STRENGTHENING DELIBERATIVE BODIES

LEGISLATIVE ENGAGEMENT REFERENCE PAPER

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"Success or failure is a function of whether the provider of assistance can establish and sustain a critical measure of trust with the key representatives of the recipient institution."

Joel Barkan

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Executive Summary

This paper is submitted in response to USAID Task Order AID-OAA-I-12-00005/AID-OAA-TO-15-000029, Technical Leadership in Legislative Strengthening, under the Strengthening Deliberative Bodies IQC. It provides research and analysis on selected themes of interest in the field of legislative strengthening. While the paper discusses four topics using comparative case studies to illustrate key issues arising under each topic, our analysis has been shaped and informed by SUNY/CID's quarter century of legislative development work encompassing over 50 projects in 31 countries.

The following case studies in legislative strengthening differ considerably but are similar in some important respects. All are drawn from activities which sought to fulfil the promise that legislatures hold for democratic governance as representative and law making institutions where diverse societal concerns are articulated and conflicts resolved through negotiation and compromise, and corruption and incompetence are reduced through oversight. All of these programs sought to build the capacity of legislatures to fulfill their promise and relied upon Members of Parliament (MPs) for action once they were so enabled.

These cases provide lessons at three levels. First, together they present the wide scope of feasible legislative programming activities as well as offering opportunities to examine some of the generic elements required for achieving results. Second, each topic area presents lessons about characteristic challenges and responses specific to that topic area (cross-sectoral programming; improving budget capacity; establishing accountability mechanisms; and responding to conflict.) Third, each separate case presents the particular lessons for programming in contexts defined by similar goal and challenges. A caveat: since all of these cases focus only on specific aspects of activities, the reader should be aware that these activities often delivered results in multiple areas and therefore the discussion does not cover what was achieved overall.

General Lessons: (1) Legislatures have proven to be versatile institutions offering entry points for programming in the four topic areas examined as well as offering the promise of adaptability to other purposes. (2) Legislative environments proved flexible in offering donors and their implementers diverse choices among partners appropriate for different purposes because they are more internally diverse and less hierarchical than the executive, and their division of labor into committees provides a focus for different civil society groups. (3) Successful legislative programs developed "social capital"— relationships of trust with participants— which meant that new tasks could be taken on with minimum transaction costs and in a short period of time. (4) Results in all the cases were co-produced and dependent upon partner cooperation and commitments that had to be created and maintained through a process of mutual adaptation rather than established once and for all. (5) And success is best conceptualized as existing on a continuum in which functioning systems should be considered as essential starting points for subsequent development.

Areas for Future Development: Two topics for future development were raised by our case findings: a theory of policy change and implementation where legislatures put selected problems on the national agenda and linked them to solutions from experts, popular concerns, and the power to pass laws and to influence their implementation; and the need for greater explication of optimal balance between the donor need to exercise control by precisely defining means and goals and the need for flexibility arising from the changing legislative environment in which implementation must take place. While beyond the scope of this report, our cases suggest paths for future development.

Topic 1. Cross-Sectoral Programming. Kenya STARCK helped to put climate change on the national political agenda by supporting efforts of motivated MPs, linking them with experts who could help connect problems with solutions, and facilitating a public engagement process. Uganda LINKAGES also linked Parliament to attentive publics in targeted issue areas, increasing parliamentary ability to deal with the selected topics and providing a means for incorporating public inputs into legislation. In Kenya and Uganda, legislatures have proven to be useful arenas through which to deliver greater policy focus and to push for policy area results because they offered *programming entry points* featuring: (1) *Responsiveness to mobilized constituencies*. As general purpose representative and law making institutions, legislative programming can be re-focused on different sectoral programming as societal needs and priorities change. (2) *Influence*. Their potential power made them arenas attractive to different sectoral actors seeking influence. (3) *Confluence*. Because they are officially situated between the public whom they represent and the executive through whom they act, they are the place where popular concerns and government action can come together.

Topic 2. Capacity Building in Budgeting. In Morocco and Afghanistan, considerable capacity building did occur in the targeted areas despite impediments. Capacity building inputs of training, technical assistance and other forms of support are effective tools for producing outputs in the form of increased knowledge and abilities to perform tasks. Outcomes brought about by the utilization of those capacities included more informed legislative participation and willingness to act on the basis of that knowledge. In neither Morocco nor Afghanistan were functioning budget offices sustainably created nor did the hoped-for aftermath of institutionalized and persistent legislative involvement in the budget develop. We draw the following lessons from this experience. (1) Budget involvement should be conceptualized as existing in continuum rather than as a goal that is either achieved or not according to binary indicators such as whether or not a budget office is formally established. (2) While the development literature and donor admonitions stress the importance of "political will" and "ownership," the actual commitment of legislative partners varies considerably in character and meaning; these cases provide insights into the sources of diversity, depth, variability and durability of partnerships.

Topic 3. Accountability in Bosnia and Herzegovina (BiH) and Bangladesh. Both of these programs achieved positive results in deeply divided societies. In BiH a productive partnership developed among the diverse memberships of the parliamentary budget and finance committees, the leadership of the audit institutions, and the attentive public (through civil society and the media). This assistance led to measureable improvements in audit results for government agencies, an internationally-recognized indicator of good governance. In party-polarized Bangladesh, improvements were made in the transparency of the budget process, in the expertise available to MPs, and in producing an increase in the use of parliamentary questioning to scrutinize government policies. The key lessons proved to be those of working below the partisan radar, focusing on areas where improvements are feasible by avoiding direct confrontation, emphasizing the technical rather than political and working toward the creation of functioning systems by disaggregating what would otherwise be an intractable problem.

Topic 4. Addressing Conflict in Kenya and Bolivia. These cases illustrate the fleetness of foot possible when effective legislative programs have to shift attention to an important new task in the face of changing circumstances. In Kenya and Bolivia existing legislative programs were quickly and successfully re-tasked to support conflict mitigation efforts. And by helping to channel conflict through representative arenas, these and other efforts helped to convert some of the more "winner take all aspects" of succession politics into legislative efforts where some reconciliation of differences was possible. Both cases involved executive succession, the consideration of laws on polarizing issues, and the preparation of frameworks for constitutional review to resolve historical grievances. A number of lessons can be drawn including: (1) Leadership succession issues tend to put legislatures temporarily in central positions as

normally dominant executives are either absent or their claim to positions in doubt. (2) Having a legislative development program in place when conflict erupts provides ready access for helpful post-conflict assistance. (3) In Kenya and Bolivia, the status and reputations of SUNY's activity leaders brought special advantages to USAID efforts: (a) each could draw on accumulated "social capital" because due to existing relationships with legislators, activity managers who could talk directly and quickly to many of the principals; (b) activity managers kept USAID abreast of what was going on in ways that were not available to donors just rushing in; (c) and their knowledge of the range and character of citizen groups informed decisions about which groups to include.

Introduction

This paper is submitted in response to USAID Task Order AID-OAA-I-12-00005/AID-OAA-TO-15-000029, Technical Leadership in Legislative Strengthening, under the Strengthening Deliberative Bodies IQC. It provides research and analysis on selected themes of interest in the field of legislative strengthening. While the paper discusses four topics using comparative case studies to illustrate key issues arising under each topic, our analysis has been shaped and informed by SUNY/CID's quarter century of legislative development work encompassing over 50 projects in 31 countries, supported by USAID, DFID, UNDP, the World Bank, and many others.

Nearly all political systems from authoritarian to democratic include some form of legislature to legitimate their rule, and whatever the actual state of legislative capacities, claims to legitimacy are based on presenting legislatures as institutions that represent the diversity of a nation, authorize laws and stand as partners with the executive in ruling the nation.   As an entry point for democracy assistance, legislatures offer several advantages: they start with a degree of formal legitimacy and status that makes them a natural partner; they are publicly visible and do most of their work in open session; their composition is more diverse than that of the executive; and Members have links to the larger society which can be strengthened to make the legislature more representative of the nation as a whole. Since the 1990s, USAID has targeted legislatures in systems that are democratizing, and dedicated significant resources to build legislative capacity and strengthen ties to the outside society.[1]

USAID and other donors have a fiduciary duty to use resources effectively and to justify their programs to their own governments. To accomplish this, USAID and other donors have increased efforts to measure the impact of their efforts on the quality of democracy and governance. While the names differ, many major donors have articulated assistance frameworks that explicitly link resource inputs to activity outputs and outcomes using specific indicators to document program impact on societies.[2]

The State University of New York Center for International Development (SUNY/CID) and other implementers of legislative programs are the living links between the assistance programs planned by USAID and the unique circumstances facing people in legislatures through whom outcomes and impacts are to be achieved. Thus implementers possess a unique vantage point from which to observe, learn, and draw lessons from experiences with variations in activity design, levels of ambition in goals, and the impact of differing political circumstances.

The following case studies differ considerably, but they are similar in some important respects. All activities are based on fulfilling the promise legislatures offer democracy as representative and law making institutions where societal conflicts are resolved through negotiation and compromise, laws improved, and where corruption and incompetence reduced through oversight. All of these activities used donor funds to build the capacity necessary for legislatures to fulfill their functional promise and relied upon motivated MPs to provide the necessary impetus to act. While it is a truism to note that all legislatures are political institutions, dealing with the politics of each place offers a variety of challenges and requires different strategies and tactics.

Lessons for Legislative Programming

1. **Versatility and flexibility**. Legislative programming offers a versatile entry point for efforts to improve governance in the host of topics explored by these cases: shaping the political agenda to

advance issues of common concern, advancing budget scrutiny, increasing financial accountability, and responding to conflict.

2. **Legislative environments offer greater diversity in partnership opportunities**. The selection of potential partners is often greater in legislatures because of their diversity and more dispersed powers than it is in more hierarchical executive arenas. Therefore, partnerships can be reconfigured as programming goals evolve and change.

3. **Successful legislative activities develop useful social capital**. Successful legislative activities develop social capital—in the form of relationships of trust with selected political leaders, and connections to civil society— that gives their leaders knowledge about the preferences, interests, and resources of those who shape the strategic environment of action in given areas. Once generated, this social capital allows activity leaders to take on new tasks to promote further development with minimal transaction costs and in a short period of time.

4. **Results are co-produced and partner commitments must be identified, aggregated, utilized and maintained**. In all of our cases, donor programs provided capacity and convening support, but it was up to partners to deliver the behaviors required to produce the desired results. They must desire the reform being sought. In most activities, partners' interests are to be determined by pre-program assessments and negotiations. However, as recent development thinking has pointed out, too rigid an adherence to plans based on pre-program analysis can limit the good that knowledge from action can bring. In many of the cases we observed the value of real time intelligence about developments in helping to tailor programs to actor needs and thereby increase their willingness to act in concert. These cases also illustrate that "ownership" and commitment are ongoing tasks requiring mutual adjustment rather than proscribed opportunities for involvement and consultation only at the outset.

5. **Success is on a continuum**. The standards for program success should be understood as existing on a continuum rather than the binary achievement of a pre-determined goal which itself often stands in as a surrogate for a higher-level outcome.[3] Joel Barkan wisely advised that the creation of sometimes small, functioning relationships is the pre-condition to achieving larger scale change. In the early stages of an activity, USAID should recognize and value discrete and incremental changes. Lindbom has pointed out that it is easier to get agreement on changes to fix discrete agreed upon problems than it is to challenge whole systems, a task that requires paying higher information costs and confronting more entrenched opponents.[4] Matt Andrews has recently reformulated such an adaptive approach under the term "problem driven iterative adaptation."[5] Early and discrete changes can be accomplished quickly, with limited resources; they can go "under the radar" or "work the interstices" and thereby avoid the political and institutional cleavage issues that frustrate larger scale change; and specific successes will spur the spread of innovation through demonstration effects. For many purposes integrated functioning relationships and improved practices are superior to the meeting of some commonly used benchmarks (such as establishing a budget office or critical statutory changes) because they are about changing and integrating behaviors rather than simply changing institutional structures, or specifying rules/laws intended to govern behavior.

Areas for Future Development

Taken together, the findings from the cases suggest two areas for future development: developing a theory of legislature-centered policy change and implementation; and determining appropriate levels of discretion in activity design and implementation. While our current data base of eight cases and space and time constraints do not permit an adequate exploration, we can describe the starting points for each area and suggest that they are worth following up on.

A Theory of Legislature-Centered Change

John Kingdon noted that laws are passed when three normally separate streams converge: a concern reaches the political agenda, is joined to solutions, and mobilizes enough popular support to be become law.[6] The implementation literature has found that laws are effectively put into practice when supportive constituencies remain attentive and mobilized after adoption.[7] In one way or another, these cases all involve efforts to change policies and behaviors using legislative arenas as convening points where politicians, experts, bureaucrats and citizens articulate varying preferences and focus on problems and solutions. The intermediary role of legislatures—existing between citizens and their government, determining which preferences become legal obligations, and holding the responsibility to determine what laws require and what the executive delivers—makes them a natural meeting point where the separate streams of problems, policies, and power can converge. After passage of laws, legislative oversight powers and committees that provide a venue for expressing citizen support make them useful institutions for maintaining the momentum necessary for successful implementation.

Our cases suggest some of the ways that components of policy change and implementation can be joined using legislative settings given focus by specific cross-sectoral issues: through issue-based mobilization as in Kenya STARCK, through a concern with better services as in Uganda LINKAGES, the design of post-conflict settlements as in Bolivia, and so on. In each case, the intermediary arena of the legislature provided a place to focus issue-based and donor-supported mobilization efforts and presentation of solution alternatives and link them with legislators with the motivation, capacity and power to act.

All this suggests that a more sustained and systematic consideration of legislatures as a critical convergence point would yield useful insights for programming.

Determining Appropriate Levels of Discretion in Program Design and Implementation

A second area suggested by our case findings for subsequent investigation is dealing with the question of how much discretion should be allotted to implementers in determining means and goals. This is an area where the evolution of donor program design with its highly specified goals and enumerated means is at odds with critiques found in the current development literature reflected in terms like Power's "tyranny of the log frame," or in Kleinfeld's charge that donors misconstrue their task as "building a railroad" when they should be tacking as in "sailing a boat."

The opposing positions are well known. Donors are concerned with keeping their funds from being diverted or dissipated and with producing results that are documented by hard as possible indicators and aggregable across programs.[8] Advocates of flexibility point out that activities must be implemented in highly fluid circumstances, using often uncertain technologies, while being held accountable to sometimes inappropriate measures. This parallels an earlier debate in the implementation literature between classical models that favored fidelity to initial plans and a competing understanding that mutual adaptation was a preferred approach.[9]

SUNY/CID does not offer general guidance on optimal mixes of specification and discretion. We can, however, offer some starting points for an exploration of discretion. We observed three general levels of discretion in project plans: when both goals and means are highly specified in the form of specific results indicators and particular target groups (as in the budget office in Morocco); where goals are specific and means left to determination during implementation (as in Kenya PSP); where both goals and means are

determined at the same time as implementation commences (in narrower instances within more specified programs as targets of opportunities emerged). In addition to project-specified sources of rigidity and flexibility, we saw the importance of the discretion provided by the USAID technical officers making decisions on the ground. These varied from "by the book" interpretations of what was required, to more flexible approaches in the form of broader interpretations of what was required and a willingness to amend awards in the face of changing circumstances.[10]

In order to determine optimal mixes and strategies for allotting discretion it would be necessary to have a wider range of cases selected for important variations in circumstances, features, and implementer behaviors. For now, however, we have identified some of the critical variables.

We now turn to the more specific lessons from each topic area and the particular lessons of each case.

Cases and Lessons

Topic 1: Cross-Sectoral Activities – Strengthening Adaptation & Resilience to Climate Change in Kenya (STARCK) and Uganda Strengthening Democratic Linkages in Uganda (LINKAGES)

USAID and other donors have recently targeted efforts to improve policy results in specific sectors (including health, education, climate change, and corruption). While these approaches have been advanced as alternatives to the institutional capacity building associated with previous activities, our cases indicate that this is a false dichotomy. Legislative work has proved to be an important tool for "energizing the political ecology" in important sectors and through these efforts help to lay down the conditions for sectoral policy change and improved governance.

Bringing the Streams Together: Cross-Sectoral Activities that Fulfill the Requirements of Political Action. Cross-sectoral activities offer a chance to apply an important insight of political science to the assistance process. *Policies are changed when a problem rises to the public agenda, when feasible solutions become available and are linked to the problems, and when those with power are sufficiently motivated to act.*[11] These elements typically operate independently of one another, in separate streams: people competing to shape an ever changing political agenda, experts fabricating and testing solutions, and competing politicians looking around for chances to advance their preferences by choosing from among multiple decision opportunities. The problem, then, was to bring out of this cacophony of shifting agendas, evolving solutions, and opportunistic politics, enough focus to sustain action. The assistance problem is helping to bring this about through the limited means of capacity building and supporting discussion opportunities.[12]

Energizing the Political Ecology. Cross-sectoral programs posit that political mobilizing depends on focusing the political agenda (the changing list of things that people with power are paying attention to at any moment) on problems that "energize" participants and get them to work together.[13] Potential exists in the abstract or remains dormant until it can join the passions of deeply felt interests, focusing through them on the prospect of change, and thereby disrupt existing patterns and hierarchies.

These programs can be conceptualized as efforts to "energize" a country's existing political ecology of politicians and experts (sometimes including those in the bureaucracy) and linking them with the public through civil society groups and other means. *The idea is to engage existing motivations while developing capacities to act and to orchestrate opportunities to work together by shaping the political agenda and stimulating interest through policy area focused activities.* Working together they have great potential to improve governmental performance. Legislatures can offer public and potentially powerful venues for airing diverse interests, executive agencies have expertise and the power to act and civil society can represent the passions and articulate the needs of citizens.

We noted above the potential of legislatures to be arenas for public debate due to: the adaptability of legislative agendas; their greater diversity and accessibility compared with executive arenas; their formal power to act; the media attention they command; and their promise to represent constituent preferences when voiced. In many countries, the potential described above remains unrealized because legislatures lack the capacity and Members lack the motivation to use the powers they do have.

Kenya STARCK

As with other countries around the world, Kenya is vulnerable to climate change. High-level engagement and effective policy development are necessary to mitigate the effects on human livelihoods, health, water resources, agricultural production and food security that are already being experienced. To address these challenges, the British Department for International Development (DFID) awarded a grant to SUNY/CID on August 24, 2011 to implement a two-year initiative with the Kenya National Assembly entitled Strengthening Adaptation and Resilience to Climate Change in Kenya (STARCK).

Kenya STARCK was designed to use the visibility, accessibility and law making power of Parliament to focus public and governmental attention on climate change and to explore responses to it. The attractiveness of this approach to DIFD's climate change team was that they had a partner already working with Parliament in the generic area of increasing citizen participation in lawmaking. DFID elected to fund this small pilot in 2011 as the impacts of climate change were being felt across the continent and in particular in almost all areas of Kenya.[14] DFID allocated an additional 300,000 GBP to the Parliamentary Strengthening Program (PSP), a project co-funded by DFID and USAID, which was able to quickly mobilize a climate change network by building on pre-existing relationships.

DFID funds and SUNY/CID management supported further development of legislative environmental groups—caucuses and committees—and worked through and with them to build capacity and support climate focused events that brought together MPs, experts and the public. These, in turn, helped to produce and mobilize support for climate change related legislation.

At the time, there was a loosely affiliated network within the Kenya National Assembly called the Parliamentary Network for Renewable Energy and Climate Change (PANERECC). PSP worked initially with PANERECC and later extended its interventions to the Lands and Natural Resources Committee, KEWOPA, individual Members, and with the Parliamentary Budget Office, Research Department and the Office of Legal Counsel as this more comprehensive approach was necessary in order to (1) increase debate in Parliament on climate change; (2) build the necessary capacity within Parliament (Members and Staff) to craft legislation; and (3) build the linkages between Parliament, communities affected by climate change and related civil society advocacy networks. The Ministry of Environment and Mineral Resources played a more passive part and did not take the lead either in drafting the legislation or in soliciting public input.

Significant drafting of the two bills, the Climate Change Bill and the National Drought Management Authority Bill, came after the 2010 Constitution promulgation. The Constitution called for public participation in both the deliberative and budget-making processes of the legislature and MPs were assisted in consultation by project support. Bolstered by their growing network of affiliated partners and invigorated Members, KEWOPA held a series of climate focused forums around the country which brought together over 600 participants (which in terms of public participation immediately following the 2010 Constitution was quite high) and garnered comprehensive assessments of the disaster profile and relevant climate change issues affecting the various regions in the country. Together with this knowledge and the climate change experts, Members of KEWOPA as well of Members of the Lands Committee were able to introduce more debate in Parliament on climate related matters. The first months of the program (February –April 2012) only nine mentions were made in parliamentary debate on matters touching upon the climate, climate change, mitigation, etc. During the ensuing period of the program (through April 2013) 176 mentions we made in plenary or committees regarding the draft bills (mentioned above) climate change and climate related issues.[15]

The process of drafting the Climate Change Bill was intense and included the subjection of the penultimate draft to stakeholders at a workshop held in March 2012. Championed by the Departmental Committee on Lands and Natural Resources, in collaboration with PANERECC, the workshop was further aimed at supporting the private members bill initiative on climate change legislation for Kenya. Members at the workshop were able to comprehend climate change and there was intake of stakeholders' views by the drafting team. This led to an improvement of the Bill in readiness for publication and tabling in the House. Furthermore working with the Research Department in Parliament and with the climate change experts that the STARCK Project was able to second to Parliament, a Climate Change Digest was also published for Members.

The Climate Change Bill, Bill No.27 of 2012, was passed by Parliament. It, however, failed to get the necessary presidential assent for it to become law (one reason it was sent back by the president was *in*adequate public participation). As a result, in February 2013, the project provided further technical support to a network of civil society partners to deliberate on the presidential refusal and strategies on the next course of action. The meeting was instrumental in assisting the different strategic partners and stakeholders who had been part of the development and championing of the Bill, to understand its current status and to decide on options to forward the bill. In particular, it was agreed that the process of taking the Bill through Parliament would commence again with the 11th Parliament but with a smaller scale of public participation focused mainly on the concerned parliamentary committee conducting open public hearings and receiving memorandums. It was also agreed that it would be important to support Parliament work with the Ministry in championing climate change related legislation.

The Bill again was introduced in the 11th Parliament and was passed the National Assembly. At the time of this writing it is currently in the Senate.

Lessons Learned

Legislatures are not necessarily the problem. Legislatures, with systems of committees and debates and the need for group consent, are often viewed by development practitioners as obstacles to progress when compared to the executive. However, when properly supported and motivated, legislatures can engage and advance controversial issues more rapidly than a resistant executive.

Social capital is critical for rapid engagement. SUNY/CID's ability to implement STARCK so quickly was because of its long history of prior support for the Kenya parliament and the many strong relationships built up between project staff and parliamentary leadership.

Uganda LINKAGES

USAID/Strengthening Democratic Linkages in Uganda (LINKAGES) was a "hybrid" activity that sought to use Parliament's place in horizontal and vertical structures to link, energize and direct government efforts to areas of popular concern. SUNY/CID implemented LINKAGES between June 2007 and September 2011 at a final cost of $8,022,431. The goal was to connect government national and subnational structures with CSOs in order to foster bottom up planning and policy making, and to improve service delivery in multiple sectors including health (HIV/AIDs) and resource allocation (land policy reform). The Kingdom of the Netherlands provided additional funding for police reform.

LINKAGES was a complex, ground-breaking program which embodied a systems approach to democratic strengthening. It incorporated components addressing the national Parliament, local

government agencies and subnational deliberative bodies as well as civil society organizations in an integrated program to strengthen those institutions internally and, simultaneously, improve their respective outputs in terms of both policy formation and the distribution of goods and services. LINKAGES was a "hybrid" program in many senses: its three components encompassed both supply and demand elements; its target was both internal improvements within government institutions and citizen organizations and their tangible outputs; it addressed governance and public participation at the national as well as the grassroots level; and it sought to have an impact on multiple sectors – governance, health (HIV/AIDS and family planning policies), economic growth and public financial management (local revenue generation), conflict resolution and reconciliation (Northern Uganda), resource management (Land Reform), and public security (Police Review). In terms of the parliamentary component of the program, perhaps the single most important innovation of LINKAGES was its emphasis on working through the institution to improve governance rather than in it to increase its internal capacity.

To a great degree, earlier parliamentary programs operated on the assumption that supply side strengthening was a necessary preliminary to enable response to demand. *The LINKAGES project was among the first to test the hypothesis that external demand would give impetus to internal capacity development*. Also implicit was the assumption that most if not all politics is indeed local and that working from the bottom up in policy planning and implementation oversight is the most effective route to sustainable results. *Thus the focus of the parliamentary component was on increasing the vertical linkages between the national Parliament and the lower levels of government.* Primarily working through committees and issue-based caucuses, LINKAGES supported workshops, public hearings, policy fora and oversight visits to enable national level elected officials to understand and respond to citizen and local government needs through policy changes and/or executive oversight actions in a number of initiatives in various sectors. LINKAGES also strengthened the capacity of local councils to perform their legislative, representational and oversight roles. Local government entities were encouraged to increase citizen participation through Harmonized Participatory Development Planning[16] and improve service delivery through improvements in efficiency and increased local revenue generation and collection. Local level CSOs were offered assistance in order to improve their advocacy skills and, equally important, encouraged to develop horizontal and vertical linkages to enhance their voice and extend their reach from the local to the regional and national level.

LINKAGES increased Parliament's visibility and exposure at the district level and strengthened the knowledge and skills of Members of Parliament and parliamentary staff. Through workshops and field visits, LINKAGES built the capacity of several parliamentary committees and caucuses to respond to citizen needs through policy changes or executive oversight actions. This is amply evidenced by the increased parliamentary understanding, oversight and engagement around the Peace Recovery and Development Plan (PRDP) for Northern Uganda. LINKAGES provided technical assistance for the development of a new parliamentary communication strategy, stressing interactive communication loops that include inputs and feedback from stakeholders. The CSO inputs influenced target policies. For example, according to the Uganda Land Alliance chief executive, the Land Act Amendment Bill was significantly changed to incorporate 80% of the inputs coming from the coalition efforts; and then taken out for further consultations after the committee received civil society inputs suggesting high level of discontent and concern over key provisions in the original proposal. There was a notable shift in perception of CSOs from indifference and mistrust to respect and collaboration. Both Parliament and local governments have affirmed that they now view civil society as a valuable resource, and CSOs have reported a growing openness to their inputs within LINKAGES' target local governments.

Lessons Learned

Systems-based approaches can work. The LINKAGES experience and the results produced support the assumptions that broader, systems based approaches that address policy and performance in multiple sectors are effective. Expanding the scope of the participants to specifically include regulatory and service sector ministry officials could further enhance the design of such programs.

Proximity demonstration effect. Although the method of selection for the Program's target districts was participatory and methodologically sound (based on criteria that took into consideration the history and current performance of each district), it resulted in a set of districts that were too distant and diverse to allow for regional interest-based efforts in Parliament or for CSO coalition efforts to address regional needs to form or be fostered. Future programming would benefit from greater consideration of the geographical position of the target districts so as to enhance the demonstration effect of the program and increase potential synergies.

Need to build MP awareness of their responsibilities in constituencies. In party list electoral systems MPs are often detached from the constituencies they represent. In addition to work with committees and caucuses, future programs should support training for MPs on their roles and responsibilities as ex-officio members of their district councils (where these responsibilities exist), on communications with their constituencies, and on effective advocacy for their district's needs at the national level.

Comparative Analysis

Program Successes: In both cases, sectoral programming did energize their respective political environments by helping put these issues on the political agenda, and assisting MPs, experts, civil society and other elements of the public to cooperate to achieve desired results. Kenya STARCK helped to put climate change on the national political agenda by supporting efforts of motivated MPs, linking them with experts who could connect problems with solutions, and facilitating a public engagement process. The result was that climate change climbed on to the legislative agenda despite indifference and sometimes resistance from the Executive Branch, caucuses and committees became arenas for informed discussion and action and the public was given the opportunity to become engaged. Although the legislation that passed as a result failed due to executive vetoes, efforts continue in the area. Uganda LINKAGES succeeded in linking Parliament to attentive publics in targeted issue areas, increasing Parliament's ability to deal with the selected topics and providing a means for incorporating public inputs into legislation.

Program Design Lessons--Responsiveness, Influence, and Confluence: While each program had other successes and provided other particular lessons, we note three important lessons about program design from these cases. In Kenya and Uganda, legislatures have proven to be useful arenas through which to deliver greater policy focus and to push for policy area results because they provide *a programming entry point* that offers: (1) *Responsiveness*. As general purpose representative and law making institutions, legislative programming can be re-focused on different sectoral programming as societal needs and priorities change. (2) *Influence*. Their potential power makes them arenas in which different sectoral actors (specialized civil society groups, experts, and responsible bureaucrats) seek to influence. As apex representative institutions—with law making and oversight powers—they offer the space where sector initiatives can be debated, governmental performance examined, and problems linked to solutions in the form of proposals to change laws. (3) *Confluence*. Because they are officially situated between the public whom they represent and the executive through whom they act, they are the place where popular concerns and government action can come together. As such, they can be used to link the attentive public with government as in Kenya or actors at different levels of government as in Uganda.

Topic 2: Institutional Capacity and Parliamentary Administration – Afghanistan Parliamentary Assistance Program (APAP) and Morocco Parliament Support Project (MPSP)

Parliaments are institutions that require human and material resources to function and exist in institutional relationships defined by law and politics. Our two contrasting cases explore the capacity building problems faced by two bicameral legislatures in very different circumstances: Afghanistan presenting a conflict-torn, assistance-inflated environment and Morocco a legislature constrained by entrenched but slowly shifting political interests, a rigid parliamentary administration, and extremely cautious leadership.

There were some programmatic and contextual similarities. USAID dedicated funds to capacity building for Members and staff with a variety of goals including improving the effectiveness of committees and the budget process, involving the populace by greater transparency and strengthening ties with civil society, and in general developing Parliament into a more stable and productive institution. Afghanistan's Parliament was newly reintroduced in 2005 after a 30 year hiatus. And although Morocco boasts a long parliamentary tradition since 1965, as does Afghanistan, in many respects it lacked the combination of staff support, procedures and practices that characterize many more developed Parliaments.[17]

In this section we focus our attention on comparing developments in the budget area.

APAP and Capacity Development: Focusing on the Budget Process

The Afghanistan Parliamentary Assistance Project was implemented by SUNY/CID under a series of awards and contracts from 2004 through 2013 to support the development of the Afghan National Assembly with a total ceiling of $44 million dollars. The National Assembly, a bicameral legislature, is composed of a lower or People's House – the Wolesi Jirga (WJ) and an upper house – the Meshrano Jirga (MJ). While the activity was designed to support all aspects of legislative operations (law making, oversight, budget, representation/outreach and institutional capacity) it also provided supported for the improved budget processes.

Implementation of the Afghanistan Parliamentary Assistance Project can best be understood as falling within three major stages: the initial organizational stage (2004-2006); a second general support phase (2007-2009); and a significant period of increased interventions (2010-2013). One of the unique features of APAP is that it started work prior to the establishment of what was, for all intents and purposes, a brand new institution. The prior Wolesi Jirga had been dissolved over 30 years previously in 1973. Thus, the first phase worked with the administration to lay the groundwork for the future National Assembly and support its opening following the elections of 2005. It assisted in human resource development and recruitment, provided new staff training, helped the administration adopt an effective table of organization and, once formed, helped the NA to adopt its initial rules of procedure. In phase two, the activities become more robust in light of the presence of a functioning NA and, at this stage, the program was consciously structured to focus on the three key legislative functions: legislation; oversight (including budget); and representation and outreach. APAP provided further training for members and staff on their various roles and responsibilities. Finally, in phase three, the project dramatically increased its programming efforts to attempt to reach a wider constituency within the Parliament and throughout society. Moreover, it established the Afghan Parliamentary Institute, subsequently recognized as a national education institution, to provide an ongoing program of professional training

While each area of support was reasonably successful, a significant increase in funding in phase three led to a change in implementation strategy and a focus on the budget process that promoted significant improvement in the NAs practices.

Afghanistan is a so-called post-conflict, fragile state, struggling to assert governmental control across the nation. The National Assembly was reintroduced in 2005 after an absence of approximately 30 years. The first task for APAP starting in 2004 was assisting the planning committee in developing the organizational systems, structures and procedures, along with the actual facilities necessary to support the Parliament, as elected in 2005.

APAP was designed as a standard legislative support project, providing technical support and training to members and staffs and providing some material support for the development of resources (e.g., research materials, computers, etc.). As the project evolved, CID made two adjustments: establishment of the Afghanistan Parliamentary Institute as an institutional training facility within the National Assembly to provide ongoing training in light of staff turnover, and an enhanced level of program staff support allowed by a dramatic increase in the project's funding.

APAP's support for the budget process was particularly dramatic. Enhanced support for the budget was introduced not only because budget is a key legislative function but also because the NA itself had demonstrated significant interest. The NA had rejected every budget submitted to it (unusual in a developing Parliament which is normally more subservient to the Executive), though its reasons for doing so were often unclear and rested on questionable analysis.

APAP had always provided budget process support and intended to create a budget office. Initial budget support efforts had been to provide training for budget support staff (both trainings and mentoring) with limited success due to the limited abilities of the staff and the inability of the NA to recruit and retain more talented and educated staff. Starting in 2009, project staff began the somewhat controversial practice of providing direct technical support to the MPs (briefings, background papers, engagement with the Ministry of Finance, etc.) rather than working indirectly via support and training solely for staff. This was done for three reasons. First, the limited capacity of the staff was hindering the development of the MPs and the commissions responsible for budget oversight. The MPs were demanding direct support. Second, making the budget commissions more effective promoted reforms within the executive to meet the demands of the National Assembly. For example, a legislature is largely dependent upon the executive to provide essential data related to the budget in a form useable by the budget commissions in their review of the budget. APAP's empowering the MPs of the commissions in turn led to reforms in the Ministry of Finance in its submissions to the National Assembly. Finally, it had always been an aim of the project to encourage the National Assembly to establish a budget office. This was discussed repeatedly with NA leadership, who were in general agreement with the idea. It was hoped that demonstrating the value of competent staff type support would promote demand among the MPs for budget and staffing reforms so that the National Assembly would assume responsibility for APAP staff as the core staff for a new budget office.

The immediate outputs of the project were that budget staff continued to receive training and the ability and expertise of the budget commission members increased. As noted by Mr. Ahmad Sadiq Osmani, Chairman of the Budget Committee (WJ) during the 1st Parliament, "I remember we were only 2 or 3 MPs who were interested in and put in some time to look at the draft budgets for 1385 and 1386 sent by the Ministry of Finance (MOF). But we were not experts in financial matters and had to rely on information sent by MOF and we did not have skills analyze it. After APAP started, its support to budget committee and other committees, the whole process has become interesting and we were able to analyze and conduct meetings with MOF and other ministries." (Project records.) Moreover, the number of MPs

receiving briefings on the budget increased to include not only the members of the budget commissions, but also 10 other commissions who sought briefings on how the budget affected their areas of interest.

APAP contributed to significant improvements in parliamentary practice as measured by the common F indicators. First, the number of proposed amendments substantially increased (3 in 2008 to 18 in 2011) and the quality of the reasons given increased in both number (11 in 2010 to 26 in 2011) in quality according to staff analysis.

Activity/outcomes	1387 (2008)	1388 (2009)	1389 (2010)	1390 (2011)
Number of committees supported	2	3	7	12
Number of presentations made	6	9	11	31
Number of public officials invited to budget committee	9	21	35	55
Number of reasons for rejecting draft budget	..	..	11	26
Number of amendments made to budget	3	7	9	18

Second, based on what they learned about the budget and their successes related to the budget enactment process, the NA expanded its attention over budget to include both a review of the national accounting of budget expenditures (the Qatia Report) and in providing detailed review of budget execution through the formation of a Public Accounts Subcommittee as a part of the Budget Commission. In May 2009, the Budget Committee used this support to conduct five oversight hearings with five key ministries. Other committees joined in this practice. This was rapidly adopted by the sectoral committees increasing the total oversight actions from 11 in 2009 to 62 in 2012. One interesting procedural change arising out of the expanded support was that a significant number of joint committee meetings were held starting in 2010 and 2011. Third, the success achieved by the commissions involved with the budget process created a "demand dynamic" in which the MPs sought assistance to support their other legislative functions (particularly oversight) outside of the realm of the budget process.[18]

Figure 1 Areas of Oversight (FY 2012)
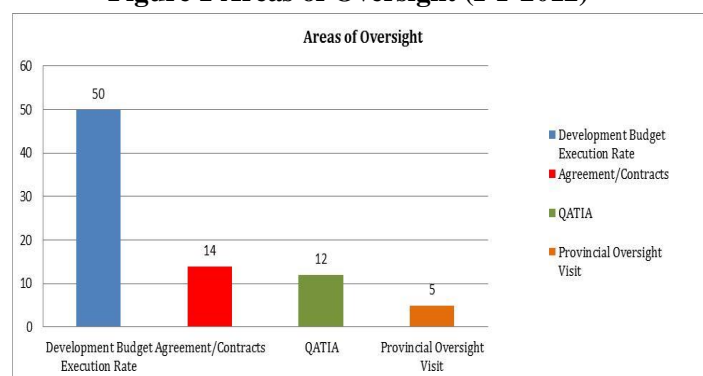
Longer term impacts of APAP are difficult to measure. The most obvious failure is that the National Assembly has yet to establish a Budget Office and remains dependent upon the support of the follow-on USAID-funded project (ALBA) which provides similar support for all aspects of the Parliament as provided by APAP (law making, budget, oversight) using similar support activities (e.g., API, commission support units, project staff briefings and direct support, support for oversight field trips, etc.) Nonetheless, while continuing to receive support, according to the 2015 Mid-Term Evaluation of ALBA, staff capacity remains weak.

Nonetheless, the intervention did result in substantive structural reforms that appear more long lasting. In response to negotiations between APAP and the NA with the Ministry of Finance, the MOF dramatically

improved the quality and quantity of information provided to the Parliament with the budget. Over the four years from 2007 through 2011, the size of the budget documentation tripled with more detailed project and program information, improved budget classification and narratives. It encouraged the government to be more transparent and explicit in its budgeting. Prior to 2010, around 20-30 percent of the total operating budget was identified as special "emergency" funds directly controlled by the MOF and used at the discretion of the Presidential Palace. With the NA demanding that this be reduced to less than 10% by 2011 draft budget, these special emergency funds declined to 9.9 percent of the operating budget. Budget transparency was so dramatic that under the international Open Budget Index, Afghanistan went from a score of eight in 2008, to 21 in 2010 to 59 in 2012 (when it tied with Poland.)[19] (In 2015 the OBI score fell back to 43 and the rating of the strength of the legislature's oversight fell from a ranking of moderate to weak. Given the continuance of USAID assistance by another implementer, this fall is difficult to explain.)

Lessons Learned

Financial autonomy and capacity remains crucial: The NA remains severely limited by the fact that it does not control its own budget and cannot recruit or retain high quality budget staff. As demonstrated in SUNY/CID's support for the Kenya Parliament, which facilitated a Parliamentary Budget Office and a system that integrated budget analysis into the legislative process well after Parliament had established control of its own budget and staff, financial and recruitment autonomy can be decisive.[20]

Direct support can promote rapid institutional development – though it may not be sustainable. The choice of providing direct technical support to MPs versus working only with staff is controversial. Admittedly, without staff development, the change may not be sustainable – but in order to jump start reform, promote the development of the MPs and to better establish the legislature as a co-equal branch of government, direct support can offer significant benefits (as noted with approve in the Democracy International Final Evaluation Report.[21])

Institutional conflicts and competition must be considered: Conflicts between the MJ and WJ mean they are unwilling to cooperate in any effort to establish a joint budget office.

Donor programming can inhibit development. It must also be noted that the aid environment may have also contributed to the problems of sustainable reform. With limited resources available to the National Assembly leadership and an expectation that USAID would continue to provide support via a follow on project (as was the case), the expectation of a follow on project may have contributed to the National Assembly's failure to establish a budget office; they did not think it necessary because USAID would provide those services instead.

Morocco Parliamentary Support Project

USAID awarded the Morocco Parliamentary Support Project (PSP) to the SUNY/CID in October 2004. The Project continued through September 30, 2009 with a total ceiling price of USD 6.78 million. The Project's four objectives included: strengthening parliamentary committees; developing specialized budget expertise within Parliament; strengthening advocacy efforts before Parliament, and a fourth area, adopted in 2006, support for cross-cutting activities.[22]

In 2004, Morocco was a gradually liberalizing monarchy with a bicameral Parliament consisting of a directly elected 325 member lower House of Representatives and a 270 seat upper Chamber of Advisors,

indirectly elected by an electoral college. Parliament could be dissolved at the will of the King who presided over all branches of government. The King also led a vast network of informal economic and political interests, balancing competing interests through patronage and privilege, while at the same time, encouraging some forms of political liberalization. Each legislative chamber had its own administration which was tightly controlled by the administrative and political leadership.

The project was explicitly designed to enhance Parliament's three main functions through support to committees, budget oversight, and CSO advocacy and was to be evaluated on intermediate result indicators in each area.[23] SUNY/CID commissioned independent research, resulting in over 100 briefings. Workshops, orientations for MPs and Staff, and dozens of manuals and reports were prepared to improve internal administration, bi-cameral coordination, committee management, advocacy and budget analysis. PSP approaches connected both houses with independent experts, think tanks CSOs, citizens, and ministries, the audit court, and with international institutions. Advocacy activities developed CSO skills, and via small grants, linked the resulting coalitions to MPs and committees, culminating in the successful passage of specific bills and amendments by human rights and NGO interest groups. Cross-cutting support aimed to enhance the Parliament's legislative efficiency and transparency through ICT and equipment provision, most notably by procuring and training staff on using verbal transcription equipment, which to this day is still utilized by Parliament to produce real time and public records of parliamentary debates.

A USAID external evaluation found that the project was hampered by a design that had not adequately integrated legislative preferences nor planned for the specific problems posed by the Morocco context.[24] (The project was carried out by USAID and PSP according to the initial design that specifically focused on creating a budget office. MPs, for their part, favored creating a more general purpose research operation.) The legislative role in budgeting was constrained by Constitutional and legal boundaries. MPs could neither increase expenditures nor decrease resources, and legislative consideration of the budget was squeezed into a 6 week window. Parliament had few staff with budget expertise and no access to independent information about the budget and expenditures. Program design assumed that training combined with the set-up of a parliamentary budget analysis office (Bureau d'Analyse du Budget–BAB) would aid budget and oversight capacity.

The PSP adopted a multi-faceted approach to develop budget capacity. It assisted Parliament to develop mechanisms to oversee how public monies are spent that do not exceed the boundaries set forth in the Constitution or the Organic Law of Finance, PSP actively pursued set-up of a BAB, developing the administrative structure and organizational chart, job descriptions, glossary, first year work plan and Internal BAB Rules. The BAB was formally inaugurated in 2007.

Unfortunately, PSP was unable to secure needed human resources reforms and funds to support a permanent staff, and by the end of the Project's final year BAB was still functioning with externally hired and paid consultants. In 2009, the BAB Director was nominated to be the Secretary General of the Upper House. Ultimately the BAB staff were re-absorbed into their original jobs and the unit was not sustained. Nonetheless an external evaluation of PSP noted that the project had visible and often quantifiable impacts on staff skills, on budget making and executive oversight.[25] The 42 budget related trainings were well attended, and parliamentary leaders and staff recognized improved skills and the Secretary General confirmed that 68 staff members

> "At the beginning of the project it was very difficult to find a CSO that trusts the Parliament. Now, the advocacy processes in place reflect trust between both parts. New CSOs' advocacy processes take place each session and this widely reflected in the national media. By the constitution of Morocco, CSOs can present draft legislation to Parliament and by the internal rules, the committee can organize hearings including CSOs."
> Former COP, currently EU Team leader for Parliamentary Support Jordan (Ahmed Jazouli), July 2015

had been given new budget responsibilities, 66 of which had been trained in at least three project budget workshops. PSP improved MP access to budget information. BAB's 35 reports were in high demand and were recognized by MPs as a reliable source of budgetary and fiscal information and sound analysis. Technical advice to the Finance Committees and briefings on the annual state budgets resulted in more informed debate and amendments. Support to reform the Organic Law of Finance led MPs to initiate a bill to give Parliament greater oversight of the budget implementation process. Project assistance and CSO advocacy also led to the adoption of the "Open Budget Approach," which increased the amount of time Parliament has to discuss and ratify the annual budget from 70 days to six months.

Budget analysis statistics and project indicators visibly improved during the lifetime of the Project. The October budget session was cited as the 'World Cup' of parliamentary activities, with MP amendments adopted into the budget bill increasing by 3.5 times their level at the Project's onset. By 2009 the number of committee initiatives aimed at oversight of the Government's budget had also tripled. Budget expenditure oversight increased as Parliament held more investigations using tools provided by the PSP. Parliament's scope for budget analysis increased significantly with outside consultation and longer time for intervention in the Government's budget making cycle.

Overall by the end of the project, MPs' appeared to be interested in reforms, and discussions aimed at internal rules reforms and budget law reforms were underway between the two houses. The Project's activities helped MPs and staff build a repertoire of knowledge and raise their skill level, driving a newfound confidence in the legislative body, referred to by an outside expert as a greater "parliamentary culture that transcends political divisions."[26] The Project introduced the Parliament to international norms and standards for parliamentary work, thereby encouraging MPs and staffers to shed the armor that had been erected to shield the Parliament from external intervention. Ministers began to show more respect for the Parliament, and when surveyed, Ministers claimed to be spending more time than ever preparing for the Parliament's question and answer sessions by the end of the project.

Five years after the project end date, many of the changes introduced by USAID support are lasting. With the Arab Spring, Morocco passed a new constitution, including many provisions for more participatory governance. As a result, Parliament has now implemented several important reforms, many of which were advocated by the Project. The PSP-supported code of ethics for the lower house has been taken up and the House included the ethics principles in the internal rules (section 6). The Parliament has developed a strategic plan (one of the project's strong recommendations) calling for establishing a budget unit, and for measures for enhancing consultation with CSOs and the public. That the PSP had some lasting influence is evidenced by the fact that the strategic plan cites six SUNY PSP studies about reorganizing the Parliament's administration and services. Positive habits and training provided through USAID support allowed MPs to become familiar with procedures and contributed to an infrastructure of informed people in Parliament, open to new ways of doing business. Subsequent projects (WB, WFD and others), pushing in the same direction may have had an easier time of implementation.

Lessons Learned

Internal support for reforms must be the foundation for programming: Efforts at institutional development, especially those that result in a shift in power away from the executive branch, cannot succeed unless driven from within.

Activity design should include built in flexibility by using Cooperative Agreements, or explicit inception periods which allow for a collaborative planning with the Parliament, a thorough legislative needs assessment and design adjustments if needed. Parliamentary support projects require flexible implementation, which is politically astute and adaptive. Fidelity to good design can be

counterproductive if it cuts off channels to effective change. PSP's original design called for a budget office. However in spite of parliamentary leaders' explicit advice that a general research office would better suit their needs for discrete approaches that did not openly challenge the executive (and because the research office was in another donor's bailiwick) PSP maintained its focus on BAB which did not outlive the project.

Project results frameworks should allow for a long-term vision of legislative development, especially under regimes where political liberalization is gradual, at best. Five years is too short a time span to achieve profound reforms. Democratic changes, especially within political institutions, are often built incrementally, and take time. After the project ended, (2009), many desired changes are slowly coming to fruition, demonstrating that the initial USAID investment in Parliamentary development had a positive impact on the external and internal ecology for modernization, leading to enhanced democratic processes in Morocco's governance landscape.

Comparative Analysis

Lessons about the efficacy of capacity building (1) In both cases considerable capacity building did occur in the targeted areas. Capacity building inputs of training, technical assistance and other forms of support are effective tools for producing outputs in the form of increased knowledge and abilities to perform tasks. And in each country, there were important outcomes brought about by the utilization of those capacities in the form of more informed legislative participation and willingness to act on the basis of that knowledge. (2) There were some immediate impacts on governance in both countries and some of these have persisted over time. (3) Despite some enduring changes[27] in budgetary practices, in neither Morocco nor Afghanistan were functioning budget offices sustainably created.

Lessons about institutionalizing legislative budget involvement: By comparing developments in Morocco and Afghanistan with those discussed elsewhere in Kenya,[28] we can derive some useful lessons about how to conceptualize the broad goal of legislative budget involvement. (1) Budget involvement should be conceptualized as existing in continuum rather than as a goal that is either achieved or not according to binary indicators such as whether or not a budget office is formally established. In both places, for example, informed participation in budgeting was tried out and has been incorporated into the repertoire of legislative activities without a formal budget office. Conversely in some places, some have cited Korea, a large and expert legislative budget operation has not guaranteed substantial legislative involvement in budgeting. As Matt Andrews and others have pointed out, changing behavior rather than just changing the rules should be the goal of development efforts.[29] (2) While the development literature and donor admonitions stress the importance of "political will" and "ownership," the actual commitment of legislative development legislative partners varies considerably in character and meaning and it also varies with time and circumstances. In Morocco it meant a general commitment to modernization or the willingness to receive assistance, provided that assistance did not unduly or too rapidly capsize established interests; in Afghanistan it included the sometimes active support of some leaders, the passive support and indifference of others but in all cases was subject to the constraints of a parliamentary budget controlled by the executive. Important lessons from comparing these experiences with Kenya show how a committed and continuing coalition of supporters, with a vision of legislative budget activism, could meet the very challenges that sometimes forestalled the institutionalization of budget offices in Morocco and Afghanistan. For example, the program in Afghanistan encountered a personnel problem which in Kenya was met by paying higher salaries than those paid by the treasury and other employers; in Morocco a recalcitrant internal bureaucracy and a leadership mindful of monarchical preferences trimmed efforts while in Kenya legislative reformers made it clear to sometimes reluctant staff directors that they considered a functioning budget operation a major goal and Ministry of Finance and other executive preferences were overcome through assertiveness and compromise.

Topic 3: Accountability – Bosnia and Herzegovina Parliamentary Strengthening Project (PSP) and Strengthening Governing Institutions and Processes (SGIP) and Bangladesh Promoting Democratic Institutions and Practices (PRODIP)

Parliaments serve to voice public concerns about the accountability and effectiveness of government. Legislative oversight and budget making powers can be used to shape the behavior of executive agencies to increase accountability and spur better performance. Our two cases look at efforts to assist parliaments in deeply divided societies governed through systems with strong parties and weak institutional mechanisms for holding government to account.

Bosnia and Herzegovina Parliamentary Strengthening Project (PSP) and Strengthening Governing Institutions and Processes (SGIP)

USAID Parliamentary Strengthening Project in Bosnia and Herzegovina (PSP in BiH), 2009-2013; USAID Strengthening Governing Institutions and Processes in Bosnia and Herzegovina (SGIP), 2013-2017.

Since 2009 SUNY/CID has strengthened the legislative and oversight capacities of two of BiH's parliaments through training and technical assistance; assisted them to improve effectiveness through Rules and internal reforms; and helped increase outreach to citizens and civil society through ICT and other innovative programming. In addition to its work with parliaments, SGIP, SUNY/CID's current BiH activity, builds the capacities of target Ministries to develop evidence-based policy and laws. SGIP aims to improve governance at the State, Federation and subnational levels while supporting increased citizen participation in governing institutions and processes.

Improving Policy Development in Law Making Processes: SGIP provides customized training and mentoring to target Ministries in policy and lawmaking using a methodology which includes transparent and effective consultations with civil society and stakeholders. SGIP assists partner Parliaments to hold public hearings on draft legislation and supported the first public hearing on draft legislation in a sub-national legislature. SGIP integrates civil society and the media into the policy process and helps government agencies to draw on CSO technical expertise in areas such as environmental protection and social services.

Improving Budget Preparation, Review, Adoption, and Implementation: SGIP supports better budgeting by providing training and mentoring on preparing fiscal impact assessments (FIA) for target draft laws which then facilitate deliberation in Parliament. SUNY/CID provides MPs with independent analyses on key budget-related documents (such as the medium-term economic framework) at committee sessions and public-policy dialogues in which its CSO partners participate.

Strengthening Systems of Public Accountability and Transparency: In addition to the intensive technical assistance to MPs in reviewing audit reports described below, SUNY/CID provides in-house training on the annual budget and audit cycle to CSOs which actively oversee government performance. SGIP also promotes transparency and accountability by improving both parliaments' ICT-based capabilities to communicate with the public.

Enhancing the Role and Capacity of Women in Governing Institutions and Processes: SUNY enhances the role of women in governance by providing media trainings for new female MPs; sponsoring radio call-in shows featuring female MPs and CSO activists; and developing toolkits and providing training to help MPs review budgets and legislation from a gender perspective. SUNY/CID partners with a leading local gender and human rights CSO under all SGIP components.

Twenty years after the 1992-1995 War of Yugoslav Succession, Bosnia and Herzegovina (BiH) remains deeply divided. The Dayton Peace Accords (DPA), which ended the war and which also serves as the national constitution, carved the country into two entities and one district which reflected territorial

control at the time of the cessation of hostilities. These are the Federation of Bosnia and Herzegovina (FBiH), a Croat (Catholic) and Bosniak (Bosnian Muslim) alliance; the Republika Srpska (RS); and the Brcko District (BD). The DPA also created a BiH national or State government. The DPA assigned the majority of government functions to the FBiH and RS entities; State-level competencies comprise foreign and economic policy; justice competencies which include war crimes and corruption prosecutions at the State level, are disputed. Internationally-sponsored efforts to enact constitutional reforms failed in 2006 and in 2013-4. In the absence of consensus on the mandates of State and entity competencies, political parties, the strongest of which are formed along ethnic lines, have become power centers. Absent reforms of public financial management and of the courts, parliamentary oversight offered the greatest perspective for curbing corruption and introducing accountability for the executive's financial performance.

In 2008, USAID issued a solicitation to build on and continue essential reforms previously supported by OSCE, NDI and IRI in the State and Federation parliaments (the Parliamentary Assembly of Bosnia and Herzegovina or the BiH PA and the FBiH Parliament) to make them more effective and representative. Despite the failure of the April 2006 constitutional reforms, the international community supported the strengthening of State-level institutions to assume the functions of the internationally-managed Office of the High Representative (OHR), an institution created by the DPA which continues to be the sovereign authority in the country.

Donors assisted the BiH PA to strengthen oversight of public expenditures. Most important were the Strengthening Public Expenditure Management (SPEM) and Parliamentary Support Project (PSP) efforts funded by DfID and USAID respectively later continued by SUNY/CID with USAID funding, with expanded assistance to the FBiH Parliament. These activities began by assisting the jurisdictional committees to adopt guidelines for the review of Supreme Audit Institution (SAI) reports.[30] SUNY/CID provided training and ongoing mentoring and hands-on support to assist the Members to conduct audit hearings and turn the SAI's findings into actionable recommendations. Other key aspects of the methodology included training for CSOs and journalists (together) in reading and analyzing audit reports and focusing efforts on poorly performing institutions—agencies with "clean" audit reports received a commendatory letter from the committees excusing them from appearing—and grounding committee materials and recommendations in neutral statements from the SAIs' reports. A more detailed discussion of the tactics and strategies employed available in a recent academic paper.[31]

Candidates from most major parties made clean audits a campaign issue in 2014 general elections. In BiH's deeply divided political space, public audit hearings have become standard practice. MPs are able to conduct credible, evidence-based audit hearings. Through procedural reforms the hearings are now mandated for the State and Federation Parliaments. Because this clear methodology was repeated year after year, it generated public expectation—most notably among media and CSOs—that the Parliament *will* conduct public hearings. It created concomitant expectations in the executive: Ministries know they will be called to account for serious audit findings in the press and by civil society.

Lessons Learned

In many political systems the opposition takes the lead on oversight of executive performance, especially over public expenditures. A thorough analysis of the power dynamics around oversight, both within and outside of Parliament, should be the starting point for sound activity design. In the case of BiH, parliamentary independence will come slowly, often by working "under the radar" on interventions with lower visibility that steadily build the capacities of the institution without engaging in overt conflict. This factor is especially important for oversight activities that promote transparency and accountability.

Effective legislative engagement requires respectful partnerships among the donor, partners, and implementers. Work with parliaments requires a strong, supportive partnership with USAID and a flexible approach. Agreement documents should be drafted with a view to the potential disruptions that can be caused by election cycles and other political developments in post-conflict and transitional societies. Work plans must also be developed with a clear and realistic view toward what can be achieved within given political realities. It is essential that USAID implementers maintain the political neutrality required to work with MPs from all parties represented in parliament, both in common perception and in reality.

SUNY/CID's work with its partners to introduce and promote practices to increase transparency and accountability represented serious changes in business practice for our partners. The changes required dedicated and persistent efforts from both the partners and the implementer over significant periods to devise, propose and to formally adopt changes to Rules of Procedure, other internal procedures and staffing tables, for example. In order to be sustainable, ownership of these changes has to be expressed in institutional changes that are quite complex and sensitive for political institutions such as parliaments. Not all staffing requirements can be outsourced to civil society or experts; these solutions may not even be welcome in contexts where relations between CSOs and parliaments are not constructive or are intentionally adversarial.

Focus on issues and practices host-country governments consider essential. Transparency and accountability are often more important to donors than they are to counterparts, who have a very clear understanding of the political consequences involved in exposing poor performance in their own parties and in those of their coalition partners. Instead help counterparts to fulfill requirements already in place, such as assisting them to meet already adopted standards and guidelines and to advance their own commitments and priorities.

Integrate civil society organizations (CSOs) to increase citizen voice and participation, transparency. CSOs can be trained to track expenditures and help MPs (and citizens) understand the implications for vulnerable populations, but these and other skills in working with parliaments are rarely part of CSO advocacy training, which tends to promote adversarial rather than collaborative relationships between Parliaments and civil society. It is necessary to enlist CSO partners who are perceived as neutral and as making a positive contribution to Parliament's work.

Engage media in all aspects of programming. Train media and CSOs together to cover parliamentary review of audit reports. Many elected officials appreciate media/public relations coaching for themselves and their staff, especially in conveying complex audit findings to the public.

Collaborate with USAID partners and other donors to increase impact. Duplication burdens beneficiaries and reduces impact. Design and manage activities with incentives for collaboration across the USAID mission portfolio. Acknowledge implementers for serving as a resource for other activities.

Bangladesh Promoting Democratic Institutions and Practices (PRODIP)

The political history of modern Bangladesh has been marked by periodic efforts to establish a western model parliamentary democracy interrupted by periods of violence and military rule. The parliamentary elections of 2008, among the least violent and corrupt in the country's history, appeared to present an opening for democratic reform and, as a result, the period between 2008 and 2010 saw a commitment of more than $50 million on the part of international donors to support capacity development and reform in the Parliament of Bangladesh. All of these programs faced similar obstacles – lack of internal human

capacity, a culture of corruption and a political system dominated by two parties – the Awami League (AL) and the (BNP) - each of which is dominated by a single strong leader. In this context, with rigid party discipline, a zero sum mentality such that the opposition party is more likely to take to the streets than to engage in parliamentary debate and a political incentive system that rewards loyalty to the leadership rather than commitment to the electorate, "reform" is difficult to define, achieve and institutionalize. It is all the more remarkable, therefore, that the parliamentary component of the USAID Bangladesh PRODIP program, implemented by SUNY/CID in the period from June 2010 through February 2014, could, in the end, point to measurable and sustainable accomplishments, particularly in the area of increased accountability and oversight mechanisms. Three sets of activities, in particular, contributed to the evolution of Parliament as government watchdog and advocate for greater transparency.

In the absence of a credible and participatory parliamentary opposition and shadow cabinet, effective parliamentary oversight of the government needs to come from within the parliamentary majority. Working with targeted standing committees, PRODIP staff improved the processes for and capacity to exercise effective oversight over their respective ministries. Prior to PRODIP's intervention, public hearings were unknown in Parliament and the Rules of Procedure specifically stipulated that all committee proceedings were to be held *in camera.* After extensive preliminary preparation, committee chairs and their staff began to embrace the concept of open and active standing committees for legislative and oversight work. From 2011-2013 seven committees conducted 24 public hearings either in Parliament or in the field. Program staff worked intensively with committee chairs and staff and relevant CSOs to lay the ground work, conduct research and provide logistical support, creating both the appetite for and the wherewithal to conduct public hearings which improved legislation and oversight. Site visits to investigate on-going programs or to gather evidence for policy development permitted the committees to advocate for regulatory or policy reform. Widely attended hearings on the collapse of the Rana Plaza garment factory, proposed energy legislation, and revisions of labor laws resulted from these efforts. The PRODIP legislative team prepared a Public Hearings Manual to guide their work and as a tool for committees in future Parliaments.

In an effort to mitigate the effects of partisan politics in Parliament, PRODIP worked to establish issue-oriented cross party caucuses. These working groups, with their commitment to policy formation and effective implementation, represented a breakthrough in parliamentary politics in Bangladesh. To the extent that MPs can coalesce on issues, they move away from the strict party discipline that cripples Parliament's capacity to oversee the executive branch. Increased participation in cross-party activities had a direct impact on attitudes and behavior and opened parliamentarians to greater citizen input and evidence based research which, in turn, strengthened efforts to hold the government accountable on a number of key issues. The All Party Caucus on Women, the All Party Caucus on Food Security and the All Party Parliamentary Caucus on Population Management and Development all conducted field consultations and produced policy briefs, presented findings to government ministries and agencies and advocated for improved policies and better implementation of existing laws and regulations. In addition, PRODIP supported the work of the Global Organization of Parliamentarians Against Corruption (GOPAC)[32], an international group seeking to institute a local Bangladesh chapter, and the Thursday Group, a caucus comprised of backbenchers. The fact that PRODIP aided in the formation of three and supported a total of five such groups in a two year period is evidence of the untapped potential for this type of activity.

The Budget Analysis and Monitoring Unit (BAMU) provides Members of Parliament and staff with information about the fiscal operations of the Government of Bangladesh to facilitate their oversight of national budgets and monitoring of government expenditures. BAMU was formally launched in the *Jatiya Sangsad* premises on December 7, 2010. When PRODIP took over the support of this unit in August 2012

BAMU was barely functional and faced a number of challenges. The unit was managed by three economists, seconded from the Ministry of Finance, whose salary was underwritten by donor-funded programs. Nine additional members were full time parliamentary staff with no formal training in financial analysis, all of whom had additional duties and received no additional compensation for their work with the BAMU. In a word, the parliamentary BAMU members were underprepared, underqualified and under the radar in terms of visible contributions to the Secretariat. More than anything, what the BAMU lacked was a clear strategic vision of their role and the wherewithal to convey that vision to the Parliament so as to create a demand for their services and support for their work. To support this effort, PRODIP assisted BAMU to conduct a needs assessment of Standing Committees and MPs to better understand their needs for fiscal analysis for the upcoming budget session and to forge a link between Committee chairs and their staff and the BAMU staff. Additionally, the parliamentary BAMU members received needed training to enable them to be able to fulfill their mandate and support and recognition from the leadership of the secretariat to motivate them. By the end of the program, the BAMU had been formally incorporated into the Parliamentary Secretariat and was regularly contributing to the budget oversight process in Parliament through:

- The institutionalization of the Budget Help Desk
- The preparation of a "Development Compendium"
- Establishment of formal linkages between BAMU and the Standing Committees
- An updated Budget Analysis Template (BAT)
- Production of a regular column in the parliamentary newsletter
- Preparation of annual Mid-term Budget Review

Lessons Learned

Incentives are not fixed: they must be discovered. Finding incentives to encourage elected officials to be more responsive to demands from below and more committed to accountable government requires flexibility and creativity. It is essential to look for multiple entry points and devices to encourage "pockets of change." Utilizing an issue-oriented approach, it is possible to engage committee members, caucus members and research staff to interact with each other and with their constituents in problem-oriented situations. Creating cross-cutting valences between and among parliamentary leaders and back-benchers, members of opposing parties, legislators and ministry officials opens up possibilities for dialog.

Build on concrete achievements. Focused and visible activities (such as public hearings, constituency office meetings, the Budget Help Desk) have a "demonstration effect" that leverages program resources and create an appetite for more active engagement on the part of parliamentarians.

Comparative Analysis

Parliamentary programming can produce results in deeply divided societies. Despite societal divisions, the activities discussed above produced positive results. In BiH, a productive partnership between the parliamentary committees and the audit offices, with civil society and media oversight, led to measureable improvements in audit results for government agencies. In Bangladesh, improvements in the transparency of the budget process and availability of expertise to MPs interested in financial and policy issues produced a parliament which was willing to push back and question the policies of the government.

Devise strategies that identify overarching interests. While it is obvious that programming should when possible avoid party cleavage issues, means for identifying areas of cooperation that are possible is less obvious. We found several. (a) *Frame issues in procedural rather than partisan terms.* In BiH, for

example, committee members were encouraged to view processing audit reports as a problem of procedure that did not challenge party interests (no party would publicly defend sloppy accounting practices) and leant themselves to technical solutions . (b) *Focus on getting improvements where feasible and emphasize the technical*. In Bangladesh, providing technical help understanding the budget and in BiH to understand the audit reports presented a non-political entry point into both legislatures.

Choose the goal of creating working systems. It proved both easier and more productive to get people to work together over particular matters than it was to create larger scale and potentially more disruptive systems. In BiH, committee members interested in improving performance, audit agency personnel wanting their work to be used, and specialized civil society could work in concert. In Bangladesh, making better information available to interested MPs did not pose immediate challenges.

Other programming implications for other nations. Many other nations share characteristics with our case countries: their legislatures often have formal responsibilities for oversight and may have other relevant powers over budgeting, questioning executives, and investigating problems but lack the capacity to make effective use of such powers and opportunities. Therefore many legislatures offer a similarly advantageous entry point for donor efforts to foster greater probity, fidelity to the law, and increase the efficiency and effectiveness of governments.

Topic 4: Implementation of Programming in Conflict Ridden Environments – Kenya Parliamentary Strengthening Program (PSP) and Bolivia Program of Assistance for a Representative Congress (PARC II)

A recent report from the Woodrow Wilson School enumerated the potential roles that legislatures can play in preventing, mitigating and peacefully channeling conflict: *"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 hard decisions on contentious issues of national policy through legislative and committee processes. Finally, an effective legislature can exercise oversight over the executive, acting as a check on an authority which, if unfettered, might ignore or abuse minority interests."[33]*

These two cases are about how donor efforts realized some of that potential. It is often observed that legislatures are challenging environments for development because they respond constantly to internal and external changes, but our two cases show that they also offer unique opportunities for assistance when the probabilities of violent conflict are high.

Kenya PSP/Conflict Mitigation

SUNY had been implementing USAID legislative strengthening activities in Kenya since 2001, in a programmed deemed effective by both inside and outside reviews.[34] In 2008, USAID and DFID redirected resources to specifically support Parliament's role in implementing the negotiated accords (known as the 2008 National Accord and Reconciliation Act or NARA) that ended the post-2007 election violence. This assistance enabled Parliament to become a body that could both represent a deeply divided

society and achieve enough agreement to make decisions. SUNY PSP provided decision makers with technical advice, legislative review, and workshops, and facilitated CSO engagement. Parliamentary decision makers, under the leadership of the Speaker and through the committees and caucuses, contributed to the resolution of many contentious issues and passed the legislation required by NARA.

The 2007/2008 post-election violence that claimed over 1,000 lives and displaced thousands has been described as the "most widespread, destructive and dangerous that the country ever faced."[35] Kenyan analysts and the international community saw the immediate causes both in the Government's handling of the election and its aftermath, and in long-term factors. These factors included politicians' reliance on ethnicity to mobilize support and to distribute the benefits of power and citizens' lack of trust in institutions seen as too weak or corrupt to govern, adjudicate conflicts, or represent the populace.   The 2008 National Accord and Reconciliation Agreement was a power-sharing solution mediated by international efforts between the rival presidential candidates to produce a reform agenda intended to deal with the immediate and long term issues that triggered the violence.[36] The Kenyan Parliament's role in this process was (1) to pass the NARA schedule of legislation; (2) to become stronger in its capacity to represent differences and to check the historically strong executive; and (3) to become an arena in which explosive issues (including land reform) could be dealt with through compromise.[37]

Any effort to address this conflict required a quick and nimble adjustment in programming. Fortunately, even before this crisis, USAID/Kenya had practiced flexibility in choosing the means to achieve its goals while maintaining its initial objectives and intermediate results. The circumstances following the 2007 elections required that Parliament take on additional responsibilities and leadership of governance processes in Kenya. The newly-elected Speaker and the Clerk of Parliament, as well as many Members in leadership, were forward looking and courageous reformers. They requested an unprecedented level of support from a known and trusted partner, the SUNY Parliamentary Support Project (PSP). In response, USAID expanded the existing SUNY program scope of work and funding and modified the contract, adding objectives and results in response to the post-election crisis. USAID and DFID responses were tailored to the requirements of the NARA accords.

The USAID and DFID funded **Parliamentary Strengthening Program (PSP)** aimed to help the Kenya National Assembly (KNA) to improve its lawmaking, oversight and representation functions in a more democratic, effective, and transparent manner. From 2000 to 2015 the KNA matured from what was essentially a rubber stamp legislature to what is now regarded as one of the most significant legislatures in Africa, and the most independent in terms of the degree of formal and real autonomy it enjoys from the executive. It is fully capable of exercising its constitutional prerogatives of lawmaking, oversight, and representation. Over this same period, SUNY/CID assisted Parliament to introduce a series of institutional reforms, starting with the creation of a Parliamentary Service Commission which controls Parliament's budget and the recruitment of its staff. This, in turn, led to procedural reforms which increased the effectiveness of its committees; developed in-house technical units; and increased its ability to amend and initiate legislation, its scrutiny of the Executive, and Parliament's authority over the national budget. This process of institutional strengthening culminated in a series of constitutional reforms, approved in 2010, that further separated the executive and Parliament, decentralized power to County Assemblies, and created a Senate as a second parliamentary chamber.

SUNY/CID's work in Kenya typifies our approach, developed through nearly three decades of experience, which posits **parliamentary development as co-production**.[38] The SUNY/Kenya project's highly talented implementation team used politically astute, demand responsive, and flexible implementation to create trust and buy-in for partnership and synergies between technical expertise and Members who were able to influence others. This approach engendered a mutual exchange which broadened the policy community and opened spaces for change and capacity development.

SUNY PSP benefited from very supportive USAID and DFID teams which provided continued resources, technical officer and contract flexibility, and a strong commitment to long time horizons. PSP's intermediate results changed somewhat over time, but essentially aimed to support Parliament's three basic functions by strengthening committees, committee review of legislation and budget, the Parliamentary Service Commission and departments (which offer critical services such budget and legal analysis), and by promoting more responsive deliberation and interaction with civil society organizations; and oversight of service delivery.

Making the transition to deal with the crisis of legitimacy proved to be a relatively smooth process. Many of the activities were designed to be delivered through approaches already in use by PSP – which had been providing technical advice to Members and staff, facilitating committees in reviewing legislation, and supporting a Parliamentary Budget Office, etc. —but the additional activities expressly focused on issues arising from the post-election crisis and included:

1. Facilitating KNA Efforts to Adopt Necessary Transitional Standing Orders
2. Supporting Committees to Review Key Transition Legislation
3. Support to the Office of Fiscal Analysis (Budget Office) and Watchdog Committees to review budgetary impact of transitional legislation
4. Targeted Additional Support to the New Research Department
5. Targeted Additional Support to the Legal Counsel's Department
6. Supporting the Parliamentary Functions of the Office of Prime Minister

Over the course of the next 24 months, SUNY/PSP supported Parliament's lawmaking under the new political structure; the constitutional, electoral, land, and security reform agendas; national reconciliation; IDP and resettlement issues; and the relationship between Parliament and the Prime Minister (and their relationship to the rest of the executive branch) were focus issues.

The expectations of Parliament under the National Accord and the election of a new, reform oriented Speaker in the Kenya National Assembly saw an emergence of opportunities for change. SUNY intensely facilitated the Kenya Parliament's implementation of key peace agreement provisions. Of notable and radical significance was the review of the KNA Standing Orders leading to stronger, more specialized and open committees, a fundamental reformation of Parliament's role in the national budgeting process, and an increase in the number of oversight, technical and research units within Parliament. With a separate grant under a Cooperative Agreement with USAID's office of Transitional Initiatives, (OTI) SUNY facilitated rapid introduction of Parliament's live broadcast of its proceedings and the creation of a modern media center through which parliamentary activities and MPs' conduct of business were reported to the public more efficiently. SUNY facilitated the newly created Office of the Prime Minister (OPM) to more effectively respond to the expectations and demands of accountable government through timely and accurate articulation of the executive branch policies and response to the public's concerns brought to Parliament during the PM's question time.

> Kenya has changed significantly since independence in 1963, but the attempt to recast the political system in response to the 2007-2008 trauma is unparalleled. The new government has the opportunity to usher in a new era of peace and socio-economic development that would benefit all communities and unite the country.
> The foundation has been laid with the overwhelming support the constitution received in 2010, a base that should be maintained and built upon for a peaceful and prosperous future.
> – *Crisis Group Africa Briefing Number 94, 15 May 2013*

Major outcomes from the activity included the development of a more effective and independent legislature, with the internal structures, capacity and formal rules needed to effectively participate in lawmaking, oversight and representation; the negotiation and passage of framework laws needed to implement NARA; and the preparation of Kenya's new Constitution (which was drafted and passed in 2010). Most importantly, Parliament passed legislation to implement the NARA power-sharing agreement of February 28, 2008 that ended the post-election violence and laid the ground work for redesigning Kenya's political system through a new constitution. Parliament first amended Kenya's then-current constitution to create the office of Executive Prime Minister, a key component of the settlement. It then passed the Constitution of Kenya Review Act (2008) that established the Committee of Experts and specified the procedures to be followed to draft, deliberate and ratify a new Basic Law. Parliament also passed legislation establishing the Interim Electoral Commission of Kenya and the

Interim Boundaries Commission to reestablish the electoral process on a sound basis and the Fiscal Management Act of 2009 which ensures Parliament's authority to oversee executive budgeting and financial performance. Although the 10th Parliament did not agree on a politically viable formula for a local tribunal to try the alleged perpetrators of the post-election violence (so by default, cases are referred to The Hague), this legislative record was singularly responsive and impressive. The legislation was significant not only because it helped restore peace but also because it created the legal frameworks for robust oversight and for new governance structures meant to address historical grievances and drivers of conflict. Parliament's leadership on maintaining the pace for reforms made it an increasingly a legitimate arena for negotiation around key national policy issues. Public satisfaction with Parliament's performance rose from 24% in 2008 to 61% in 2010. [39]

Lessons Learned

Legislative activities position USAID to be responsive to difficult implementation situations or times of crisis. Ongoing legislative engagement provides natural opportunities for Missions to support formal engagement of and dialogue among diverse voices and segments of society, which are critical to the success of post-conflict programming.

Programs should provide strong support to reform-minded parliamentary leaders, who can advance reforms in a complex, post-conflict governance landscape.

> "The successful working partnership between Parliament and SUNY is a classic example of meaningful, practical, and real beneficial development assistance to Kenya by the U.S. government."—Hon. Kenneth Marende, Speaker, Kenya National Assembly, July 2009

Agreements negotiated to end conflict may contain provisions that are unwieldy for good governance. In Kenya's case the Grand Coalition Government imposed in the wake of crisis presented dysfunctionalities involving internal veto players and long negotiations, which meant a sluggish pace for executive action and reforms. Further, the lack of an effective opposition and incentives for collusion may have abetted corruption. However, strong leadership in Parliament, combined with timely support for effective committees, created a countervailing force and helped to maintain momentum for implementing NARA reforms.

Activities should be flexible enough to discontinue assistance to political structures created in crises but which do not function over the longer term. In this case, technical assistance to the Office of the Prime Minister within Parliament was offered but not utilized, and so discontinued.

Efforts at institutional development, especially those that result in a shift in power away from the executive branch, cannot succeed unless driven from within.

Bolivia Program of Assistance for a Representative Congress (PARC II)

This case study examines how an existing legislative strengthening activity can be utilized to mitigate conflict during a time of political turmoil and serve as a conduit for citizens' voice and concerns. Key to the activity's success was USAID's decision, in the face of rapidly changing circumstances, to allow democracy and government implementers to suggest immediate changes to their scope of work, thereby allowing for new approaches to support democratic responses to the crisis.

In the fall of 2003, Bolivia was experiencing social instability with gradual radicalization of popular movements and increasingly credible calls for insurrection. The Congress was controlled largely by regional elites that were not responsive to popular demands, particularly demands from powerful minority

groups. To address this political upheaval and instability, USAID chose to work with the Bolivian Congress to encourage a) more intense and broader citizen participation, and b) representation of diverse interests and demands from national and local citizen groups. The activity was designed to offer support to the entire political spectrum and to be non-partisan and unbiased.

From 2001 to 2003, SUNY/CID successfully contributed to USAID/Bolivia's Intermediate Result 2 "National Representatives are more Responsive to Constituent Demands" through its Program of Assistance for a Representative Congress (PARC). This was one of a series ten democracy and governance activities in Bolivia implemented by SUNY/CID from 1992 with USAID funding. The focus of this activity was to develop and test constituent outreach mechanisms. SUNY/CID developed "relational mechanisms," such as interactive radio programs, regional caucuses *(departmental brigadas),* public hearings, and other means for citizens to have access to the Bolivian Congress. This resulted in a great upsurge in citizen demand for legislative services from both uninominal deputies and departmental *brigadas*. PARC proved that the citizens of Bolivia were anxious to have their demands heard by the Congress and that the Members of Congress were willing to listen and respond.

In 2003, USAID issued a follow-on project, PARC II (2003-2006), to assure a balance between citizens' demands and the Congress's capacity to respond effectively, under the Strategic Objective "Increased Confidence in Democratic Institutions and Processes." This strategic objective sought to increase the relevance of reformed institutions as places where transparent public decisions are made and strengthen the ability of state institutions and political parties to interact productively with civil society. The assumption was that as key democratic institutions became more responsive to citizen demands and citizen participation in governance expanded, support for the Bolivian democratic system would become more stable. Phase II was designed to improve and consolidate the mechanisms that were developed and tested under Phase I so that Congress and citizens might interact more effectively.

However, the goals of the activity changed drastically within the first few weeks after award. A popular insurrection forced the resignation of the incumbent President Gonzalo Sanchez de Lozada in October 2003. The new president, Carlos D. Mesa, assumed power without the support of political parties.   Few felt he had the intention or capacity to respond to the demands of the social forces which were rocking the nation. The entire country (and especially La Paz and the el Alto municipalities) were the site of continual protests, road blocks and invasions of public offices. Analysts believed the situation was rapidly becoming insurrectional if not pre-revolutionary. Evo Morales was viewed as ready to demand the violent overthrow of President Mesa at any moment. There were calls from elements in the middle classes and the elite for the military to take over and reestablish order. In short, it appeared that not only the Government but the democratic system itself was being challenged.

In response to the crisis and with the full support of USAID, SUNY/CID developed an "emergency program" to support the President's legislative agenda, to stabilize the political situation and, eventually, to support a peaceful transition to a new government. The emergency program switched from supporting all of the functions of Congress to prioritizing the representative function through the uninominal Members to meet the dangers to the democratic system posed by insurrectional threat. The significant risk in this shift was that it would bypass regular channels of collaboration with congressional partisan leadership. Resolving the leaderships' complaints required high levels of skill and diplomacy on the part of the USAID Mission Director and the PARC II staff.

To this end, PARC II organized a large number of citizen forums, interactive radio programs, and public hearings. Activities also included working with departmental *brigadas* (regional caucuses) to formulate departmental Minimum Agendas and carry out regional meetings for uninominal deputies, congressional committees, and the *brigadas*. Despite this, the political situation remained unstable, the President

resigned, and in December 2005 elections were held for a new president, vice president, Congress, and departmental prefects. Evo Morales, of the Movement for Socialism (MAS) Party, was elected President by an absolute majority with 54% of the vote, and his party gained nearly 54% of congressional seats.

In this tumultuous context, PARC II implemented a large number of diverse activities that reached members of Congress, political actors, and tens of thousands of Bolivian citizens. PARC II actions to support the legislative agenda included 1) a national referendum on the exportation of Bolivia's gas reserves; 2) a new hydrocarbon law; 3) the convocation of a Constitutional Assembly to formulate a new Constitution for the country; 4) support for congressional research, bill-drafting, and consultations with civil society regarding the main parameters of the Special Law to Convene the Constituent Assembly; 5) training for new legislators elected in December 2005; and 6) simplifying the municipal and departmental planning instruments to encourage popular participation in the planning process. These activities strengthened democratic practices and helped increase confidence in democratic institutions and processes throughout Bolivia's nine departments during critical times.

The largest single impact of PARC II was its contribution to avoiding the violence of an insurrection and preserving the formal institutions of a democracy through a change of power. All efforts were focused toward this end throughout the life of the activity. The statistics regarding the PARC II Project are impressive. Between October 2003 and September 2006, a total of 36,320 people (60% men, 40% women) directly participated in 527 project-related "constituent relations mechanisms." (People reached through radio, press, and other outreach mechanisms are not included in these figures). These events took place throughout the entire country. The impact of these events equaled their number. Through what were very tumultuous times, the Congress played its role in representing the people of Bolivia and providing checks and balances on the other branches of government. PARC II therefore succeeded in delivering much-needed support to the Congress of Bolivia to carry out its constitutional mandate of enabling citizens to voice their concerns and express their interests through the Congress itself.

Lessons Learned

A legislative strengthening program not designed for conflict mitigation can be transformed quickly into one by a flexible and diplomatically-skilled USAID mission. USAID's decision not to close projects in the face of violence but rather to invite democracy and governance implementers to propose new plans to address the emergency situation was the essential element in this success.

Legislatures are natural arenas in which problems are resolved and diverse positions are voiced. By working directly with the uninominal Members of Congress (instead of going through congressional leaders) divergent sectors of society were able to effectively relay their concerns without violence.

Utilize existing political processes to increase citizen voice and participation to diffuse political tensions. Legislative work on highly contentious issues regarding the Constituent Assembly Law and hydrocarbons legislation supported the peace process in Bolivia and allowed the peaceful transition to the Morales government. In these instances, PARC II supported public hearings and public interest fora, which reconciled the technical and political criteria for enactment of laws the public was demanding. Using political processes, PARC II helped defuse political tension in the country.

Comparative Analysis

In both Kenya and Bolivia existing legislative development programs were quickly and successfully re-tasked to support to address and reduce conflict. In both countries, USAID was able to use the ready

access to legislatures offered by their SUNY/CID-administered activities. By channeling these efforts through representative arenas, these and other efforts converted some of the more "winner take all" aspects of succession politics into legislative efforts where some compromise was possible.

While the Kenya and Bolivia cases differ considerably in circumstances and outcomes, both involved leadership succession, determining the legitimacy accorded to the resulting government. In both cases, legislatures passed laws aiming to resolve contentious issues, and both prepared frameworks for constitutional reviews to address historical grievances. And in both cases, USAID-supported legislative programs played important roles in supporting more participatory and informed processes.

Lessons Learned

Leadership succession issues tend to put legislatures in central positions.[40] Having a legislative engagement activity in place when conflict erupts provides ready access to address and mitigate conflict. Existing legislative programs provided access; their knowledge of political actors, circumstances and possibilities helped to inform the selection of available avenues to defuse social and political tensions.

Social capital, generated through strong leadership, is a key ingredient. In Kenya and Bolivia, the status and reputations of the activities' leadership brought special advantages to USAID efforts: (a) each could draw on accumulated "social capital" because of good existing relationships with leaders so they could talk directly to many of the principals; (b) they provided a means for USAID to keep abreast of what was going on in ways that were not available to donors just rushing in; (c) because of the nature of these programs, they already had relationships with CSOs and other groups in the society that could become involved and these laid the groundwork for helping to shape societal involvement.

Endnotes

[1] Robert Nakamura and Malcom Russell-Einhorn, "Improving the Implementation of Legislative Development Programs: Mapping the Imperatives and Circumstances." Paper delivered at the 11th Workshop of Parliamentary Scholars and Parliamentarians, 26-27 July 2014, Wroxton College, Oxfordshire, U.K.

[2] See for example, Greg Power, "The Logframe and the Beautiful Game: Project Logic vs. Football Logic," Politically Agile Programming Paper 1, Global Partners Governance. Rachael Kleinfeld, *Improving Development Aid Design and Evaluation: Plan for Sailboats, Not Trains.* Washington: Carnegie Endowment for International Peace, 2015.

[3] A frequent benchmark of financial management programs is, for example, the establishment of a budget office. It is used as a surrogate for evaluating the performance of budget support capacity building. As World Bank and E.U. experience with the establishment of functioning public financial management systems show, changing the law and creating institutions is still far away from the actual integrated scrutiny of budgeting required. For a discussion of the relationship between adopting formal change and changing behaviors, see Matt Andrews, The Limits of Institutional Reform in Development: Changing Rules for Realistic Solutions, Cambridge University Press, New York 2013

[4] Charles Lindbom, "The Science of Muddling Through," Public Administration Review, 1959.

[5] Matt Andrews, The Limits of Institutional Reform, World Bank.

[6] John Kingdon, Agendas, Alternatives and Public Policies, Second Edition, Longman, 2010.

[7] See Eugene Bardach, The Implementation Game (MIT Press, 1977). Robert Nakamura and Frank Smallwood, The Politics of Policy Implementation (St. Martins, 1980).

[8] Robert Nakamura and Malcom Russell-Einhorn, "Improving the Implementation of Legislative Development Programs: Mapping the Imperatives and Circumstances." Paper delivered at the 11th Workshop of Parliamentary Scholars and Parliamentarians, 26-27 July 2014, Wroxton College, Oxfordshire, U.K.

[9] See Milbrey McLaughlin, "Learning From Experience: The Lessons of Policy Implementation," Educational Evaluation and Policy Analysis; Nakamura and Smallwood, The Politics of Policy Implementation.

[10] This issue finds parallels in the regulatory enforcement literature. See Eugene Bardach and Robert Kagan, Going By the Book; and Thomas Church and Robert Nakamura, Cleaning Up the Mess: The Implementation of Superfund (Washington: Brookings).

[11] John Kingdon, Agendas, Alternatives and Public Policies, Second Edition, Longman, 2010.

[12] Solving the assistance problem of connecting capacity building outputs to outcom**es,** donor programs seek to achieve societal change goals using very limited tools. They provide implementers with inputs of money that can be used by implementers to build capacity (through training, technical assistance, etc.) and to convene events. The bigger results that donors are interested in depend on how the resulting outputs are used by the autonomous participants. Action requires both capacity and motivation. In USAID's Uganda LINKAGES program, the strategy was to stimulate/direct greater demands on parliament so that they would both welcome and use the capacity building help on offer. DFID's strategy of learning while doing—on which the Kenya program was based-- also depended on the confluence of motivation to do what needed to be done while building the capacity to do so. Thus while DFID or USAID could help provide capacity and chances to meet, they had to use pre-existing actor motivations or to help to create new ones. The solution lay in identifying the distribution of existing motivations,

and where they overlap with issues of donor interest, CSO concerns, and opportunities for legislators to make decisions.

[13] The idea of good programs "energizing the political ecology" comes from Eugene Bardach. See The Implementation Game (MIT Press, 1977)

[14] http://kenya.um.dk/en/danida-en/nrm/climate-change/

[15] Source: Hansard and project data sheets

[16] Through participatory means, local leaders identified and appraised local needs and investment priorities/projects in the various sectors, such as education, health, and production, which directly address poverty and empowered local people as they engaged with their respective local governments.

[17] See Power et al, Global Parliamentary Report.

[18] David E. Guinn, "Engaging the Demand Dynamic: Budget Support as Driver of Legislative Development" Journal of Legislative Studies (in press).

[19] Guinn, David E. & Jeffrey Straussman, "Improving the Budget Process in Fragile and Conflict Ridden States: Two Modest Lessons from Afghanistan" Public Administration Review, Vol. xx, Iss. xx, pp. xx–xx. (2015) http://onlinelibrary.wiley.com/doi/10.1111/puar.12397/abstract

[20] See Robert Nakamura, Andrea Wolfe and Heather Senecal, "Creating and Implementing a Kenya Model of Parliamentary Development," Loc. Cit.

[21] Democracy International, *Afghanistan Parliamentary Assistance program Evaluation: Final Report* (USAID August 2012)

[22] See the Final Report, Morocco Parliamentary Support Project, Implemented by SUNY CID, USAID Contract No: DFD-1-00-04-00128, October 31, 2009.

[23] Report on the End of Project Review and Assessment of the Parliamentary Support Project (PSP) 2004-2009 USAID Morocco, conducted by Keith Schultz, Mohamed Odour, Andrew Mandelbaum, June 2009.

[24] Ibid. "The Project was designed in a relatively short period of time and without adequate involvement from the Parliament. A design team from Washington, D.C. (including the team leader for this assessment) held a limited number of meetings with parliamentary leadership, MPs, staff, and people outside the Parliament, but no formal in-depth assessment report was prepared.   Instead, project documents, including a scope of work, were prepared and the procurement process conducted shortly thereafter.   One person interviewed by the assessment team commented that the project was a little too generic in nature and could have been better tailored to the specific circumstances of the Moroccan Parliament."

[25] Ibid.

[26] Guilain P. Denoeux and Helen R. Defosses in "The Journal of North African Studies" volume 12, number 1, March -007. pp. 77-108.

[27] A former COP characterized the present situation in the following fashion: "Budget authority of parliament: The project invested in creating the budget analysis office and trained staff in both Houses. The staff are still working for budget committees in both houses, and the Lower House created the committee on public finance monitoring and

engaged the staff trained by the project on budget analysis. This committee oversees spending within the national budget and discusses legislation on the budget oversight."

[28] See Robert Nakamura, Andrea Wolfe and Heather Senecal, "Creating and Implementing a Kenya Model of Parliamentary Development," Paper Prepared for Delivery at the Twelfth Workshop of Parliamentary Scholars and Parliamentarians, Wroxton College, Oxfordshire, UK, 25-26 July, 2015.

[29] See Matt Andrews, The Limits of Institutional Reform in Government, World Bank.

[30] The SAIs received considerable international assistance; the State SAI is a member of INTOSAI and conducts financial audits in accordance with international standards. The Swedish National Audit Office (SNAO) has taken the lead in introducing performance auditing. In the BiH PA, the jurisdictional committees are the Budget and Finance Committees of both houses, where the reforms enjoyed the support of all of the political parties in the governing coalition.

[31] Robert Nakamura and Samir Musovic, "Success Where You Least Expect It: How Parliamentary Oversight Produced Better Government in Bosnia Herzegovina," Paper prepared for presentation at the International Political Science Association Research Conference, Madrid, Spain, July 8 to 12, 2012.

[32] GOPAC, a Canadian-based not-for-profit founded in 2002, has brought together over 170 parliamentarians and 400 observers dedicated to fighting corruption and improving good governance. Its members, current or former legislators or legislators who have been denied their right to take office, represent more than 50 countries in all regions of the world. Their collaboration is non-partisan.

[33] Woodrow Wilson School of Public and International Affairs, Princeton University. (2007). *Strengthening Legislatures for Conflict Management in Fragile States*. Princeton, NJ: Dutta, Nikhil, et al.

[34] See Joel Barkan and Njuguna Ng'ethe, "An Evaluation of USAID Kenya Program to Strengthen the Kenya National Assembly, August 22, 2004. Joel Barkan and Fred Matiangi, "Kenya's Torturous Path to Successful Legislative Development"; Robert Nakamura and John Johnson, Rising Legislative Assertiveness in Uganda and Kenya 1996 to 2002, Paper prepared for delivery at the 19th International Political Science Association World Congress Durban, South Africa, June 29 to July 4, 2003; World Bank Report No. 44924-KE. Understanding the Evolving Role of the Kenya National Assembly in Economic Governance in Kenya An Assessment of Opportunities for Building Capacity of the Tenth Parliament. Greg Power, A Political Approach to Parliamentary Strengthening: An Analysis of the Kenyan Experience and Recommendations for Future Programming. Global Partners Governance, 2015.

[35] Issac Otieno, One Year After—Reflections on the causes of post-election violence and the state of democracy in Kenya, Horn of Africa Bulletin, Feb. 2009.

[36] Kennedy Oluoch Onyango and Evelyne Maina, The role of institutional reforms in promoting sustainable peace in Kenya, International Journal of Current Research and Academic Review, Vol. 3, No. 4, April 2015.

[37] "The context for reform (in Kenya) is deeply problematic, as unity governments typically struggle to pass genuine reform packages that change the rules of the game. The challenges facing the donor community are compounded by problems of limited funds, donor co-ordination, and a question of where to focus scarce resources. Certain Agenda 4 items can only be dealt with in the long-term, most notably land reform. In the short-term, reducing the risk of conflict ahead of the 2012 elections requires a focus on electoral system reform, the re-integration of IDPs, conflict resolution, and the reform of the security sector. Supporting potential 'constituencies for reform' in the legislature, which plays a direct role in shaping government policy in a number of areas, may prove to be an efficient way to promote the reform agenda" Nick Cheeseman, Report, delivered at DFID Taking Governance Forward Ahead of 2012, Holiday Inn, Nairobi, 24-02-2009.

[38] *See* Robert Nakamura, Heather Senecal and Andrea Wolfe, "Creating and Implementing a Kenya Model of Parliamentary Development" (SUNY/CID, 2015)

[39] Kennedy Oluoch Onyango and Evelyne Maina, The role of institutional reforms in promoting sustainable peace in Kenya, International Journal of Current Research and Academic Review, Vol. 3, No. 4, April 2015.

[40] Examples include the rise of legislatures as arenas in succession crisis following the deaths of executives in Malawi, India, and Israel, as well as disputed elections or negotiated peace agreements producing power-sharing agreements in various places.