member, (MNR-Beni)
- Oscar Uruenda, 2nd Vice President, Chamber of Deputies, (PODEMOS Santa Cruz)

Technical and Civil Society Representatives
- Fernando Aramayo, Technical Coordinator, Centro de Información Especializada de Apoyo a la Deliberación de la Asamblea Constituyente (CIEDAC)
- Martin Flores, Consejo Nacional de Ayllus y Markas del Qullasuyu (CONAMAQ)
- Armando de la Parra, Director, Fundación de Apoyo al Parlamento y a la Participación Ciudadana (FUNDAPAC)

Bosnia

Donor Representatives
- Amna Muharemovic, Public Administration Reform, Portfolio Manager, UNDP
- Marinko Sakic, Program Manager, Democracy Office, USAID
- Svjetlana Derajic Project Officer, USAID

Political Representatives
- Irham Ceco, Political Affairs Federation of BiH, OHR
- Slobodanka Desanic, Political Affairs, Republic of Srpska, OHR
- Sefik Dzaferovic, President of Parliamentary Assembly BiH House of Representatives 2002-2006, Secretary General of SDA
- Kate Fearon, Head of OHR Banja Luka, OHR
- Amra Imamovic, Political Affairs Federation of BiH, OHR
- Jozo Krizanovic, member of House of Representatives 2002-2006, reelected 2006-2010, member of SDP BiH party
- Zeljko Mirjanic, Dean, Banja Luka Law School, newly elected member of BiH, SNSD Executive Board member

Annex D

Bosnia
(continued)

Parliamentary Secretariats
- Sadko Djonko, Committee Secretary and Legal Section, BiH National Assembly
- Abid Kolasinac, Secretary General, Sarajevo cantonal parliament

Civil Society
- Marin Mrjda, Director, Center for Promotion of Civil Society

Constitutional Experts and Commentators
- Ahmed Zilic, Attorney, Legislative drafter and constitutional lawyer

Legislative Strengthening Program Implementers
- Robert Benjamin, Head of Europe Programs, National Democratic Institute
- Doina Ghimici, Parliamentary Support Programme Manager OSCE
- Niamh O'Connor, Country Director, National Democratic Institute
- Ulrich Steine, Senior Parliamentary Support Officer, OSCE
- Steven Tweedie, Parliamentary Program Director, National Democratic Institute
- Sonja Vojnovic, Program Coordinator Asia and Eastern Europe, Canadian Parliamentary Centre
- Vladimira Vucic, RS Parliamentary Program Director, National Democratic Institute,
- Trefor Williams, Director Democratization Department, OSCE

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Political Representatives
- Hon. Okori-Moe Janet Grace Akech, (NRM) District Representative from Abim and Vice Chair, Public Service and Local Government Committee
- Hon. Ssentongo Theopista Nabulya, (NRM) Workers Representative and Chair, Gender, Labor and Social Development Committee
- Hon. Namayanja Rose Nsereko, (NRM) Women's Representative from Nakaseke
- Hon. Aol Betty Ocan, (FDC) Women's Representative from Gulu
- Hon. Katuramu Hood Kiribedda, (NRM) People with Disabilities (PWD) Representative and Vice Chair, Gender, Labor and Social Development Committee
- Hon. Oyet Simon, (FDC) District Representative from Amuru
- Mr. Robert Kabushenga, Director of Uganda Media Center, Office of the President
- Hon. Ojok B'Leo, (Independent) District Representative from Amolatar (Kioga County)
- Hon. Atim Ogwal Cecilia, (Independent) Women's Representative from Dokolo
- Hon. Ringe Chan David, (UPC) District Representative from Nebbi (Padyere County) Vice Chair, Local Government Accounts Committee
- Hon. Geoffrey Ekanya, (FDC) District Representative from Tororo and Chair, Local Government Accounts Committee Hon. Kyetunda Muhindo Elijah, (NRM) District Representative from Kasese (Busongora County North)
- Hon. Arimpa Kigyagi John, (NRM) District Representative from Mbarara (Mbarara municipality) and Vice Chair, Natural Resources Committee
- Hon. Odit John, (UPC) District Representative from Lira (Erute County South) and Chair, Commissions, Statutory Authorities and State Enterprises Committee

Uganda
(continued)

- Hon. Wopuwa George William, (NRM) District Representative from Menafwa (Bubulo County West) and Chair, Public Service and Local Government Committee
- Hon. Ekwau Ibi Florence, (FDC) Women's Representative from Kaberamaido
- Beatrice Atim, (FDC) Women's Representative from Kitgum
- Hon. Akello Judith Franca, (FDC) Women's Representative from Pader
- Hon. Banyenzaki, Henry, (NRM) District Representative from Rubanda County West-Kabale and Vice Chair Budget Committee
- Hon. Dombo Emmanuel Lumala, (NRM) District Representative from Butaleja and Chairperson Natural Resource Committee
- Hon. Nyeko Ocula Michael, (FDC) District Representative from Amuru and Vice Chairperson Government Assurances Committee
- Hon. Ogenga Latigo Morris CD, (FDC) District Representative from Pader District and Leader of the Opposition in Parliament
- Hon. Okello-Okello J.L., (UPC) District Representative from Kitgum District
- Hon. William Okecho, (Independent) District Representative from Tororo and Chairperson Budget Committee
- Hon. Ronald Reagan Okumu, (FDC) District Representative from Gulu District
- Dr. Anokbonggo Willy Washington, (UPC) District Representative from Apac
- Hon. Nsubuga William, (NRM) District Representative from Mukono District and Chairperson Finance, Planning and Economic Development Committee

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Government
- Robert Kabushenga, Director of Uganda Media Center, Office of the President
- Hon. Wakikona David, Minister for Northern Uganda

Civil Society
- Judy Adoko, Land and Equity Movement of Uganda
- Joseph Oneka, Program Officer, Dept of Human Rights & Governance, Uganda Joint Christian Council
- Susan Atengo Wegoye, Parliamentary Liaison, Dept of Human Rights & Governance, Uganda Joint Christian Council
- Rose Mwebaza, Coordinator of the Uganda Land Alliance (ULA)
- Harriet Busigne, Legal Advisor, SNV (Netherland Development Organization)
- Mr. Onesmus, ACODE

Media Commentators
- Apollo Mubiru, Vice Chair, Uganda Parliamentary Press Association and New Vision reporter
- Milton Olupot, New Vision parliamentary reporter

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