

Tools and Methods Series

Reference Document N° 8

EuropeAid

## Engaging and Supporting Parliaments Worldwide

Strategies and methodologies for  
EC action in support to parliaments

October 2010



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## ACKNOWLEDGEMENTS

This Reference Document has been prepared by Dr. Jonathan Murphy with the International Institute for Democracy and Electoral Assistance (International IDEA). Some chapters were worked on by Greg Power, who developed the assessment framework, and Jose Macuane.

The publication process was steered and coordinated by the Democratisation Sector of the Governance, Security, Human Rights and Gender Unit within EuropeAid, and in particular Thomas Huyghebaert, Head of the Democratisation Sector. It benefited enormously from discussions within and comments from a Reference Group, which was made up of representatives from different units of the Quality of Operations Directorate as well as other geographical and thematic directorates in EuropeAid, and of the External Relations and Development Directorates of the European Commission. The process also benefited from inputs from the European Parliament's Office for Promotion of Parliamentary Democracy (OPPD) and external partners such as the United Nations Development Programme.

There is growing consensus that effective parliaments are of fundamental importance to democratic systems. Without strong parliaments democracy is fragile, incomplete and often ineffective. This document has been prepared in response to the EU's development policy framework, which requires the European Commission to engage with parliaments in partner countries on development policy and support dialogue, and which recommends parliaments to be supported as part of a larger democratic governance agenda. It should be seen as a practical contribution to increasing efforts to work with parliaments and aims to strengthen the quality of the work of the European Commission in this area.

Any comments, questions or suggestions are welcome and should be addressed to:

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# TABLE OF CONTENTS

Acronyms	7
Executive Summary	9
Introduction	15
<b>CHAPTER 1: ASSESSMENT OF THE EUROPEAN COMMISSION'S PARLIAMENTARY SUPPORT IN AFRICA, THE CARIBBEAN AND THE PACIFIC</b>	<b>21</b>
1.1. Dimensions of EC parliamentary support	21
1.2. Types of parliamentary support provided	22
1.3. Case studies	24
1.3.1. South Africa	24
1.3.2. Senegal	26
1.4. Balance sheet and recommendations for effective parliamentary development programmes	27
<b>CHAPTER 2: PARLIAMENTARY DEVELOPMENT: PRECONDITIONS AND ASSESSMENT</b>	<b>29</b>
2.1. The foundations for parliamentary development	29
2.1.1. What is an effective parliament?	30
2.1.2. What are the political conditions for successful parliamentary development?	31
2.1.3. What are the economic conditions for successful parliamentary development?	33
2.2. Is there a suitable environment for a parliamentary support programme?	38
2.2.1. Potential for parliamentary strengthening	38
2.2.2. Commitment to parliamentary development	39
2.2.3. Pre-assessment checklist	40
2.3. The Assessment Framework for the design of parliamentary development programmes	44
2.3.1. Introduction	44
2.3.2. Phase one: Preparatory phase, context analysis	47
2.3.3. Phase two: Using the Assessment Framework	51
2.3.4. Phase three: Designing projects, testing findings and building support	54
2.3.5. The Assessment Framework	58
2.4. Other external factors that affect the feasibility of parliamentary development programmes	68
2.4.1. The role of donors in promoting democratic governance	68
2.4.2. Common donor-created barriers to parliamentary effectiveness	69

<b>CHAPTER 3: PARLIAMENTARY DEVELOPMENT: STRATEGIES AND IMPLEMENTATION MODALITIES</b>	<b>71</b>
3.1. Principles for developing parliamentary support	71
3.2. Entry points for parliamentary development programmes	72
3.2.1. Parliamentary action in the electoral cycle	72
3.2.2. The responsibilities of parliament in general and sectoral budget support	74
3.2.3. Strengthening parliamentary involvement in PRSPs and other national development strategies	78
3.2.4. Donor accountability	79
3.2.5. General types of parliamentary support	80
3.3. Implementation modalities	92
3.3.1. Parliamentary twinning	93
3.3.2. The United Nations Development Programme	95
3.3.3. Global and regional parliamentary associations	96
3.3.4. Political foundation programmes	97
3.3.5. International financial institutions	98
3.3.6. National democracy promotion organizations and experts	99
3.3.7. International consultants, consultancies and democracy support actors	100
<b>ANNEX 1: PARLIAMENTS AND DEMOCRATIC DEVELOPMENT</b>	<b>101</b>
1.1. Introduction	101
1.2. Parliaments and systems of democratic governance	103
1.3. Functions of parliament	104
1.3.1. Legislation	105
1.3.2. Oversight	106
1.3.3. Representation	109
1.3.4. The budget cycle	111
1.3.5. Inclusivity of parliament	112
1.4. Parliamentary organization and administration	113
1.5. Issues in parliamentary organization	115
<b>ANNEX 2: THEMES IN PARLIAMENTARY DEVELOPMENT</b>	<b>117</b>
2.1. Parliaments and gender	118
2.1.1. Section overview	118
2.1.2. The representativeness of parliament: Obstacles to gender equality	119
2.1.3. Issues for parliamentary strengthening programmes	121
2.1.4. Women in parliament: Enhancing participation and impact	122
2.1.5. Issues for parliamentary strengthening	123

2.1.6.	Mainstreaming gender in the policymaking process	124
2.1.7.	Issues for parliamentary strengthening	129
2.1.8.	Conclusions	130
2.2.	Parliaments and the national budget	132
2.2.1.	Section overview	132
2.2.2.	Legislatures in the budget process	133
2.2.3.	The role of the legislature in the budget cycle	134
2.2.4.	Key parliamentary actors and institutions for budget oversight	135
2.2.5.	What determines budget oversight capacities?	136
2.2.6.	Empirical evidence on budget oversight in ACP countries	137
2.2.7.	Legislative budget oversight in the context of general budget support	138
2.2.8.	The experience of the EC and other donors in budget oversight initiatives	140
2.2.9.	Summary of EC parliamentary strengthening within GBS	142
2.2.10.	Recommendations on the future role of the EC in supporting legislatures in the context of GBS	143
2.3.	The role of parliaments in national political dialogue: The case of Poverty Reduction Strategy Papers	145
2.3.1.	Section overview	145
2.3.2.	Parliaments and poverty reduction	148
2.3.3.	Parliaments and political dialogue: Enhancing the voice of the people	151
2.3.4.	The role of parliament in diagnosing, formulating and monitoring policy	153
2.3.5.	Conclusions: Issues for parliamentary support programmes	157
2.4.	Parliaments and conflict situations	159
2.4.1.	Section overview	159
2.4.2.	Understanding post-conflict situations	160
2.4.3.	The role of parliaments in post-conflict situations	161
2.4.4.	Key capacities for parliaments in post-conflict situations	162
2.4.5.	Lessons from previous experience in parliamentary development in post-conflict situations	162
2.4.6.	Broad recommendations for EC support to parliaments in post-conflict situations	165
2.5.	Parliaments and oversight of the security sector	167
2.5.1.	Section overview	167
2.5.2.	Democracy and oversight of the security sector	167
2.5.3.	The European Union and security sector reform	168
2.5.4.	The security sector and parliamentary oversight	168
2.5.5.	Supporting parliaments to oversee the security sector	171
<b>ANNEX 3:</b>	<b>INTERNATIONAL BENCHMARKS FOR DEMOCRATIC LEGISLATURES</b>	<b>175</b>
3.1.	Why strong and democratic parliaments are necessary for democracy	175
3.2.	What are the fundamental responsibilities of a parliament?	176

3.3. The benchmarks projects	178
3.3.1. The Inter-Parliamentary Union good practice guide	179
3.3.2. The NDI international standards	179
3.3.3. Commonwealth Parliamentary Association benchmarks for democratic legislatures	180
3.3.4. Assemblée parlementaire de la Francophonie: The democratic reality of parliaments — evaluation criteria	181
3.3.5. Other benchmarking initiatives	181
3.4. Conclusions	181
<b>Bibliography</b>	183

## ACRONYMS

<b>AU</b>	African Union
<b>ACP</b>	Africa, Caribbean and Pacific
<b>APF</b>	Assemblée Parlementaire de la Francophonie
<b>AWEPA</b>	European Parliamentarians for Africa
<b>CBO</b>	Congressional Budget Office
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CFAA</b>	Country Financial Accountability Assessment
<b>CPA</b>	Commonwealth Parliamentary Association
<b>CPC</b>	Canadian Parliamentary Centre
<b>CSO</b>	Civil Society Organization
<b>CSP</b>	Country Strategy Paper
<b>CTP</b>	Conflict Transformation Project in Parliament
<b>DCAF</b>	Geneva Centre for the Democratic Control of Armed Forces
<b>DFID</b>	Department for International Development (United Kingdom)
<b>EC</b>	European Commission
<b>ECA</b>	European Court of Auditors
<b>ECOWAS</b>	Economic Community of West African States
<b>EDF</b>	European Development Fund
<b>EIDHR</b>	European Instrument for Democracy and Human Rights
<b>EITI</b>	Extractive Industries Transparency Initiative
<b>EU</b>	European Union
<b>GBS</b>	General Budget Support
<b>GOPAC</b>	Global Association of Parliamentarians against Corruption
<b>GPSP</b>	Global Programme for Parliamentary Strengthening
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICT</b>	Information and communications technology
<b>IDEA</b>	International Institute for Democracy and Electoral Assistance
<b>IFI</b>	International Financial Institutions
<b>IPU</b>	Inter-Parliamentary Union
<b>ISS</b>	Institute for Security Studies
<b>JMC</b>	Joint Monitoring Committee
<b>LBO</b>	Legislative Budget Office
<b>LSP</b>	Legislative Support Programme
<b>LSPSP</b>	Legislative Sector Policy Support Programme
<b>MTEF</b>	Medium Term Expenditure Framework
<b>NDI</b>	National Democratic Institute
<b>NGO</b>	Non-Governmental Organization
<b>NIMD</b>	Netherlands Institute for Multi-Party Democracy
<b>NIP</b>	National Indicative Programme
<b>OAG</b>	Office of the Auditor General
<b>OAS</b>	Organization of American States
<b>OBS</b>	Open Budget Survey
<b>OFAG</b>	Office of the Federal Auditor General
<b>OPPD</b>	Office for Promotion of Parliamentary Democracy
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PAC</b>	Public Accounts Committee
<b>PAP</b>	Programme of Priority Actions
<b>PAPNBG</b>	Programme d'appui au Programme National de Bonne Gouvernance

<b>PDIAR</b>	Parliamentary Development in the Arab Region
<b>PEFA</b>	Public Expenditure and Financial Accountability
<b>PETS</b>	Public Expenditure Tracking Surveys
<b>PGA</b>	Parliamentarians for Global Action
<b>PNoWB</b>	Parliamentary Network on the World Bank
<b>PRSP</b>	Poverty Reduction Strategy Papers
<b>PSDP</b>	Parliamentary Strategic Development Plan
<b>RIP</b>	Regional Indicative Programme
<b>RSP</b>	Regional Strategy Paper
<b>SADC-PF</b>	Southern Africa Development Community Parliamentary Forum
<b>SAI</b>	Supreme Audit Institution
<b>Sida</b>	Swedish International Development Cooperation Agency
<b>TFP</b>	Transitional Federal Parliament
<b>UNDP</b>	United Nations Development Programme
<b>WBI</b>	World Bank Institute

## EXECUTIVE SUMMARY

### Introduction

1. This Reference Document is a practical tool for use in planning European Commission (EC) parliamentary strengthening programmes and to a lesser extent in engaging with parliaments<sup>(1)</sup> in development cooperation in partner countries. It is geared for use by European Union (EU) Delegation staff, both political and operations staff, but is also of use to other actors (donors, practitioners) as well as parliamentarians and parliamentary staff involved in parliamentary strengthening. The Reference Document will be complemented by training workshops on parliamentary development organized by AIDCO E4 and its partners, which will systematically address the key topics discussed and be aimed at EU staff, the staff of other donor agencies and parliamentary development practitioners.
2. The Introduction places parliamentary development in the broader context of EU development assistance, specifically as a key component of democracy support. In the past decade in particular the place of democracy support in the EU's development policies and external relations has grown in importance, not least because of the significance of democracy in the EU's own processes of integration and development. The approach has become more comprehensive and foresees a central role for parliaments. Furthermore, the aid effectiveness agenda requires a strengthened reliance on domestic accountability systems, in which parliaments will play a pivotal role, leading to a higher priority for parliamentary strengthening in development assistance frameworks. The introduction provides a brief description of parliaments and their place in democratic systems of governance. A more detailed exploration of parliaments and democratic development is presented in Annex 1, which provides a solid introduction for those less familiar with the subject.

### Chapter 1 Balance sheet of EC support to parliaments

3. Chapter 1 reflects on the work of the EC on parliamentary development. It highlights an assessment carried out of support provided to parliamentary development in African, Caribbean and Pacific (ACP) countries in 2000-2009, assesses the strengths and weaknesses of the EC's work in this area and makes recommendations for future EC-funded parliamentary support programmes. Best practices from two field case studies, carried out in South Africa and Senegal, are highlighted as well as those from other EC parliamentary projects. The full assessment is available online at:

[http://ec.europa.eu/europeaid/what/governance/index\\_en.htm](http://ec.europa.eu/europeaid/what/governance/index_en.htm)

4. The main findings of the assessment are that although about EUR 100 million was provided in 2000-2009 for parliamentary strengthening projects in ACP countries, support has not reached the levels necessary to meet the commitments of the EU entrenched in the Cotonou Agreements, relevant EU policies and the Accra Aid Effectiveness Agenda.

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<sup>(1)</sup> In this document parliament is used to refer to all types of existing representative institutions, from a chamber or house of representatives, to national assembly, to a congress or a senate, with an emphasis on representative bodies covering the national level and to a lesser extent the sub-national or local and supra-national representative bodies.

5. Successful programming typically includes:
  - a longer term approach and strong national ownership;
  - an amenable environment for democratic development and clearly defined programme objectives;
  - strong Delegation engagement, including careful programme planning; and
  - expert implementation partners, whether national or international.
6. Overall, however, there are insufficient examples of effective EC-supported parliamentary development. Less than half the ACP countries have received any parliamentary development support, and this has often been small scale, frequently as a minor component of larger governance programmes. EC governance assistance remains dominated by support to executive strengthening. Parliamentary support is often short-term in nature and lacks clear links to improved governance outcomes.
7. Too often, there is a cycle of costly intervention by the EC and other donors in elections followed by little investment in poorly institutionalized parliaments, leading to ineffective oversight of the executive and an entrenched system of semi-authoritarian rule, or even democratic reversals with highly negative democratic and development outcomes.

## **Chapter 2 Parliamentary development: Preconditions and assessment**

8. Chapter 2 discusses the aim of parliamentary development — trying to achieve an institution that plays its constitutional role effectively and exercises its powers appropriately. The challenge of parliamentary development is two-fold. First, parliamentarians must have the technical skills and the technical support required to carry out their constitutional roles. Second, the structure of power and the incentives in the governance system, particularly the relationship between parliament and the executive, must permit parliaments to play an oversight role.
9. The chapter discusses the broader political conditions that enable effective parliaments to function: the agreement by different leadership groups within society to *live by a set of rules* and not to resort to extra-constitutional methods to undermine their opponents and a *context of overall democratization*. The development of democratic state institutions, including parliament, is only conceivable in a context of overall democratization and the expansion of opportunities for free expression.
10. The chapter addresses the crucial relationship between parliament and civil society in democratic development. From the outset, parliamentary support programmes need to establish a synergistic relationship with assistance provided to civil society. Options are discussed for building a mutually enhancing relationship between the parliament and civil society as part of an overall democratic development strategy.
11. The chapter discusses the preconditions for a successful parliamentary development programme. Most importantly, parliament must have the will to become a stronger and more effective institution. In its absence, support will rarely have the necessary ownership and is unlikely to achieve results. In addition, to fully benefit from a strengthening programme, parliament must be able to exercise the full range of constitutional powers

over legislation, oversight and representation required for the effective functioning of a legislature in a contemporary liberal democracy. Section 2.2 concludes by providing a **checklist** that can be used as the basis **for a pre-assessment by the Delegation** to determine whether minimum conditions for a successful parliamentary development programme are in place. The aim of this pre-assessment is not to exclude collaboration with parliaments, but to reflect on the context, consider the options and start, where appropriate, identifying possible entry points on which to build.

12. This leads into the **Assessment Framework** for parliamentary development (see section 2.3), a practical tool designed to assist EC delegations and their partners as well as parliaments to develop an understanding of the current strengths and weaknesses of parliamentary functions, and with the elaboration of effective parliamentary development programmes. The Assessment Framework is designed to be used in conjunction with the overall understanding of parliamentary development provided in this Reference Document. It provides a **comprehensive, step-by-step methodology for assessment**, from the preparatory phase including context mapping to the assessment phase, interpreting assessment results and the design of projects. Particular attention is devoted to how to ensure that the assessment is properly steered by parliament.

The purpose of the Assessment Framework is threefold:

- to pinpoint areas where a parliament is not currently performing aspects of its core functions, or is performing these suboptimally;
- to understand the possible underlying causes of these areas of weakness;
- to identify entry points for parliamentary development and design context-specific parliamentary support programmes.

The Framework includes comprehensive questions as well as a sample assessment matrix. Each national situation will demand modifications to match context, but the Assessment Framework provides a comprehensive baseline approach to parliamentary strengthening project assessment and design that can be adapted to diverse situations.

13. Finally, the impact of external factors, in particular the role of donors, on the feasibility of parliamentary development programmes is analysed. These include a strong or exclusive focus on strengthening the executive as well as the dangers that donor-recipient dialogue and policy and programme development bypass parliament, that support is provided to democratic elections but there is inadequate investment in building democratic institutions, and that development assistance is still mainly financed off-budget and does not allow parliamentary oversight, and so on.

### **Chapter 3 Parliamentary development: Strategies and implementation modalities**

14. This chapter presents a series of **key principles for parliamentary support**. Intervention modalities should be based on the requirements of prevailing national conditions, and particularly on the principle of national ownership. Intervention focus and entry points will be determined through effective planning, including use of the assessment matrix tool. Development support should be built on a clear set of desired outcomes in terms of parliamentary effectiveness. These must be realistic

and at the same time make a genuine commitment to democratic strengthening. A clear understanding is needed of the overall political and institutional environment in which parliament operates, enabling realistic outcomes and objectives to be set. An understanding of existing drivers — the factors that motivate parliamentarians to act — is essential, as well as understanding of how the proposed parliamentary development strategy interrelates with these motivators. Also essential is clear mapping of key actors in supporting and resisting change as well as strategies for ensuring these actors are engaged in the parliamentary reforms programme.

15. The chapter discusses in detail the different **strategic entry points or intervention modalities** for EC parliamentary support programmes. Many intersect with needs identified in existing EC aid activities and commitments.

- Support can be provided to parliaments as **part of a general governance programme** in which strengthening activities are carried out simultaneously in support of the different arms of government. In such cases it is essential to ensure that the different state institutions are all appropriately strengthened to avoid reinforcing existing power imbalances.
- Parliamentary support can be provided taking an **electoral cycle approach**. Once again, it is key that parliamentary strengthening activities extend beyond merely supporting the passage of electoral legislation and include building institutional capacities.
- **General and sector budget support** aid modalities also require engagement with parliaments:
  - Where parliament's budget oversight capacity is weak, budget support should be accompanied by support to strengthen parliamentary oversight. This can entail support to the finance committee or equivalent, the creation of a parliamentary budget office, supporting budget hearings, or strengthening relations with other budget actors, such as supreme audit institutions, civil society organizations (CSOs), the executive and so on.
  - EC budget support is negotiated as part of the multi-year Country Strategy Programme (CSP) and of the national indicative programmes (NIP), directly between the national government and the EU Delegation. Efforts should be made to implement the *EC guidelines on general budget support* recommendation (European Commission, 2007b) by making discussions between the EC and the national parliament, and in particular the finance committee, part of the programming process and part of the annual review of support.
- Parliamentary involvement in **Poverty Reduction Strategy Papers (PRSPs) and other national development strategies** should be strengthened. There should be support for engagement in the elaboration and approval of plans to facilitate oversight of implementation. Parliaments have too often been sidelined while negotiations on programme content take place between the international donor community and the executive.

**Donor accountability to parliaments** should be expanded in line with the Paris agenda and the Accra Aid Effectiveness agenda by, for instance:

- tabling a joint government-EC annual report in parliament on EC and/or harmonized international development assistance, including budget support;

- holding an annual informal session of parliament during which EC and government interlocutors present the EC development assistance programme and respond to questions from parliamentarians;
  - ensuring that parliament is informed of financing agreements signed with external donors, including the EC.
16. The **institutional model**, the **party model** and the **civil society model** — three more general types of approach to parliamentary support programmes — are presented and discussed with their pros and cons, as well as a **strategic development planning approach** which allows the different elements of the three models to be integrated.
17. The final section of the chapter discusses different **implementation partnership approaches**: twinning with other parliaments, working with the European Parliament, or South-South collaboration with the parliament in, for example, South Africa; or partnership with United Nations agencies, global and regional parliamentary associations, political foundations, international financial institutions, national (domestic) organizations and individual experts, as well as private international consulting organizations and individuals. A mix of implementation partners is often recommended, to be adjusted according to local need. Wherever possible it is recommended to join forces with other parliamentary support providers and pool resources under a single support programme.

The Reference Document has three annexes.

18. Annex 1, **Parliaments and democratic development**, extends the Reference Document's introduction to parliaments and their place in democratic systems of governance. It discusses the emergence of democracy, emphasizing that democracy has deep roots in Africa and elsewhere and thus is not, as some have suggested, 'a Western import'. The annex explores why effective parliaments are essential for strong and stable democracies. It explains the role of parliaments in different democratic constitutional models, underlining the need for parliamentary developers to be sensitive to the roles played by parliaments in different democratic traditions. It concludes by outlining the different functions of parliament, including legislation, oversight and representation, and in the national budget cycle. Two cross-cutting issues in parliamentary effectiveness are how representative the institution is of the diversity of the population, and the capacity of the parliamentary administration to support the work of the institution.
19. Annex 2, **Themes in parliamentary development**, examines specialized issues in parliamentary strengthening work beyond those presented in Chapter 2 and Chapter 3, allowing those planning support in specific thematic areas to use its relevant sections. Some parliamentary development programmes involve general support for the strengthening of the institution. As is noted in Chapter 3, however, there are different entry points and different priorities in parliamentary development, and activities often focus on one or more discrete areas of strengthening work. The different sections in Annex 2 explore key topics that often form the central focus of strengthening activities. Section 1 looks at **gender**, exploring both the common weaknesses of parliaments in effectively representing women and their specific interests, and the tools and approaches used to increase women's participation in parliament or introduce a gender policy focus to the work of parliament. Section 2 explores the **role of parliaments in the budget cycle**, and builds on the budget entry point discussed in Chapter 3. It details common weaknesses in parliamentary integration in the national budget cycle, and proposes

methods to support greater parliamentary effectiveness in budget development and analysis, implementation oversight, and post-facto auditing of government actions. Section 3 examines **national political dialogue**, with a special focus on **poverty reduction programmes**, which have been the centrepiece of development assistance strategies in recent years. The section examines the history of poverty reduction programmes and notes that these have been driven largely by donor-government interaction. It emphasizes the importance of integrating parliament as an institution in the development, implementation and audit cycle of any national development plan. Section 4 examines the particular challenges involved in **parliamentary strengthening in a post-conflict environment**. In the past, international efforts in conflict situations focused on the short-term end of hostilities, with little attention paid to long-term democratic institution building, often resulting in a costly repeated cycle of conflict and recovery. The section discusses the important role that parliament can play in bringing formerly hostile parties into democratic dialogue, identifies sensitive areas to be considered in post-conflict parliamentary development, and provides recommendations for effective programmes. Section 5 addresses the often related topic of **parliamentary oversight of the security sector**. Stable democracy requires a clear demarcation of responsibilities between democratic governance institutions and the security sector. A failure of democratic control over security issues is frequently a contributing factor in the breakdown of democracy. The section emphasizes the importance of parliamentary oversight functions in the security area and discusses the various sensitivities, challenges and barriers to effective oversight. The annex makes recommendations for strengthening approaches in this area.

20. Annex 3 **examines new international methodologies for the benchmarking of parliamentary effectiveness**. Such exercises attempt, as happened in the past when defining free and fair elections, to specify what it takes for a parliament to be democratic and effective. The benchmarks can provide an impetus to a parliament to increase its effectiveness and accountability, especially when comparisons can be made with other parliaments with similar historical and/or socio-economic backgrounds. Parliaments that have used such benchmarks for self-assessment and are willing to address some of the identified gaps provide an excellent starting point for parliamentary development support.
21. Users of the Reference Document may also wish to visit <http://www.agora-parl.org>, the reference website for knowledge-sharing on parliamentary development, which was launched in 2010 and in which the EC is a partner.
22. We hope that this Reference Document will provide a useful foundation for those beginning their involvement in parliamentary development, and become a resource for practitioners addressing opportunities and challenges in the implementation of parliamentary strengthening. This is an exciting area of democratic development that will continue to flourish in the coming years, particularly through networking and mutual support among those involved in the field.

## INTRODUCTION

### The developing policy framework for European Commission support to parliamentary strengthening

#### Box 1 - Legal and policy frameworks underpinning EC support to parliamentary development

EC parliamentary development support has explicit expression in several key EU legal and policy commitments. These include:

- The Cotonou Agreement (2000), which emphasizes the centrality of the EU's goal of promoting democracy and gives special attention to the European Parliament's role in encouraging parliamentary development in countries outside the EU.
- The European Consensus on Development (2005), which presents a common EU vision of development, emphasizing poverty reduction, development based on Europe's democratic values and alignment of development assistance with developing countries' development strategies.
- The 2006 Commission Communication on Governance in the European Consensus on Development (COM (2006) 421), which underlines the 'relevance of a broad approach to governance in development cooperation' and the need as a priority to engage and support representative institutions. The obligation to better align EC development cooperation to partner countries' development strategies and to increase the use of budget support also requires the EC 'to reinforce the role of the national democratic institutions, e.g. parliaments, directly involved in the relevant decision-making processes under national law', and responsible for the oversight of the use of the state budget.
- The Council of the European Union Conclusions on Democracy Support (2009), which emphasizes that strengthening democracy is a key goal of EU external actions, and that strong parliaments are a central feature of European democracy.

#### Democracy and democratic development as fundamental values of the European Union and the international community

The European Union is fundamentally committed to democracy, both as a governance principle for the EU itself and its member states, and as a principle underlying its external relationships, including the development assistance provided to other countries through the European Commission. This commitment has gradually evolved to include basic principles regarding the nature and institutional elements of effective democratic systems, and specifically the fundamental importance of parliaments in democratic governance, which play a central role in law-making, oversight of the executive and representation of the population.

The international commitment to democratic governance can be traced back as far as the global expression of rights enshrined in the Universal Declaration of Human Rights (UDHR), which was adopted in 1948. The declaration was strengthened by the International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, article 25 of which is interpreted as requiring governments to provide for elected legislative bodies that will share responsibility for governance with the executive. In 2000, the United Nations Millennium declaration endorsed 'democratic

and participatory governance based on the will of the people'. The 2005 UN World Summit reaffirmed that 'democracy is a universal value based on the freely expressed will of people to

determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives'. Most recently, the General Assembly of the United Nations, in its 2007 resolution A/RES/62/7, set out a 'framework for democracy based on universal principles, norms and standards', which asserts that, 'democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing'. The UN democracy framework specifically underlines the

*central role of parliaments and the active involvement of civil society organizations and media and their interaction with Governments at all levels in promoting democracy, freedom, equality, participation, development, respect for human rights and fundamental freedoms and the rule of law.*

The importance of democracy in the processes of integration and development within the EU also guides EU policy and action beyond its borders. In the past decade in particular the place of democracy support in EU development policies and external relations has grown in importance and the approach has become more comprehensive. The 2005 European Consensus on Development emphasizes that support for democracy and good governance will be mainstreamed throughout the EU's provision of development assistance, and will take the form of specific areas of concentrated support. The 2009 Lisbon Treaty reaffirms in article 21 that:

*the Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.*

The importance of support to democratization is further underlined by the November 2009 Council of the European Union Conclusions on Democracy Support. These conclusions emphasize the importance of democratic development as a key goal of EU external action, and state that the EU is 'committed to improving the coherence and effectiveness of its support to democracy'. The document includes an Agenda for Action on Democracy Support in EU External Relations, which states inter alia that:

*democracy support should include a special focus on the role of elected representatives and political parties and institutions, independent media and civil society. The EU support should take into account the full electoral cycle and not focus on ad hoc electoral support only.*

Beyond the international commitment and the EU's engagement in democracy development, it should also be noted that various regional organizations have over the years developed their own democracy statements or charters, such as the Organization of American States (OAS) Inter-American Democratic Charter (2001), the African Union (AU) Charter on Democracy, Elections and Governance (2007) and the Organization for Security and Co-operation in Europe (OSCE) Charter of Paris for a New Europe (1990), which contains a substantive chapter on democracy and what it entails, including concrete references to the central role of parliaments in democracy.

### **Box 2 - Democratic development is central to the ACP-EU partnership for development**

Since the Lomé Convention of 1975, the partnership for development assistance between the European Union and the African, Pacific and Caribbean countries has emphasized the centrality of democracy as a foundation for good governance and effective development. Further iterations of the Lomé Convention and the Cotonou Agreement of 2000 have expanded on the importance of democracy and confirmed the commitment of the ACP countries to democratic development, and the support of the European Union to democratic institutions in the ACP countries. The Joint EU-ACP Parliamentary Assembly, comprised of equal numbers of representatives from ACP country parliaments and the European Parliament, plays an important role in promoting democratic processes through dialogue and consultation, and provides advice and recommendations on the functioning of the development partnership between the ACP countries and the EU. The second revision of the Cotonou Agreement, approved in March 2010, emphasizes the role of ACP parliaments as key actors in the ACP-EU development partnership, states that parliaments will 'be provided with capacity building support in critical areas' and specifically notes that ACP parliaments are to be involved in regular political dialogue on the development objectives of the Cotonou Agreement, including mutual actions to promote a stable and democratic political environment.

### **The aid effectiveness agenda requires a strengthened focus on domestic accountability and a central role for parliaments**

Aid effectiveness is to be accomplished largely through fuller country ownership of the development process, including reliance on national, rather than donor-driven, accountability systems. National parliaments are the pivotal accountability institutions in democratic systems, and thus the aid effectiveness agenda leads to a greater role for parliaments and the need to place a higher priority on parliamentary strengthening within development assistance frameworks. The Paris Declaration (2005) and the Accra Agenda (2008), in particular, establish guidelines for increasing aid effectiveness. The Paris Declaration includes five principles to strengthen aid effectiveness:

- **Ownership:** Developing countries set their own strategies for poverty reduction, improve their institutions and tackle corruption.
- **Alignment:** Donor countries align behind these objectives and use local systems.
- **Harmonization:** Donor countries coordinate, simplify procedures and share information to avoid duplication.
- **Results:** Developing countries and donors shift focus to development results and results get measured.
- **Mutual Accountability:** Donors and partners are accountable for development results.

The Accra Agenda expands on the Paris Declaration, and includes a particular emphasis on the use of country systems for the delivery of development assistance. This entails, for example, the use of direct budget support to deliver development assistance. The EC has been at the forefront in shifting towards budget support modality. The success of budget support modality depends on the effectiveness of national delivery and accountability processes and, specifically, the effectiveness of parliament. The EC undertakes where appropriate to

‘support efforts of partner countries to develop parliamentary control and audit capacities’ (European Commission, 2008d).

To conclude, EC support to parliamentary strengthening:

- reflects the EU’s commitment to democracy as a fundamental expression of the values of the EU and its member states;
- supports global and regional commitments to establish and foster democratic systems that provide good governance and guarantee freedom and human rights;
- conforms with the priorities of the Paris Declaration and the Accra Agenda to improve aid effectiveness, including through the use of country systems.

Although, as is underlined above, the development and democracy support policy framework has significantly evolved in the past decade, this does not mean that it has been fully integrated into the practical work in the field. This is demonstrated by the Assessment of EC Support to Parliaments (2000–2009), a summary of which is presented in Chapter 1 of this Reference Document. Thus far, the EC’s democracy support has too often been limited to electoral assistance, election observation and some support to CSOs advocating democracy reforms.

## Parliaments and successful democracies

There is no single ‘correct’ model of democracy. Even among longstanding democracies, there is a wide variety of different types of democratic system, in which parliaments play varying roles. However, there is growing consensus that effective parliaments are of fundamental importance to democratic systems. The brief outline below is merely an introduction to the topic. Annex 1 of this document contains a detailed discussion of the history of democracy and of different types of constitutional, parliamentary and electoral systems. It concludes by outlining the different functions of parliament. It is a useful, more extensive introduction for those less familiar with the topic.

Parliament is normally one of a triumvirate of autonomous state institutions, along with the executive and the judiciary. The relationship between these institutions is described in some systems as a separation of powers (e.g. in the United States where there are strict constitutional separations of both responsibility and personnel) and in other systems as a balance of power. In the Westminster system, which is followed in various forms in many Commonwealth countries, the executive, legislature and judiciary have historically been intertwined. In the Napoleonic system, which provides the inspiration for many francophone and lusophone countries, there is typically a clear power separation between the different state institutions, although as with all models there are significant variations between individual countries.

Beyond the relationship between the formal state institutions, parliament’s role and effectiveness are linked to the types of electoral system through which parliamentarians are elected, as well as the nature and functioning of political parties. Obviously, free, fair and transparent elections are a requirement for a credible, legitimate and effective parliament. Beyond this, different electoral systems affect the functioning of parliament. For example, constituency-based elections provide a direct link between representatives and their constituents, but these systems are often ‘first-past-the-post’, which may result in under-representation of minority perspectives in parliament. On the other hand, list-based systems, in which voters choose

between party lists, typically results in wide representation of different political parties, but at the expense of the link between a parliamentarian and the constituency.

Well-rooted and democratic political parties are necessary for parliaments to be effective. In many emerging democracies, parties – particularly those in opposition – are often weak and personalized, with limited capacity for policy analysis and advocacy. In these circumstances, effective support to parliament may require complementary support for political party development, although this may be provided through other development actors.

In most countries, parliament's core functions are enshrined in the constitution as encompassing *legislation*, *oversight* and *representation*. In addition, parliaments typically are responsible for *passing the budget*, thereby permitting the executive to carry out its programme. Parliament also has an important role, although not always constitutionally enshrined, to ensure that the governance process is *inclusive*, that is, that all segments of the population are adequately represented.

Parliaments are best known for their *legislative* responsibilities. Except in limited circumstances, all legislation must be passed by parliament before it comes into effect. This does not mean that parliaments write most legislation. Often, the bulk of legislation is developed by the executive arm of government and submitted to parliament for consideration. Nevertheless, parliament and parliamentarians must be able to effectively analyse proposed legislation and make amendments, or even reject proposed legislation, when necessary.

*Oversight* refers to parliament's role in monitoring government activities and ensuring that they are consistent with national legislation, and that resources are being used efficiently and effectively. In many ways, oversight is the most important function of any parliament because it ensures that government is held accountable to the people's representatives on a day-to-day basis. Effective oversight does not just mean effective monitoring of the government's finances (discussed below) but, just as importantly, involves ensuring that government programmes are effective and meet the objectives for which they were designed. Vehicles for carrying out oversight include but are not limited to parliamentary (standing) committees, special committees, questions and interpellations of ministers, written questions and parliamentary inquiries.

The *budget process* is a cycle that involves development of the budget proposal, consideration and approval of the budget, execution of the budget and finally accounting and auditing of how the budget was executed. Parliament has a crucial role in at least two of these phases — it is the institution responsible for approving the budget, and it is the main body that, with support from a supreme audit institution, is responsible for auditing budget execution. Increasingly, effective parliaments are also involved in consulting the population in the budget development process, often preparing a report providing input to the executive on budget priorities.

Parliamentarians need to *take account of and represent the views and needs of their constituents* when they pass laws and undertake oversight. There are many different methods for parliaments to gather the perspectives of citizens, and these are discussed in Annex 1. These include individual discussions with constituents, constituency meetings, parliamentary hearings, citizen petitions and citizen legislative initiatives.

Increasing attention is being paid to the need for the focus of parliamentary work to *reflect the composition and different segments of the population*. This is a multifaceted process. Parliaments have not always reflected the population; for example, women make up close to half the members in only a handful of parliaments in the world. *Inclusiveness* also

involves ensuring that the concerns of different parts of the population are systematically considered as parliament carries out its work. Parliaments can thus play a key role in channelling social tension and differences in a constructive direction.

Chapter 1 of this Reference Document briefly examines the parliamentary development work that the EC has supported in the ACP countries over the past ten years. This provides a useful picture of where the EC stands with its parliamentary support and documents some of the lessons learned.

# 1. ASSESSMENT OF THE EUROPEAN COMMISSION'S PARLIAMENTARY SUPPORT IN AFRICA, THE CARIBBEAN AND THE PACIFIC

## Chapter overview

A desk- and mission-based assessment of EC parliamentary support activities conducted in the ACP states between 2000 and 2009 was carried out as part of the preparation of this Reference Document. The methodology involved accessing EuropeAid project records and following up with EU Delegations to gather additional documentation and specific project details. A country-by-country database of project information and documentation was prepared, which was used as the basis for analysis. In addition, the project team consulted with Delegation staff at the Third Regional Workshop on Democratic Governance for ACP/Africa Delegations in Kigali, Rwanda, which took place on 13–15 May 2009. South Africa and Senegal were selected as in-depth case studies, and project missions were sent to each country in July 2009. This chapter presents a short summary of some highlights of the assessment. The full assessment is available at:

[http://ec.europa.eu/europeaid/what/governance/index\\_en.htm](http://ec.europa.eu/europeaid/what/governance/index_en.htm)

### 1.1. Dimensions of EC parliamentary support

In total we identified EC financial support specifically earmarked for parliamentary development between 2000 and 2009 totalling approximately EUR 107 million. Because parliamentary development projects are often part of wider governance projects in which the allocation of resources between different governance institutions is not specified, the level of resources delivered in support of parliaments should be considered an estimate.

The assessment team identified 46 parliamentary support programmes, 42 of which were in 24 individual countries, along with four ACP regional projects. In addition, six programmes are delivered through budget support modalities, which are discussed below. Apart from a project about to begin in Timor Leste and a budget support modality programme which was being formulated in Haiti before the January 2010 earthquake, all the other individual country projects were in sub-Saharan Africa. Most of the projects were funded entirely by the EC, while 11 of the 41 country projects identified funding partners, both contributions from the recipient parliament and support from bilateral and multilateral development agencies. The four ACP regional projects are support to the ACP-EU Joint Parliamentary Assembly, support to the Pan-African Parliament, an information and communications technology (ICT) project and an Energy Access for the Poor project.

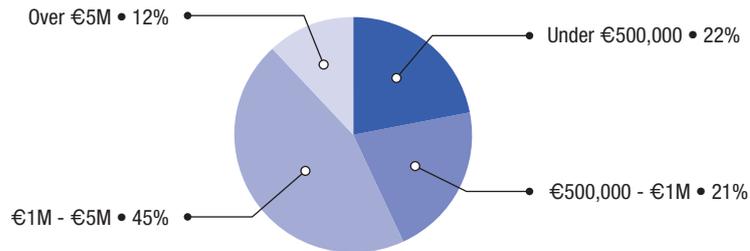
The majority of EC development assistance resources to ACP countries, including for parliamentary development, are channelled through the European Development Fund (EDF). Significant funding for parliamentary development in South Africa has been provided through the specific budget line devoted to cooperation between the EC and South Africa.

There are other potential sources of EC support for parliamentary development in the ACP countries. The European Instrument for Democracy and Human Rights (EIDHR) provides assistance to projects fostering human rights and democratic reform. The EIDHR mainly

supports non-governmental organizations (NGOs) but it can also support parliamentary activities in this area, and two projects were identified that had received some EIDHR support.

The level of EC funding to parliamentary development projects across the 46 country-level and regional programmes varied widely. Only five projects benefited from large scale multi-year funding exceeding EUR 5 million. Three of these were in South Africa.

**Figure 1: Relative size of EC investments in parliamentary support projects**



## 1.2. Types of parliamentary support provided

### Legislative strengthening

*Legislative strengthening* focuses on the role and responsibilities of parliament in preparing, introducing and considering legislative proposals and amendments. The assessment found 25 programmes in 16 countries implementing relevant activities such as providing courses in legislative drafting, improving the functioning of standing orders through reform and supporting the passage of enabling legislation.

### Oversight function

The *oversight function* of parliament is in many ways its most crucial role, and encompasses much more than fiscal accountability. The inability of parliaments to be effective in this role often reflects their institutional operating environment, as is discussed above. There are often either major power imbalances in national institutional structures or an absence of acceptable norms for good governance. Civil society is often too weak to effectively demand the accountability of government to the population.

We found 16 programmes with clear oversight strengthening aspects in 13 different countries. Examples of the types of activity carried out vary from ‘training on oversight responsibilities’ to multi-vector activities that aim to increase both parliamentary capacity and the demand from civil society for parliament to play a key role in fostering accountability.

### National budget

EC-supported projects to strengthen the effectiveness of parliaments in *national budget processes* included a fairly narrow range of activities around different aspects of training for finance committee members and staff on the budget process.

## Representation

The *representation* function is critical to the long-term sustainability of democratic systems. The population must feel that it is being heard by its democratic representatives, and that issues that arise will be taken seriously and addressed. Numerous difficulties arise for parliaments in developing country democracies in carrying out the representation function. Institutional resources to permit regular outreach are often lacking. More fundamentally, the relationship between the legislator and the citizen is often problematic. There is often poor understanding among the populace of the division of responsibilities between the executive and the legislature, with the expectation that the legislator can personally carry out executive programmes. Parliamentarians often play up this misunderstanding by claiming personal credit for service delivery or by lobbying for constituency funds that they administer themselves.

Twenty-six programmes were identified with representation-oriented activities in 18 ACP countries. The range of activities that the EC has supported in strengthening the representative function of parliament is impressive and includes, for example, the development of parliamentary magazines, websites, open-door policies, outreach programmes and petition systems, the strengthening of links to civil society and national civic education on the role of parliament.



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## Parliamentary administration

ACP parliaments often lack staff with expertise in key areas such as legislative analysis, oversight and the national budget process. Basic facilities are often insufficient. For example, ICT, library services, archiving, translation, minute-taking and the production of the parliamentary record may not be carried out efficiently or be professionalized. Internal financial accountability is often an issue, and opposition and minority parties may be unable to access resources to support them.

## **Inclusivity**

*Inclusivity* involves ensuring that parliament genuinely reflects the whole population and its diverse needs. In this area, EC parliamentary development programmes over the past decade mostly focused on gender equity. Future gender programmes should focus on developing specific action plans that aim to reflect equity in parliament and in its deliberations. Gender inclusivity has generated many positive examples which may inform related areas where more remains to be done, including in minority representation and supporting constructive social dialogue.

## **Institutional strengthening through budget support**

The EC is committed to expanding direct budget support. Parliament's role in ensuring the success of the budget support modality will intensify as the EC's delivery of development assistance is consolidated with national budgets. The assessment found that the EC provided budget support in 43 ACP countries, and notable among these were several fragile states emerging from serious conflict. There are provisions in the budget support modality for support to institutional strengthening, including parliamentary strengthening.

Support to parliaments as part of an institutional strengthening component of budget support is under way in four countries, under formulation in two and has been concluded in a seventh country. The budget support for institutional strengthening programmes for parliament tend to be quite small. For the five programmes for which we have figures for EC contributions to parliamentary support, these vary up to EUR 250,000 (Burundi). The figures cover between two and five years. Activities typically include strengthening of the parliamentary budget/finance committee and improved coordination between the parliament and the supreme audit institution.

## **1.3. Case studies**

### **1.3.1. South Africa**

#### ***EC support for parliamentary development in South Africa***

The South African legislative sector is a genuine success story as an example of nationally driven democratic development. The EC has assisted that development over the past 14 years through three phases of support. The case study was selected because it is the largest amount of EC support provided to a parliament to date, and there is the potential for skills and best practices to be shared elsewhere in the ACP region.

The EC has provided support to the South African legislative sector since 1996. The case study focuses on the Legislature Support Programme (LSP), which was implemented between 2004 and 2008. The Legislative Sector Policy Support Programme (LSPSP), which runs from 2009 to 2013, is delivered through sector budget support, the first time that this funding modality has been employed by the EC to support parliamentary development.

### **Box 3 - Three phases of EC support to South Africa's legislative sector**

#### **1996–2003: EUR 15.3 million**

Support provided to parliament and, through the Speakers' Forum, to provincial legislatures.

#### **2004–2008: EUR 10.0 million**

Support provided through the Legislature Support Programme (LSP) with greater emphasis on strengthening provincial legislatures.

#### **2009–2013: EUR 15.0 million**

Support being provided as a result of the Legislative Sector Policy Support Programme (LSPSP).

### ***The legislative sector***

South Africa is unique in having defined a 'legislative sector' made up of the 11 national and provincial legislative institutions. The existence of a legislative sector provides a clear focus on the importance of the legislative institutions as anchors of the democratic state, and on the need for the sector to develop consistently rather than on a legislature by legislature basis. The sector is coordinated by the Speakers' Forum, a non-statutory body that includes the Speaker and deputy Speaker of each of the 11 legislative bodies in South Africa.

### ***Focus of LSP support and results***

In line with the main objectives of the LSP, the major activities covered included strengthening gender mainstreaming, public participation, oversight, a disability strategy, financial management and information systems, human resources development and communication between the national legislative bodies and those at the provincial level. To highlight just one area, the LSP activities to support strengthened legislative oversight focused on building the capacity of committee support staff and parliamentarians have contributed to positive developments in terms of financial independence and the oversight role of the legislative institutions.

### ***Assessment of the South African legislative sector-European Commission partnership: Lessons learned***

South Africa's democratic system is a unique and highly successful experiment in integrating participatory democracy practices with traditional liberal democratic institutions. The political system that has been built corresponds closely with contemporary thinking globally regarding the merits of participatory democracy. The EC has made a positive contribution to institutional strengthening, particularly in helping to build the concept of the legislative sector with the engagement of both provincial and national legislatures. This is a good model to follow in both developing and developed country democratic systems.

The shift from project modality to a sector approach fits with South Africa's disciplined commitment to strategic development and is also somewhat the logical consequence of long-term and intense cooperation between the EC and the South African legislative sector. In line with the sector strategic plan, the work ahead will include putting into practice a number of sector strategic frameworks in the areas of oversight and public participation, as well as strengthening infrastructural support, for example, in human resources and financial management systems. The South African legislative sector is committed to the development of the sector and sharing its experiences. The sector dialogue meetings, and in particular the (international) consultative

seminars, promote the exchange of ideas on cooperative and collaborative implementation of programmes of national parliaments and provincial/regional legislatures as a strategy for cooperation on advancing parliamentary democracy. This programme successfully demonstrates the EU's role as a development partner advancing parliamentary democracy.

### **1.3.2. Senegal**

Senegal is a key partner of the European Union within the West African region. The country is a particularly important example for democratic development in the West African subregion given its long tradition of respect for human rights, and its history of the peaceful and democratic transfer of state power from one political party to another. This long experience of stability and peaceful democratic change provides opportunities to measure the impact of parliamentary support over time.

#### ***EC support for parliamentary development in Senegal***

Under the ninth EDF, the EC and Senegal agreed to establish the Programme d'appui au Programme National de Bonne Gouvernance (PAPNBG), intended to finance governance strengthening activities in several areas including the judiciary, economic governance, parliament and non-state actors. The programme ran from March 2006 to December 2009 and had a budget of EUR 33.5 million. Of this global amount, EUR 600,000 was earmarked for supporting the National Assembly and EUR 2.135 million for the audit court (Cour des Comptes). The planned programme of support to the National Assembly included recruiting consultants to carry out an organizational analysis, recruiting expert parliamentary assistants, strengthening working methods, including study missions, and acquiring ICT and office equipment. In practice, the support to parliament has focused primarily on activities to strengthen the institution's budget oversight activities, and in particular the work of the finance committee.

One additional key but unplanned activity is facilitating resolution of the lengthy delays in the approval of previous years' national financial accounts. By the end of 2008, approximately ten years of accounts had not been verified by the Cour des Comptes and approved by the National Assembly. EC officials used their informal 'convening power', derived at least in part from their involvement in the PAPNBG, to organize a retreat involving representatives of the Finance Ministry, the Assembly and the Cour des Comptes. The results of the exercise were quite positive: several years of backlog was processed and a clear plan with timelines was formulated to bring the accounting up to date.

#### ***Assessment of EC support to parliamentary strengthening in Senegal***

The most significant achievement of the parliamentary strengthening project in Senegal is its fostering of dialogue between the EC Delegation and the National Assembly, which among other things helped to reduce the backlog in auditing the national accounts.

Specific programme activities enabled strengthening of ICT provision and expanded the pool of technical support available to the finance committee. Given the relatively small amount of resources available, the programme's objectives were overambitious, with only limited evidence of strengthened parliamentary budget oversight effectiveness. The project was delivered through a project management unit and this structure may have reduced the opportunities for direct dialogue between the Delegation and the National Assembly. Where

possible, national delivery mechanisms should be utilized in line with the commitments of the Paris Declaration and the Accra Agenda.

Weaknesses in the functioning of Senegal's parliament are at least to some extent reflective of political-economic drivers that limit the institution's effectiveness, and it would be useful to carry out a political economy/drivers of change analysis prior to engaging in such a parliamentary project. The assessment framework in Chapter 2 of this Reference Document is a useful tool for assessing institutional challenges for parliamentary development.

#### 1.4. Balance sheet and recommendations for effective parliamentary development programmes

The assessment of EC assistance demonstrates that while significant support has been provided to parliamentary strengthening in ACP countries, this support has not reached the levels required overall. Less than half the ACP countries received parliamentary development support. Much of the support that has been provided has been short term and limited in scope. Furthermore, many of the projects are primarily technical in nature (e.g. the provision of ICT equipment and training, etc.), while there are often structural challenges to parliamentary effectiveness that require broader and deeper engagement with and support to the parliamentary institution as well as greater exploration of the political-economic drivers of change in specific countries, and expanded political dialogue between EU Delegations and national parliaments and governments on democratic development issues.

Many examples of good practice in EC support to parliaments are highlighted in the full assessment document, which is available online. Most notably, the long-term and relatively large-scale collaboration between the EC and the South African legislative sector has been a considerable success. A number of smaller interventions supporting various national parliaments such as in Tanzania (see Box 4 below), Kenya and Comoros are also highlighted in the full assessment.

##### Box 4 - Example of good practice in representation: Tanzania

**Issue:** National elections in 2007 and Tanzania's renewed commitment to democratization created momentum to consolidate and intensify good and accountable governance practices.

**Programme:** The programme supports the Tanzanian-led *Deepening Democracy* initiative (2007) to build the capacity of national governance institutions and political parties. UNDP is the lead implementing partner. The four-year programme began in 2008. The EC is contributing EUR 1.4 million of the programme's EUR 9.5 million budget. The strategic plan supporting the parliamentary component is complete and ready for implementation.

**Design:** The design of the project focused on building multi-donor support for the Corporate Plan and, in parallel, strengthening the capacity of key parliamentary committees and parliament's responsiveness to civil society.

**Main activities:** Training for the secretariat of the national parliament and the Zanzibar House of Representatives; constituency outreach seminars to support public understanding of the role of representatives and constituents; wide dissemination of issues around parliamentary work through Speaker's forums; and focusing media attention on events and key messages promoting citizen-parliamentary engagement.

**Key findings:** This programme has brought about a more competent review of the budget and scrutiny of bills by committee chairpersons, and increased dialogue between parliament and civil society. The involvement of civil society in the review of bills has increased its influence on legislation. The strengthening of civil society has proved to be a positive factor underpinning the sustainability of the programme.

Successful programmes typically include:

- a longer-term approach;
- an amenable environment for democratic development;
- strong national ownership;
- clearly defined programme objectives;
- strong Delegation engagement, including careful programme planning;
- expert implementation partners, either national or international.

A considerably greater emphasis needs to be placed by the EC on parliamentary development support in ACP countries in order for EC development assistance to meet the commitments of the EU entrenched in the Cotonou Agreements and repeated in the decisions and policy agendas of the European Council, the EC and the European Parliament, most recently in the EU Agenda for Action on Democracy Support in EU External Relations adopted by the European Council on 17 November 2009, and discussed in the introduction to this Reference Document.

## 2. PARLIAMENTARY DEVELOPMENT: PRECONDITIONS AND ASSESSMENT

### Chapter overview

Section 2.1. of this chapter discusses the nature of an effective parliament as well as the importance of an overall framework of democratic institutions and practices to a flourishing, democratic parliament. The crucial relationship between parliament and civil society in democratic development is addressed. From the outset, parliamentary support programmes need to establish a synergistic relationship with assistance to civil society. Strategies are discussed for building a mutually enhancing relationship between parliament and civil society — one formal, the other informal — as part of an overall democratic development strategy. Section 2.2. discusses the preconditions for a successful parliamentary development programme. Parliament must have the will to become a stronger and more effective institution. In addition, to fully benefit from strengthening support, a parliament must be able to exercise the necessary range of constitutional powers of legislation, oversight and representation required for the effective functioning of a legislature in a contemporary liberal democracy. The section provides a checklist that can be used as the basis for a pre-assessment by the Delegation to determine whether minimum conditions for a successful parliamentary development programme are in place. The Framework Assessment in Section 2.3. provides a step-by-step guide to the comprehensive assessment of a parliament's strengths and weaknesses, and the identification of priority development needs. Delegations implementing parliamentary development programmes will wish to consult the various specialized sections of Annex 2, depending on the specific nature and content of the parliamentary development work they are supporting. Section 2.4. discusses external factors that affect the feasibility of parliamentary development programmes.

### 2.1. The foundations for parliamentary development

As is noted above, in contemporary democratic systems the core functions of parliament are normally viewed as legislation, executive oversight and representation. All three of these functions are essentially roles that balance executive authority. Parliament's role in the budget cycle, which involves legislation, oversight and representation, completes the main areas of parliaments' constitutional role.

The challenge of parliamentary development is therefore two-fold. First, parliamentarians must have the technical skills and the technical support necessary in order to carry out their constitutional roles. Second, the structure of power and incentives in the governance system, and particularly the relationship between parliament and the executive, must permit parliament to play its oversight role. The two conditions are mutually dependent. If parliamentarians and their staff are not aware of the roles that they should be playing, and lack the technical capacities to play these roles, they will not be in a position to assert their roles. Equally, if the position of parliamentarians and parliament in a society's power structures does not allow them to operate autonomously of the executive, they will not be able to apply the technical capacities they do have. They will also lack incentives to develop technical capacities to carry out their constitutional functions. The problems of weak capacities and limited powers thus interact in a vicious circle that is hard to break.

This difficult interaction between limited technical skills and little incentive to strengthen those skills occurs in parliaments throughout much of the developing world. It accounts for the relatively poor outcome of much parliamentary development work, including some of the challenges faced by the EC-supported parliamentary strengthening programmes discussed in Chapter 1, and means that a careful planning process is required when carrying out parliamentary development. It is important that a proper political economy/drivers of change analysis *and* an assessment of parliamentary capacities and strengthening needs should be carried out before any parliamentary development activities are programmed. The assessment framework for identifying parliamentary capacities and setting priorities, found in section 2.3. of this chapter, will be helpful in this process.

This section begins with a discussion of the distinction between a powerful parliament and an effective parliament. It discusses the importance in contemporary democratic development of fostering *participatory democracy* at the same time as strengthening the formal institutions of *representative democracy*, in particular parliament.

### **2.1.1. What is an effective parliament?**

Powerful parliaments are not necessarily successful parliaments. There are examples where conflict has developed between parliament and the executive, with parliament consistently blocking executive actions. This can happen, for example, where the political party of the leader of the executive is in a minority. Conflict between parliament and the executive can lead in turn to general social tension and even provide the military with a rationale for seizing power (see Box 5). In successful democracies, a balance is found where the legislature has strong powers but uses them to their full extent only in extreme cases of executive misconduct.

However, it is important to remember that there are many more cases of parliaments *underusing* their constitutional powers in emerging democracies than parliaments overusing such powers.

In most well-functioning democracies, parliament rarely blocks government actions. Usually, the president's or the prime minister's party has a majority in parliament and is capable of pushing through legislation if necessary. Government respects the right of the opposition to raise difficult issues and to criticize the government's policies and actions. The opposition acknowledges that the government has a mandate to govern reflected in its parliamentary majority. The main roles of parliament are to provide a place for debate between different political points of view, to carefully review legislative proposals and pass amendments where needed, and to ensure the points of view of citizens are reflected in the policy debate. Above all, parliament ensures that the business of government is carried out in public and is subject to scrutiny. For a parliament to effectively undertake its legislative and oversight roles, it should be an open arena with active involvement from civil society, the media and independent state institutions – such as audit institutions, an ombudsman, human rights and anti-corruption commissions – feeding parliament with relevant information and analysis.

**Box 5 - Niger's Third Republic: The problem of 'cohabitation'**

The constitution of Niger's Third Republic was proclaimed in 1992 after many years of authoritarian government. In common with a number of African constitutions, the 1992 Niger Constitution was modelled on France's Fifth Republic masterminded by President Charles De Gaulle in 1958. It provides for shared executive powers between a directly elected president and a prime minister nominated by the president but who requires the approval of parliament. In the presidential and parliamentary elections that followed in 1993, a coalition of parties that had been in opposition to the previous regime won a majority in parliament, and the coalition's presidential candidate, Mahamane Ousmane, defeated the candidate of the political party of the former dictatorship.

The former opposition parties in the new government coalition were unable to agree among themselves once they got into power, and some members of parliament switched sides so that Ousmane no longer had a majority in parliament. Using his constitutional powers, the president dissolved parliament and called new elections in 1994. The coalition of parties still supporting Ousmane failed to win a majority and he was obliged to appoint an opponent, Hama Amadou, as prime minister. However, the two sides were unable to share power effectively, with the president and the prime minister each attempting to impose their will on the government. On 27 January 1996 the military seized power under the pretext of restoring order and resolving the perpetual political crisis. Niger's first experience of multiparty democracy ended in failure.

Source: Ibrahim and Souley, 1998

**2.1.2. What are the political conditions for successful parliamentary development?**

There are two crucial conditions for successful parliamentary development. *The first is the agreement of different leadership groups within society to live by a set of rules and not to resort to extra-constitutional methods to undermine their opponents.* Such extra-constitutional methods might include a government arresting its political opponents or refusing to hold elections, or opposition forces supporting violent attacks on the government. Other non-political actors also need to accept the ultimate authority of the democratically elected government. This would include the armed forces, for example, which must resist any temptation to seize power on the grounds that the political class is unable to govern effectively. Supporting parliaments in providing effective oversight of the security sector is discussed in detail in section 5 of Annex 2. A general agreement to resolve issues according to written and unwritten 'rules of the game' is called a *political settlement*. Countries without stable political settlements are poor candidates for democratic development. Unless all the relevant actors are on board, it is not in the interests of the other actors to respect the rules. For example, if an opposition party feels it will not be allowed to assume power if it wins an election, it is not in the interests of the party to contest elections. If a government party is fairly certain that if it loses a free election, it will never be allowed to succeed in future elections, it is not in its interests to organize free elections. Similarly, if political actors know that the armed forces might be prepared to seize power, they will be tempted to form an alliance with the military rather than engage in genuine political debate with their opponents (Higley and Burton, 2006; Whaites, 2008).

Considerable emphasis has been placed on the importance of durable political settlement between elites — for good reason. However, the case of Mozambique (see Box 6 below) shows that political settlements are much more likely to be durable where the second condition

for successful parliamentary development is present: *a context of overall democratization*. In fact, the development of democratic state institutions, including parliament, is only conceivable within a context of overall democratization and an expansion of opportunities for free expression. Democratic legislatures must be elected by knowledgeable citizens, and this requires the availability of multiple sources of independent information. Political campaigning can only occur in an environment of respect for human rights. Voluntary associations are the soil from which political organizations and candidates emerge. The flowering of multiple independent sources of information and opinion in turn provides a bulwark against authoritarian regression. Research on the concept of *social capital* shows that healthy societies develop from multiple interconnecting social networks, rather than hierarchical conveyor belts of power.



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### Box 6 - Political settlement: Mozambique

In 1985 Mozambique was in the midst of a brutal civil war, with each side supported by one Cold War bloc or the other. South Africa's apartheid regime had weighed in on one side and both warring forces had been accused of serious human rights violations. However, a peace agreement was signed in 1992 after 16 years of war. By 2009, the country had held three peaceful, multiparty presidential and parliamentary elections and was planning a fourth round of free elections, Mozambique's former president had won a prize for excellence in leadership (BBC, 2007), the country was notching up impressive economic growth statistics, and donors were busy trying to replicate the 'Mozambican success'. Tremendous challenges remain. The country is still extremely poor, ranked among the bottom six countries in the world in the Human Development Index (UNDP, 2008). Mozambique's record on human rights is not perfect — the country is still ranked only 'partly free' by the US-based democracy think tank Freedom House (Lloyd, 2007) — and there are serious corruption issues. European Union observers concluded that the 2004 elections were somewhat skewed towards the governing FRELIMO party, although FRELIMO would have won easily without these irregularities (AWEPA, 2004). Nevertheless, Mozambique has been able to maintain peaceful political competition over a long period between political forces that, until the early 1990s, were at war with each other.

How was this possible? The international context certainly helped. As the Cold War came to an end and apartheid was dismantled, the ideological significance of the Mozambique conflict waned, and international actors no longer had an interest in the conflict continuing. Sources of arms dried up. However, the ultimate decision to cease hostilities and to compete through the ballot box was made by the governing FRELIMO movement and the RENAMO rebels. RENAMO agreed to definitively give up its armed activities. FRELIMO leaders, for their part, abandoned their earlier belief in a one-party socialist state, and RENAMO was able to compete on a roughly equal footing. In the 1999 election, FRELIMO won only a narrow victory. The opening of the Mozambican economy to private business and foreign investment meant that politics no longer decided economic winners, so the stakes of the political game were lowered somewhat. Gradual decentralization offered the chance for power sharing at the regional level, and RENAMO's strength was concentrated in certain regions. Finally, there is strong circumstantial evidence that the population as a whole was tired of conflict and unwilling to sustain further fighting. The weight of public opinion has grown significantly as a diverse media and a strong civil society emerged from peace and political liberalization, and the 'political settlement' has extended beyond the elites of the two competing movements to include a broad spectrum of society, especially among the educated urban population but extending to some extent into rural areas (Manning, 2002; Bartoli and Jebashvili, 2005).

The case of Mozambique shows that durable settlements can emerge from highly unpromising circumstances. However, it also demonstrates that the durability of a political settlement depends on its broadening to include wider segments of the population, so that elite regression into conflict or authoritarianism becomes much more difficult. Democracy building must include elites but cannot be restricted to elites.

### 2.1.3. What are the economic conditions for successful parliamentary development?

There is a close association between the nature of a country's economy and the types of governance system that are likely to be stable and sustainable there (Przeworski, 2004). Contemporary political systems with clearly delineated institutional powers, and



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effective structures for democratic accountability, gradually emerged in lockstep with economic development. Industrialization created a mass society as well as the means to communicate and mobilize, which are fundamental to the political systems in most developed countries.

For many years, these basic facts underpinned a common perspective that developing countries were 'not ready for democracy'. In the early post-World War II period, it was commonly believed that developing countries would perform better under 'benign dictatorships' of various kinds, either the various socialist and communist models or the military strongman. This approach dovetailed with an economic development strategy that allocated a major leadership and even implementation role to the state. The approach was reinforced by the logic of the Cold War in which countries were seen as 'belonging' to one camp or another, which promoted the monopolization of both political and economic power in the hands of a strong leader.

The end of the Cold War coincided with widespread disillusion with the effectiveness of state-led economic development. From the early 1980s, international development agencies began to promote liberal economic policies that favoured opening up developing country economies, replacing import-substitution policies with export-driven development. This approach required a relaxation of central economic control, which interacted positively with pressure for political liberalization manifested in the 'third wave' of democratization in the 1980s and 1990s (Diamond, 1999). At the turn of the 21st century, two-thirds of countries were electoral democracies with universal suffrage and competitive elections.

However, initial euphoria regarding the third wave was replaced by disillusion and even scepticism as it became apparent that a number of the new or emerging democracies were not necessarily moving towards liberal democratic norms, as the transition paradigm had suggested. Various scenarios emerged. Some countries reverted to clearly authoritarian rule, others became politically unstable and oscillated between authoritarian rule and weak and

poorly institutionalized democracy, and still others seemed to settle in a semi-authoritarian situation in which the formal democratic institutions (multiparty elections, parliament, a formal separation of powers) were in place, but in practice power was tightly controlled and there was no possibility of a peaceful and democratic transfer of power (Ottaway, 2003; Rose and Doh Chull Shin, 2001).

One response to the difficulties in deepening democracy has been to revisit the concept of benign autocratic rule (Collier, 2008). In several countries, semi-authoritarian governments have appeared to deliver relatively strong development results, and it has even been argued that ‘at low levels of income, democracy actually increases the risks of political violence’ (Collier, 2008). However, even the advocates of ‘benign autocratic development’ have acknowledged that autocratic rulers almost inevitably come to misuse power in various ways. Furthermore, there is overwhelming evidence that the short-term risks of violence through the democratic process are greatly outweighed by the dangers of explosive reaction to years of pent-up dissatisfaction repressed in authoritarian systems. In addition, while there is no absolute correlation between democracy and economic growth, multi-country comparisons show that, overall, democratic developing countries perform better economically than those with authoritarian regimes (Lewis, 2008).

### Box 7 - India

The case of India is definitive proof that democracy is possible and sustainable in very low income countries with a large and relatively poorly educated rural population (Glazer, 2010; Varshney, 2007). Apart from a short — and highly contested — period of restricted civil liberties in the mid-1970s, the country has been a multiparty parliamentary democracy since independence in 1947. Since 1977, power has changed hands regularly between different political parties, with a growing tendency towards multiparty coalitions representing diverse geographic and economic interests. Since 1991, the country has been governed by four different multiparty coalitions. While the need to manage ethnic and linguistic divergence has been cited as a justification for benign autocracy in other developing countries, few if any countries in the world are as diverse as India. Furthermore, India’s democratic system has also proved flexible enough to accommodate rapid economic development and consequent urbanization, changing social attitudes and enhanced popular assertiveness.

Democratic development in conditions of widespread poverty undoubtedly presents great challenges. Illiteracy and isolation create real barriers to effective democratic participation, although it is important to underline that participation in elections — and the political process more generally — is often higher in extremely poor, largely rural countries than in wealthy, advanced countries. It is often difficult, however, for poor and dependent populations to act independently in the democratic system.

In many low-income democracies, clientelism is a particular issue (Brinkerhoff and Goldsmith, 2002). This is where politicians, as ‘patrons’, supply resources to citizens, as ‘clients’, in return for political support. Once again, it is important to remember that this type of behaviour exists in developed country democracies — as innumerable scandals demonstrate. Nor is clientelism necessarily harmful in all circumstances. After all, most constituents would consider it quite legitimate for their parliamentary representative to support government projects and policies that are likely to benefit them, such as government grants to facilitate the location of a factory in their city. In poor and highly unequal societies, however, clientelism can mean that constituents will only receive state services if they support the local political powerbroker,

the overall public interest is absent from the policymaking process, and decision-making processes are not transparent.

One solution to the problem of clientelism is the development of a strong civil society, where the interests of segments of the population are represented through collective organizations which can advocate and negotiate effectively and transparently with political decision-makers, thus rebalancing the democratic process in favour of the citizen and facilitating continual accountability. There is increasing recognition of the importance of strengthening civil society as an integral element of democracy support in developing countries. The interconnection between parliamentary development and civil society strengthening is discussed in Box 8.

### **Box 8 - Parliament and civil society: Mutually dependent**

One of the most significant developments in democratic politics over the past generation is the emergence of concepts of participatory democracy. As expectations of democracy have grown, citizens around the world are insisting that simply electing a president and parliamentary representatives every five years provides insufficient opportunity for input into governance. Increasingly, people expect to be able to have a direct say in the decisions that affect them: children's schooling, local industrial development and so on. People also have strong feelings about various policy issues, such as international development or environment policy. Policy input is provided in various ways: through public consultations with relevant government departments, membership in lobbying or civil society organizations and even through questionnaires filled out and distributed over the Internet.

These new ways of doing democracy create a dilemma for the 'traditional' representative system of which parliaments are an anchor point. Decisions that once were made by parliament on behalf of the people are now being made through processes that seem to bypass parliamentarians altogether. Some civil society advocates suggest that representative democracy is outmoded. Often, there is conflict between civil society representatives and parliamentarians about who truly represents the public will.

In fact, both sides have a point. A democracy in which the people are only consulted once every four or five years will always be limited. A single vote cannot capture people's perspectives on a wide range of issues, especially in a post-ideological age in which few have predefined points of view on all policy issues. Furthermore, the fast pace of social and economic change means that the issues on which people decide how to vote today will be very different from those confronting our decision-makers in three or four years time. It is therefore reasonable for people to want to provide input into decisions about emerging issues between elections. Civil society organizations as well as other forms of participation help to deepen the democratic system.

On the other hand, representative democracy remains important for several reasons. To begin with, there are so many decisions to be made in government that ordinary citizens, busy with their everyday lives, are not in a position to study issues and make informed choices about all of them. Even more importantly, those involved in participatory forms of democracy are not typically representative of the whole community. Civil society organizations typically reflect sectional interests, such as those of business or labour, environmentalists and so on. These are completely legitimate perspectives that should be taken into account in decision-making, but democracy needs ultimately to reflect the will of all. Parliamentarians are charged with taking account of the interests of all citizens, not only those with an effective and organized voice.

Direct democracy through referendums is one option, but where used extensively it has often resulted in unbalanced decision-making where decisions in one area (e.g. to reduce taxes) result

in undesired impacts in other areas (e.g. inability to fund basic services). Other possibilities are deliberative democracy, where procedures are established for complex issues to be discussed through discussions, and ‘iterative’ decision-making, where alternatives are gradually narrowed down. Deliberative democracy usually depends on advanced information technology, and is time consuming. It is a promising addition to the repertoire of democratic choice but for the moment probably has limited applicability in emerging democracies in developing countries.

So, can the advantages and disadvantages of these differing ways of doing democracy be reconciled? The short answer is yes. Effective parliaments and parliamentarians take on board the need to be open to citizens, organized civil society and new ways of doing business. These approaches require good will and hard work on the part of parliaments and their interlocutors, but the end result of well-designed programmes of engagement can be a real strengthening of the fabric of democracy, with different methods of representation and decision-making tied together rather than competing with each other.

### **Involving civil society in planning parliamentary development**

- The Assessment Framework methodology described in section 2.3. proposes a comprehensive and inclusive approach to project planning that gathers civil society and public input as part of the project identification process, and is our recommended approach to civil society engagement at the early stages of a project.
- There are a number of other ways that civil society input has been gathered in planning for parliamentary support programmes. One method is through civil society representatives completing assessment questionnaires on parliament, and comparing results with the responses of parliamentarians and parliamentary staff. This can begin a dialogue on how to close any gap in perceptions. Another possibility is to organize a joint seminar at the outset of planning for parliamentary support. This must be carefully managed but can help to highlight the need for strategies to improve perceptions and relationships.
- Public perceptions of parliament have been gathered as part of the programme development process. Focus groups can be organized or, where resources permit, opinion surveys conducted. Focus groups can be useful in testing perceptions of parliament before and after support programmes, although change may not be perceptible to ordinary members of the public. Interlocutors of parliament such as members of the media will have a clearer, if partial, idea of any changes in parliamentary performance.
- Parliamentary development programmes can be linked with support to civil society. Too often, donor funding to strengthen policy and oversight capacities is delivered in ‘silos’. Support to civil society organizations is often not integrated into national decision-making systems. This can actually weaken parliaments as initiatives in fighting corruption, for example, can involve establishing new institutions and agencies that channel their outputs and recommendations directly to the executive, bypassing parliament. This creates a perception that parliaments are insignificant and encourages civil society organizations to not engage with parliament. The mapping process for the development of both civil society participation projects and parliamentary development projects should, necessarily, explore the ways in which these two types of programmes can create synergies.

Further options for involving civil society in parliamentary development programmes are presented in section 3.2. of Chapter 3.

## 2.2. Is there a suitable environment for a parliamentary support programme?

This section examines some of the factors that influence whether parliamentary support programming can succeed. The Assessment Framework presented in section 2.3. below provides a detailed approach for assessing the functioning and support needs of parliament. This assessment will normally be facilitated by a contracted expert team but, before the decision is made to go ahead with a comprehensive assessment, the Delegation should assess whether there is potential for a parliamentary support programme. Such a pre-assessment will be informal, but should include consideration of several key questions. The pre-assessment does not just assess development potential. It is also a necessary step for the Delegation staff, enabling them to understand parliament's challenges sufficiently to develop terms of reference for the full assessment and, critically, to ensure that there is support for launching a strengthening programme within parliament and buy-in to proceed with the sometimes sensitive but essential full assessment process. The pre-assessment process therefore needs to answer two questions: is there potential for parliamentary strengthening and is there real institutional commitment in parliament to a strengthening programme? We examine each of these questions, and then provide a pre-assessment checklist that may be useful for Delegations at this early stage of deciding the potential for a parliamentary support programme. The aim of this pre-assessment is not to exclude collaboration with parliaments, but to reflect on the context, consider the options and start, where appropriate, to identify possible entry points on which to build.

### 2.2.1. Potential for parliamentary strengthening

A parliament must be able to exercise real powers in order for a parliamentary support programme to be helpful. Where parliaments effectively have no room to act independently of the executive, technical capacity building will not only not achieve desired results, but may also legitimize and thus strengthen an authoritarian regime. One way to assess whether parliament really has the potential to play an autonomous democratic role is to look at what powers it has, and whether and how it has used its powers in the recent past. A basic pre-assessment of parliamentary potential is presented at the end of this section. It is important that questions about parliamentary effectiveness are answered on the basis of evidence. Parliaments are often dismissed as ineffective on the basis of public or donor perceptions that may not be accurate. The contexts in which parliaments operate vary and therefore the types of indicators that determine their potential effectiveness will also vary. Common problems that can face parliaments and may preclude effective parliamentary development programmes include:

- inadequate provisions (including legal authority, reasonable time periods, etc.) provided in the constitution and/or in practice to consider legislation, particularly complex legislation;
- a highly centralized government party with executive decisions transmitted down to majority party parliamentarians; substantive discussions occur behind closed doors; parliament is simply a 'rubber-stamp' for decisions already made;
- centralized executive control of the parliamentary budget with little or no resources provided to committees for executive oversight, legislative analysis and public consultation activities;
- inadequate information provided to parliament to enable it to carry out its oversight functions effectively.

In such circumstances, when it is decided to move on with parliamentary development programmes, these should aim to address some of these problems.

### 2.2.2. Commitment to parliamentary development

Apart from unfavourable overall environments for democratic development, the single most frequent reason for the failure of parliamentary development programmes is a lack of institutional ownership. The Assessment Framework presented in section 2.3. is designed to ensure that institutional ownership by parliament is integrated from the beginning of the programme development process. However, basic confirmation that parliament is genuinely committed to development should be secured before the expense and work involved in the full expert assessment is begun. Often this will be evident because parliament will have approached the EC with the proposal for a strengthening programme. Even so, it is worth conducting a pre-assessment of commitment before moving on to an assessment of parliamentary development needs. Some basic questions are included in the pre-assessment checklist below.

The strategies and tools for assessing and ensuring parliamentary buy-in that will be relevant at this early stage and through the assessment and implementation phases include:

- Integrating discussions of support to develop effective national oversight systems, including parliamentary development, as part of dialogue between the EC and the national government on budget support programmes. Institutional buy-in on building effective parliaments typically depends fundamentally on the will of the ruling party.
- Ensuring involvement of key parliamentary actors at every stage and ensuring that representatives from different interests in parliament are included in programme planning; this should include representatives from the majority and opposition parties — staff as well as parliamentarians. These aspects are discussed further in the Assessment Framework.
- Conducting a political economy assessment focusing on the place of parliament and parliamentarians in the national power structure prior to planning a parliamentary strengthening programme, as well as identifying barriers to parliamentary effectiveness and possible levers of change. This process is discussed in detail in the Assessment Framework.
- Allowing time for programme design, ensuring that drafts and background documents are circulated in good time and arranging follow-up meetings with minutes and agreed workplans.
- Ensuring that there is a functioning system of project coordination and accountability within parliament. In some cases there may be a single lead interlocutor, for example, the president or speaker of parliament or a senior vice-president/deputy speaker. While this can be useful in securing a quick response to routine questions, it is essential that buy-in of the whole parliamentary body is maintained through an inclusive project coordination committee. The committee must have representation from the different parliamentary groups, and staff as well as members of parliament should be represented on the committee. The coordination committee should meet regularly and its constitution should be governed by a functioning project coordination protocol supported by the distribution of project materials and agenda support documentation to all committee members.

- Maintaining transparency by producing and distributing regular updates for internal and external audiences on the reform strategy, including project activities and summary financial statements.
- Having the courage not to proceed if the prospects seem poor; but also identifying whether this underlines that national oversight systems are inadequate. If so, funding modalities such as national budget support may create an unacceptable fiduciary risk and are thus unwise.



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### 2.2.3. Pre-assessment checklist

Figure 2 is a checklist that can form the basis of a preliminary assessment of whether a parliamentary development programme is likely to be feasible. The questions have been drawn in part from the full Assessment Framework presented below, and cannot take the place of a proper, full assessment. The purpose of the ‘pre-assessment’ is to determine not whether parliament is an effective institution, but rather whether there is an adequate constitutional framework, political room and the necessary will to embark on a process of strengthening. The pre-assessment checklist also contains questions about whether parliamentary development is programmed in EC development frameworks.

The pre-assessment should be considered in conjunction with broader political-economic analyses of the democratic governance and development environments in a country. In

many, if not most, cases political economy analysis will have been carried out by either the EC Delegation or other actors. A political economy analysis should extend beyond parliament and examine the overall democratic governance and development environment. If no such wider political economy analysis has been carried out, it may be preferable to conduct such an exercise prior to deciding to focus on parliament, as the analysis will permit a broader cross-institutional understanding of the development environment, allowing overall priority setting for democratic governance strengthening activities.<sup>(2)</sup> Nonetheless, the first set of questions in the pre-assessment checklist attempts to provide a political economy context specific to the parliamentary institution.

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<sup>(2)</sup> See e.g. DFID (2009) and Moncrieffe and Luttrell (2005).

**Figure 2: Pre-assessment checklist**

Criteria	Assessment <i>Yes, or by-and-large yes (explain)</i>	<i>Only partly (explain)</i>	<i>No, or by-and-large no (explain in what way this might impact on the effectiveness of parliamentary development programme)</i>
<b>A. Basic political-economic context</b>			
1. Is there a political settlement (Scott, 1999) which establishes the basic 'rules of the game' whereby power is distributed formally and informally?			
2. Is there a national constitution/fundamental legal system respected by government and other key actors?			
3. Does government exercise authority over the military and the civil service?			
4. Is there an active civil society able to act autonomously of government?			
5. Are political parties able to organize freely and participate effectively in the political process?			
<b>B. Basic rights and institutional legitimacy</b>			
1. Is the national constitution, and amendments to it, approved by parliament and/or a direct popular referendum?			
2. Are the respective responsibilities of the different state institutions (executive, legislature, judiciary) generally respected?			
3. Are the electoral system and electoral constituency boundaries approved by parliament and/or by a direct popular referendum?			
4. Are elections to parliament (and to the presidency where appropriate) free, fair and transparent?			
5. Is freedom of speech generally respected, is there a free media, and is the right of free association respected?			
6. Is the population generally free from arbitrary imprisonment and other extra-constitutional actions of the security forces?			
7. Does parliament have constitutional authority to legislate, oversee executive action and represent the population?			
<b>C. Parliamentary make-up and functioning</b>			
1. Are all key sections of the population represented in parliament? (particularly important in post-conflict environments)			
2. Does parliament have control over its own budget?			
3. Does parliament have primary responsibility for setting its own agenda of business? (within an established constitutional framework)			
4. Does parliament elect its key officers and hire its own staff, and can it engage experts to assist it in carrying out its duties?			

Criteria	Assessment	Yes, or by-and-large yes (explain)	Only partly (explain)	No, or by-and-large no (explain in what way this might impact on the effectiveness of parliamentary development programme)
5. Does parliament use its legitimate powers in the area of legislation?				
6. Does parliament use its legitimate powers in the area of oversight of executive actions?				
7. Does parliament use its legitimate powers in the budget cycle? (see Annex 2, section 2)				
8. Does parliament use its legitimate powers in representing the population in the governance process?				
<b>D. Relationships with other branches of government and civil society</b>				
1. Can parliament require members of the executive to appear before it to answer questions, and does the executive respect this power?				
2. Can parliament request, and obtain, the government information necessary to its work?				
3. Does parliament have the right to establish inquiries into the functioning of specific government programmes or departments, and can it obtain the required resources?				
4. Does the supreme audit institution report to parliament, and can parliament mandate it to carry out specific audit work?				
5. Does the executive take notice of/act on the recommendations and resolutions of parliament?				
6. Is parliament open to civil society engagement in its committees to allow each to share analysis and views?				
<b>E. National and institutional commitment to parliamentary development</b>				
1. Is there a plan for parliamentary development and does it have the support of the senior political actors in both the majority party and the opposition as well as administrative officials in the institution?				
2. Has a key interlocutor/interlocutory committee for parliamentary development been established in parliament?				
3. Does the executive acknowledge the importance of parliamentary strengthening?				
<b>F. Development assistance framework for parliamentary development activities</b>				
1. Is there support within the Delegation leadership for the EC to support parliamentary development?				
2. Is provision for parliamentary development activities included or possible within the country CSP and NIP?				
3. If the country is in receipt of direct general/sector budget support, is there a programme of complementary institutional support including parliamentary strengthening?				
4. Is provision for donor support to parliamentary strengthening included in multi-year development frameworks (PRSP, MTEF, etc.)?				

Where the answer to any of the preliminary questions is ‘no’, this is an indication of a possible barrier or limits to effective parliamentary development. This does not mean that a parliamentary development project should not be launched, but consideration should be given within a pre-assessment report to how the negative responses might impact on the feasibility and focus of parliamentary development activities. If a negative response is marked in numerous categories, this is a prima facie indication that the time may not be right for parliamentary development, that there is a risk that EC parliamentary development support might legitimize a non-democratic situation, or that a very careful and small-scale approach is required.

Negative responses on pre-assessment category F, development assistance framework for parliamentary development activities, demand a different response. These suggest that before a parliamentary development programme can be put in place, donor practices and planning must be aligned in support.

The pre-assessment report should be discussed within the Delegation with both political and cooperation officers, and with country desk officers in Brussels as well as Aidco’s E4 unit and its cluster in charge of democracy support before the decision is made to go ahead with the in-depth assessment of parliamentary development needs described in section 2.3. below. It is not possible to provide a universal set of minimum criteria that should be met before a parliamentary development programme is considered because each country’s circumstances and dynamics are unique. However, it would generally be inadvisable to proceed with parliamentary development activities where basic human rights such as freedom of speech are not generally respected, where opposition political parties are not able to operate freely inside and outside parliament, or where free and competitive elections do not take place. Where the suitable preconditions for parliamentary development are seen not to be in place, consideration should be given to alternative forms of democratic strengthening, for example, through support to CSOs. A negative pre-assessment should also feed in to political discussions between the Delegation and the national government, so that the need for democratic deepening is not simply dropped when it is determined that the political situation does not permit parliamentary development.

## **2.3. The Assessment Framework<sup>(3)</sup> for the design of parliamentary development programmes**

### **2.3.1 Introduction**

The Assessment Framework described in this section is based on the assumption that parliament itself is committed to development, is requesting support and is engaged throughout the different assessment phases. Indeed, parliament may have already carried out its own diagnosis of strengths and weaknesses and development needs. There are various tools available that can assist parliaments in carrying out a self-assessment, of which the best known is the Inter-Parliamentary Union (IPU) publication, *Evaluating Parliament: A Self-assessment Toolkit for Parliaments*.<sup>(4)</sup> Another approach that is becoming increasingly popular is for parliament to assess its performance against one of the various international performance benchmarks that have been developed by different international parliamentary organizations. These are discussed in Annex 3 to this Reference Document.

<sup>(3)</sup> This framework uses aspects of the methodology originally developed for the Westminster Foundation for Democracy in Greg Power’s “The Politics of Parliamentary Strengthening – Diagnostic Tool: Understanding political incentives and institutional behaviour in parliamentary support strategies” published by Global Partners & Associates/Westminster Foundation for Democracy, 2010. This is by permission of the author, Greg Power, who developed both frameworks to complement, and potentially be used in conjunction with, one another.

<sup>(4)</sup> Available at <http://www.ipu.org/pdf/publications/self-e.pdf>.

In some cases, based on a self-assessment, parliament will have developed its own strategic development plan and have a set of development priorities that form a basis for discussion between the Delegation and parliament regarding possible EC support. In these circumstances, it may not be necessary to carry out some or all of the assessment process described below before deciding how the EC might be able to support parliamentary development.

Often, however, a parliament, although committed to organizational development, will not have completed a full self-assessment and will not have adopted a comprehensive strategic development plan. In these circumstances, it is possible to support a parliament in developing its own institutional development plan and the Assessment Framework presented here should be helpful to both the parliament and the Delegation in identifying strengths and weaknesses, helping to plan a parliamentary development strategy and identifying possible avenues for support.

Where possible, the formation of multiparty parliamentary reform committees should be encouraged. Such committees have proved a useful mechanism for a parliament to decide on its priorities and follow up on the implementation of reform. The involvement of the opposition helps to have the buy-in of all parts of parliament into its development and reform aims.

The role of the Assessment Framework is to assist parliament, in partnership with the country Delegation, to analyse its performance and effectiveness, and to identify focus areas for development work. The Assessment Framework may also be useful to other national and international actors embarking on parliamentary support programmes. Its purpose is threefold:

- to pinpoint areas where a parliament is not currently performing aspects of its core functions, or is performing these suboptimally;
- to understand the possible underlying causes of these areas of weakness in performance;
- to identify entry points for parliamentary development and design context-specific parliamentary support programmes.

### ***The assessment team***

As is emphasized above, the diagnosis of organizational strengths and weaknesses and the establishment of development priorities is a process that belongs fundamentally to parliament itself. At the same time, carrying out the diagnosis will typically involve independent experts or consultants who are neutral actors or facilitators and thus able to gather and analyse information and opinions from the various stakeholders in the parliamentary institution. Typically, a team would be recruited to facilitate the assessment process and to help design the parliamentary project on the basis of specific terms of reference developed jointly by the parliament and the Delegation.

A variety of different approaches can be envisaged for assembling an assessment team. Typically, the team would be comprised of national and international experts, senior parliamentary staff and possibly also a parliamentarian. The representative(s) of the parliament should be included when given a mandate by the parliament as a whole, both the majority party and the opposition.

Why include national and international experts and a parliamentary representative?

- National experts bring contextual understanding and the capacity to readily access research materials, and identify and make contact with key informants beyond parliament. National experts also provide parliament with a further assurance that the assessment process will be relevant to the institution's needs and operating environment.
- International experts will bring knowledge of international parliamentary development best practices in a variety of contexts. There is often a limited history of democratic development in emerging democracies. Furthermore, international experts provide assurance of impartiality in the highly politicized environment of a national parliament.
- To ensure proper parliamentary ownership, access to all key parliamentary actors and proper coordination with Bureau of Parliament or the parliamentary reform committee or other parliamentary development committee, it is particularly useful to have as part of the core assessment team a senior parliamentary staff member and/or possibly a parliamentarian representing the parliament as an institution. It is important that the latter is mandated by a parliamentary reform or parliamentary strategic development committee and liaises closely with that body.

An assessment team would preferably consist of one representative of the parliament, one national expert and one international expert, although a four- or five-person team would allow greater specialization and division of responsibilities, and permit the process to be completed more quickly and more thoroughly. The total time allocated for the team's work would be dependent on the extent of the assessment and programme design work to be carried out.

For parliamentary support to be effective it is important to have, from the assessment and identification phase, a steering committee in parliament on which all the key parliamentary actors, the majority and opposition party representatives and senior parliamentary staff are represented, and which provides the necessary strategic guidance throughout the cycle of collaboration. It is the main counterpart of the assessment team. The steering committee can take different forms. It can be either specifically created for the EC-parliament cooperation or an existing parliamentary reform or strategic development committee or any other existing inclusive body.

### **Assessment phases**

There are three stages to the assessment phase. These are explained in detail below. First, the preparatory phase should principally involve desk-based research to gain an understanding of the political, social, economic and cultural contexts in which the parliament operates. This phase will seek to identify the key political stakeholders that influence the effectiveness of the parliament and prepare parliament and the assessment team for the main assessment activities in phase two.

Second, the assessment of the parliament is built around discussions and interviews with key politicians and staff in the parliament, but also draws on the insights of external stakeholders such as government ministers, civil servants, media representatives, civil society, donors and, potentially, members of the public.

The main part of this framework is a list of questions in four sections, reflecting the core parliamentary functions. These are designed to pinpoint particular areas of strength and weakness in the legislative, budget, accountability and representation functions. However,

the assessment seeks also to identify the causes of particular strengths and weaknesses. There are five groups of possible underlying causes: constitutional powers, procedural clarity, staffing and capacity, experience and understanding, and political factors, and related 'reflection points' should be applied to each section.

Third, the final stage is the development of the assessment into a coherent analysis of the parliament and the design of a parliamentary support programme. This process will make use of the assessment findings as well as the different available development strategies and entry modalities discussed below in this chapter. The results of the questions and reflection points should highlight where EU support might be most effective, and indicate the likely viability of a support programme. However, this stage should be regarded as an opportunity to test and refine the findings of the assessment with the parliament's key interlocutors. The success of any parliamentary support programme relies on political support within the institution. It will need to be owned and driven by the parliament itself, and a key objective of this third stage is to ensure political buy-in for both the analysis and the recommendations of the assessment.

It is important to stress at the outset that the Assessment Framework should be used flexibly in two main ways. First, although the framework is divided into three stages, these should not be regarded as separate and self-contained phases of work. The assessment is an iterative process which depends on the assessment team constantly testing its analysis against the views of stakeholders inside and outside the parliament. For example, it may be that the team identifies obvious issues and challenges, potential causes and mechanisms for parliamentary support at an early stage, and uses the assessment to test these assumptions over several weeks. In other circumstances it may be that the apparent causes, and therefore the most suitable forms of support, only come to light towards the end of the interview phase.

Second, the assessment questions and underlying causes are deliberately broad. The exact characteristics of parliamentary strengths and weaknesses will vary enormously from country to country. Even where there are similar institutional structures, the balance of political power, institutional culture, resources and the quality of parliamentary staff can result in very different problems. For some parliaments, issues may manifest themselves in the quality of legislation, which has an adverse impact on the lives of citizens, while in others they may be highlighted in parliament's inability to effectively scrutinize and amend government spending priorities. The causes may be similar (e.g. a lack of trained staff), but the design of a parliamentary support project will depend on an understanding of the specific institution as whole. It is impossible to anticipate every possible permutation in a long and detailed set of questions. The questions are therefore designed as prompts to help the assessment team understand the way in which the institution operates.

In short, there is no single 'right way' of conducting a parliamentary assessment. No assessment framework can be 'foolproof' in that sense. The framework provides a structure so that the assessment team considers the most significant factors, but the quality of the analysis will depend on the commitment of parliament and other key actors to engage in reflective analysis and programme design, and on the assessment team's ability to effectively animate a participatory and inclusive process.

### **2.3.2. Phase one: Preparatory phase, context analysis**

The purpose of the preparatory stage is to understand the political, social, economic and cultural context in which the parliament operates. It should provide the groundwork for

the in-depth assessment in phase two, and establish a theoretical understanding of the parliament's position under the constitution, its structure and procedures, and the balance of political power within the institution, as well as identifying key internal and external stakeholders as potential interviewees. Normally, this preparatory stage should take place in-country, with the national expert(s) collecting data, and making initial contacts with key informants, in dialogue with the international members of the project team.

### ***(i) Placing parliament in country context***

Although most democratic parliaments tend to have similar roles and responsibilities (usually rotating around the four core areas listed in this Assessment Framework) this hides a huge amount of variation. Differences will occur depending on how the roles are interpreted within a particular country's political system, how the parliament relates to other institutions of state and how the roles are prescribed in the institution's rules of procedure. In addition, the balance of political power in a country is likely to determine the scope for parliamentary influence. It is important to understand the domestic expectations of the parliament in this context and to judge performance against those benchmarks, as well as against international standards for parliaments. (For an extended discussion of benchmarks projects and their relevance to parliamentary development programmes see Annex 3.)

There are several sets of factors which the assessment team will need to take into account. These are likely to include the constitutional framework (e.g. Westminster, Napoleonic, etc.), the type of political system (e.g. presidential, parliamentary), the electoral system (e.g. proportional or majoritarian), the party system (e.g. the number and institutional embeddedness of parties), the basis of party formation (ideological, ethnic, religious, regional, etc.) and the electoral cycle and results of recent elections.

The assessment team may also find broader social and demographic indicators useful, such as population, economic productivity, distribution of socio-economic resources, health, education and opinion poll findings (e.g. Afro/Latino/Arabobarometer provide regular checks on attitudes to democracy in the regions and other, national, polls may be available).

The assessment should also look at the role parliament plays in key social, economic, political and national development issues. Is the parliament, for instance, engaged in the elaboration of national development strategies? (government multi-year programmes, PRSPs, medium-term economic frameworks, etc.) What is the parliament's role in approving such strategies? (See also section 3 of Annex 2 on the role of parliament in national political dialogue.) Is the parliament instrumental in putting certain key societal issues on the political agenda of the country? Is the parliament an effective forum for national dialogue, channelling debate and disagreement in a peaceful manner?

### ***(ii) Understanding the process of political evolution***

The position of the parliament will also be determined by the recent history of the country and its democratic evolution. Most obviously, the length of time that the parliament has been in existence will affect its legitimacy and authority in the political system. The process of transition to democracy is also likely to determine the way in which the parliament is perceived. Countries with a recent history of instability or internal conflict are likely to place a high value on parliament's representative role as a mediating body for sectional interests. In contrast, where parliamentary democracy was a requirement for admission

to international organizations or is an expectation of development aid, the institution may be judged by its oversight of government activity (see sections 2 and 3 of Annex 2 on parliaments, budgetary oversight and PRSPs).

As part of this process it is also important for the assessment team to understand the continuing sources of pressure for parliamentary change. There are, broadly, four sources for this type of pressure: (a) top-down processes of reform, where the ruling authorities see the need for wider democratic legitimacy in their political institutions; (b) pressure from within the parliament itself, where politicians seek to expand their influence over the decision-making process; (c) bottom-up pressure from individuals and organizations in civil society; and (d) external international pressure, possibly tied to development aid or international acceptance. In practice, it is usually a combination of pressures from several sources that will lead to democratic and parliamentary change, but understanding the relative importance of each will help the assessment team harness those sources as part of the support project.

### ***(iii) Interpreting parliamentary performance***

As the preparatory phase will be predominantly a desk-based exercise, the team will be reliant on primary and secondary sources of information. These fall into three broad categories, each of which provide distinct types of information.

First, there are primary resources that explain the legal and constitutional framework and the parliament's rules of procedure. Most obviously, a country's constitution will describe the position and role of parliament in the political system, in varying levels of detail depending on the country. Often of more direct use, however, will be the parliament's rules of procedure, which should explain the way in which parliament discharges its duties (e.g. the stages of the legislative process) and provide a description of the institution's structure, such as the committee system. Such documents can be complex, confusing and sometimes contradictory. However, they provide an insight into the parliamentary culture and can provide a basis for questioning stakeholders about how the rules are understood and observed. Some parliaments will have supplementary documents, such as a code of conduct for members or guides to parliament, which provide alternative perspectives.

Second, the volume and quality of parliamentary reports, for example, those published by committees, provide additional context for the assessment process. The contents of such reports, their recommendations and the way in which they were followed up by the parliament or the government will provide insights for testing in interviews with stakeholders. Such reports and the ensuing discussions with key stakeholders may also bring out political issues of particular interest to the parliament for which EC parliamentary support would be appreciated. Furthermore, in most cases the parliament will have a rules committee, members' affairs committee or bureau, the deliberations and reports of which are likely to highlight the principal concerns about the way parliament works. In addition, some parliaments may have strategic plans for their own development or have engaged in a self-assessment exercise, such as that facilitated by the IPU, the findings of which the assessment should seek to build on.

Third, there are likely to be broader strategic analyses that give some indication of parliamentary performance. In some cases there may be government publications or annual reports which set out the quality of governance in the country, even if they do not refer directly to the parliament. There are also likely to be other donor agencies working in democratic development which are likely to have assessed and published data on the state of governance. The various

political-economic analyses, such as ‘drivers of change’, ‘power analysis’ or the ‘strategic governance corruption analysis’, used by different agencies will give the assessment team a broader context for its investigation. In addition, organizations such as International Crisis Group and Transparency International publish useful general political situation reports, as does the Economist Intelligence Unit. Furthermore, there are CSOs in a number of countries specifically monitoring the performance of parliament and preparing regular reports. This may be a useful source, even if some CSOs focus too much on quantifying the performance of individual parliamentarians rather than a more institutional and qualitative performance evaluation.

As is mentioned above, other actors are frequently involved in democratic governance and even in support to parliament. There is increasing concern in the international community, and particularly among recipient countries, about donor duplication and excessive overheads caused by the requirements of different donors carrying out similar development activities. Where aspects of the assessment have already been carried out by other donors, they should not be repeated just to ‘tick boxes’. Even more importantly, if effective parliamentary support activities are already being carried out, the assessment team, in conjunction with the parliament and the Delegation, should place a high priority on assessing whether EC support can simply be channelled through the existing programme.

#### ***(iv) Identifying key stakeholders***

As well as seeking to understand the structure and processes of the parliament, and the context in which it works, the desk-based research should seek to identify the key stakeholders inside and outside parliament. This helps to identify those who have an interest in strengthening or weakening parliamentary oversight, and whether these actors have the capacity to promote or hinder the process of reform.

Within the parliament the speaker or presiding officer is almost certain to be a key figure, whose support, or at least acquiescence, will be critical to the success of any parliamentary support project. In addition, the chairs of key committees, such as members’ affairs and rules committees, as well as party whips, senior party figures and longstanding politicians, are likely to carry influence with their colleagues. The assessment also needs to engage with members of staff at most levels. As is mentioned in the introduction to this section, it is preferable, even at an early stage, that a reference committee should be set up or nominated, with which the assessment team can liaise and which will eventually become the project oversight committee for a parliamentary strengthening project. This committee needs to include cross-party representation as well as representation from the parliamentary administration. In cases where an existing standing committee is nominated to liaise with the assessment team, this can work well but depends on the make-up of the committee as well as its workload and level of commitment to the development project. This committee should also nominate a parliamentary staff member and a parliamentarian to the assessment team.

Outside parliament, government ministers, civil servants, former politicians, CSOs, journalists and possibly members of the judiciary may provide useful perspectives on the strengths and weaknesses of the parliament. Obviously, existing parliamentary development programme staff should be a key reference point, although in many cases there will be no existing strengthening programme. Donors may be able to contribute, especially if they have interacted with parliament in the past. There are donor coordination groups for different development areas in many countries and it would be useful to speak with the current chair of the governance coordination committee.

### 2.3.3. Phase two: Using the Assessment Framework

The main part of the Assessment Framework is the series of questions set out below in subsection 2.3.5. These questions are the main means of gathering information, and provide the basis for discussions with internal and external stakeholders. They are structured around the four key functions of parliament and seek to provide some sense of parliamentary performance in each of these areas. The ‘points of reflection’ at the end of the Assessment Framework aim to encourage the assessment team and the parliament to think about the underlying reasons why parliament may be failing to fulfil its functions, and thus where support might strengthen the institution.

#### *(i) Indicators of performance: The four core functions*

The questions are grouped under four headings: the legislative function, the budgetary function, the accountability/oversight function and the representation function. Each of these sections is divided into subsections, which focus on specific aspects of the parliamentary process. They are described briefly below.

- **The legislative function:** The purpose of legislative scrutiny is to agree the purpose of a proposed law, test its provisions to ensure that it will achieve what is intended and ensure that the bill is coherent and consistent. The assessment questions aim to understand how well legislation is drafted and initiated; the capacity of parliament to debate policy proposals; and the ability of parliament to scrutinize, amend and approve the final versions of legislation.
- **The budgetary function:** The purpose of parliament’s role in the budget cycle is to agree national spending priorities, ensure that specific policy areas are being funded adequately to meet policy objectives and scrutinize income against expenditure. The assessment questions seek to draw out information on parliament’s role in the drafting, scrutiny and approval of the government’s budget, and its role in monitoring public expenditure. (For an extended discussion on parliament and the national budget see section 2 of Annex 2 to this Reference Document.)
- **The accountability/oversight function:** The purpose of parliamentary oversight is to make government accountable for its policies, identify mistakes and take remedial action when things go wrong. The assessment questions focus on parliament’s access to information from government by seeking an understanding of the various forms of parliamentary questioning, the oversight role of committees and the relationship between parliament and the executive.
- **The representation function:** Parliament derives its legitimacy from its ability to reflect and articulate the people’s individual and collective concerns. Parliament should seek to broadly reflect the profile of the society it represents in both its membership and its activity. (For a discussion of this point as it relates to gender, see section 1 of Annex 2.) Mechanisms should be in place to ensure that parliamentary committees and individual parliamentarians communicate, consult and act in response to the concerns of voters.

#### *(ii) How to use the framework*

The questions are not designed to provide an exhaustive list of all the possible factors that might impede parliamentary effectiveness. As is mentioned above, the functioning of a parliament will be shaped by the context in which it operates and is affected by a potentially innumerable

set of conditions. Rather, the purpose of the questions is indicative — to provide a prompt for interviewees to express their perception of how the parliament is performing in key areas. Too prescriptive or detailed an approach to questioning is likely to guide the interviewee towards certain responses, rather than allowing them to reflect on the performance of the institution. In the third stage of the assessment — after the evaluation team has come to a set of tentative conclusions — a more prescriptive form of questioning would be suitable to test its analysis.

However, the questions cover the key areas of parliamentary process. The assessment team should aim to use the questions to understand how the parliament operates in practice — and how far this deviates from the role of parliament as set out in the constitution and the rules of procedure.

Using the findings of the preparatory phase, the questions are likely to highlight discrepancies between theory and practice. This may be for several reasons. For example, it may be that politicians and staff are simply not following the rules of procedure. In many institutions informal processes build up around custom and practice, rather than parliamentary rules, and represent a distortion of the original intentions of the rules.

Alternatively, parliament may not be sufficiently active in a particular area. For example, where committees are overloaded with legislation they may not have the time or resources to conduct oversight of government departments or call ministers to account. In such circumstances, they are unlikely to be using the full range of parliamentary mechanisms available to them, resulting in a system where ministers and officials do not feel any pressure to account for government decisions.

It may be that where parliament is active, the quality of its work does not result in the outcomes envisaged in the constitution or rules of procedure. Parliament may be scrutinizing and amending legislation on a regular basis, but these amendments may be routinely ignored by government. Similarly, although politicians might use parliamentary questions, committee reports or requests for interpellations to get information from government, it is common in many emerging democracies for ministers to find ways of avoiding fully accounting to parliament.

The questions are designed to serve as entry points to these sorts of discussions with interviewees. They can be used as the basis for one-to-one interviews, focus group discussions or wider consultations. However, each format is likely to generate different types of response. One-to-one interviews are better suited to understanding the detail of parliamentary operation, while group meetings are likely to reveal a broader perspective on parliament's strengths and weaknesses.

It is also important for the assessment team to consider the perspectives of the various interviewees. As is mentioned above, the preparatory phase should identify some of the key stakeholders who need to be interviewed. However, the assessment phase is likely to identify additional actors whose opinions and experience need to be incorporated into the analysis. In all cases, however, the discussion must be framed by the interviewee's role in and perspective on the parliamentary process. All interviewees should be asked to provide factual advice on process, but it is unlikely that any two people will share exactly the same opinion about every aspect of parliamentary effectiveness. It may be in the interests of some figures inside or outside parliament to maintain the status quo, or even weaken parliament, and these perspectives — whether expressed overtly or covertly — need to be anticipated. The results of the assessment phase are likely to highlight where opinions converge and diverge, which will provide a basis for identifying areas of common ground.

### ***(iii) Underlying causes and points of reflection***

The questions in each area should provide the assessment team with some sense of parliamentary performance by function. However, these are likely to identify the symptoms of parliamentary weaknesses rather than explain the underlying causes. The points of reflection aim to provide some understanding of the reasons why.

The points of reflection are grouped under the following five headings, each of which relates to a possible set of causes.

- ***Constitutional power:*** Where the role of the parliament is described in the constitution, the key questions are whether its role is sufficiently clear, accepted by all, and gives enough authority to the parliament to carry out its legislative, budget, oversight and representation functions.
- ***Procedural clarity:*** The rules of procedure shape how the parliament is structured and operates. The rules need to be clear, consistent and coherent. Frequently, however, the rules can be interpreted by different groups — in parliament and government — to their own advantage, and undermine parliament’s role.
- ***Capacity and resources:*** It is common for parliaments in emerging democracies to lack an adequate number of properly trained staff or enough resources in other areas, such as printing facilities and proper IT support, to fulfil their functions. This can have an impact at almost every level and in every area of parliamentary scrutiny and oversight.
- ***Experience and expectations:*** In the early years of operation of a democratic parliament, there is a limited well of experience and expertise from which to draw in fulfilling parliamentary functions. This may mean that the rules are interpreted in context-specific ways or that politicians have unrealistic expectations about their capacity to control government or implement policy decisions.
- ***Politics:*** Ultimately, all parliaments are shaped by the complexion of political forces. At the most obvious level, the balance of power between government and opposition politicians will have a strong effect on how parliament implements its oversight and scrutiny roles. It is common for parliamentarians in the governing party to give a higher priority to supporting ministers than calling them to account. This is often reinforced by powerful patron-client networks. Other political interests, such as ethnicity, religion, region, socio-economic class or profession, can also have a bearing on the way parliament operates in practice.

Again, these points are not designed to provide definitive answers. They should be used by the assessment team to consider the factors at work and to ask interviewees about why they believe parliament is weak in certain areas.

The assessment should focus on the positive features of parliament as well as its weaknesses. Parliaments in emerging democracies often excel in some aspects of their responsibilities, and parliamentary support programmes should seek to foster and extend these successes as well as identifying and addressing weaknesses.

In most cases, a combination of factors impact on the performance of parliament. To give an example, a parliament may struggle to recruit and retain properly qualified staff and as a result its committees will find it difficult to carry out their oversight tasks. This is often compounded within committees by unrealistic expectations on the part of the politicians and a failure to use the parliamentary mechanisms for calling ministers or the public to give

evidence. In addition, dominance of the governing party can mean that committee reports are often friendly to ministers or, where they are critical, that those criticisms may be routinely ignored. In other words, the problem lies jointly in the capacity of staff, the experience of politicians and the political dynamics in parliament. These problems interact with each other and reduce the institution's overall effectiveness.

Understanding these causes means that the assessment team can better tailor a programme of parliamentary support to the specific needs of that institution. It may be that no programme can cover all the possible causes of weakness, but understanding the complexity of underlying causes means that the programme can be based on a realistic assessment of what is achievable. This is explained further below.

### **2.3.4. Phase three: Designing projects, testing findings and building support**

Following interviews and discussions with key stakeholders, the assessment team will need to provide an analysis of the parliament as a whole, its areas of strength and weakness, the reasons for underperformance and possible points of support. As is noted above, it is essential that project design is based on a realistic assessment of what is achievable. While international support can help a parliament with its capacity, internal structures, procedures and organization, making it work effectively depends almost entirely on the attitude of local actors — mainly politicians and the institution's staff, but also parliament's interlocutors including government, civil society and the media. Local stakeholders therefore need to take both ownership of and responsibility for the success of the parliamentary support project. The key part of phase three is the development of an interim analysis (including proposals for project support), which is used as the basis for discussion and agreement with key parliamentary figures and, where available, the reform or strategic development committee.

#### ***(i) Developing an interim analysis***

Identifying the parliament's strengths and shortcomings is likely to be a relatively straightforward task. Many of the most obvious issues will emerge during the preparatory phase, and it is likely that the assessment exercise will both generate a degree of consensus on the areas where parliament needs to improve and give greater definition to the key issues. Understanding the causes of these issues and deciding on the best form of external support is likely to be more complex.

The interim analysis should give an overall picture of the institution's strengths and weaknesses. It may be useful to structure the report in three parts: the first identifying the main performance areas, the second identifying the reasons and underlying causes of strengths and weaknesses, and the third suggesting areas where external support could be most effective.

The report should obviously build on the notes from the assessment questions and the points of reflection in each of the functional areas. These should pinpoint specific strengths and weaknesses and give a sense of overall performance. However, drawing together the results of the interviews should be an ongoing task for the assessment team. Understanding symptoms and causes will rely on a high level of interpretation, and the analysis should be seen as an iterative process in which each interview is used to test and discuss insights from previous discussions so that the key findings are continuously refined.

However, this can be an extremely complex task. Addressing a parliament’s key challenges is unlikely to be straightforward. Given the range of parliamentary activity and the numerous potential points of weakness, the options for intervention are likely to be extremely wide-ranging. Figure 5 is a simple analytical matrix that assists with the process of analysis. The matrix has three sections. The first section ‘Institutional performance’ should give an indication of whether the parliament is ‘strong’, ‘adequate’ or ‘weak’ in a particular area. The second section requires the assessment team to rate, on a scale of one to five, the extent of a problem or weakness in a specific area — one being very high, five being very low. The third section provides an indication of the underlying causes of problems (i.e. in issues such as constitutional power, procedural clarity, etc.).

The purpose of the matrix is not to provide definitive answers. Instead, it is designed to provide an overview of performance and a basis for discussion. It relies on the assessment team’s interpretation of the interviews and discussions and the results will therefore be highly impressionistic. Nonetheless, by identifying the underlying causes in each section it is possible to identify how different aspects of parliamentary performance are affected by the same factors. This in turn indicates where a support project might be most useful. Part of a sample matrix is included below as Figure 3.

**Figure 3: Sample matrix**

	Institutional performance Strong (S) Adequate (A) Weak (W)	Seriousness of issues (1 = high, 5 = low)					Underlying Causes				
		1	2	3	4	5	Constitution	Procedures	Capacity	Experience	Politics
<b>Function</b>											
Legislation											
1. Initiation/drafting	W	•						•	•	•	
2. Debating	A			•						•	•
3. Scrutinizing	W	•							•	•	
4. Amending	W	•						•	•	•	•

For example, if capacity is an issue across each of the functional areas the support project may need to include an element on recruiting, training and retaining staff. Alternatively, if the rules of procedure are identified as a problem in all areas it is likely that the support project will need to engage with the procedural committee to refine the rules or perhaps work with the parliamentary authorities to develop a short guide to procedure for members and staff.

***(ii) Deciding means and modalities of support***

The results of the interview notes and analytical matrix are likely to lead the assessment team to certain conclusions. However, the interim report should also give an indication of the means and modalities of support. Strategies and modalities for parliamentary support are discussed in detail in Chapter 3. There are numerous options, and their feasibility will

depend on country context, the presence or absence of different international actors and so on. Obviously, strategic options for support programmes should be discussed in detail with the parliament and the EU delegations as well as other local stakeholders and other potential donors. The underlying causes should give the assessment team some indication of the types of support that would be most suitable and provide a way of framing the development issues that parliament needs to address. The following list is not exhaustive but gives assessors a sense of the options available.

- **Constitutional power:** If the parliament lacks formal powers under the constitution this is likely to indicate the need for wider political reform to reinforce parliamentary authority. If parliament's power is being curtailed because of the way the constitution is being interpreted, this may offer more scope for intervention, but again would need to be couched in terms of a broader political programme.
- **Procedural clarity:** A lack of clarity, inconsistency or contradictions in the parliamentary rules can be exploited by one party or group to undermine the effectiveness of parliament. This may require engagement with senior parliamentary figures, such as the speaker and the leaders of the different parliamentary parties, or the procedural committee in order to redraft sections of the rules. This can be a complex and highly charged political process. Alternatively, it may be that the rules are being misinterpreted or not followed, which would suggest a need to build a common understanding of procedure among staff and parliamentarians through training and parliamentary publications.
- **Capacity and resources:** A lack of properly trained staff or enough resources is likely to have an impact across parliamentary functions. This may simply require the provision of resources such as books, ICT or basic infrastructure. It is also likely to rest on staff development — either recruiting more staff or building the technical skills of staff in areas such as parliamentary procedure, legislative drafting and financial oversight. At a more strategic level, it may mean working with parliamentary authorities in the development of a staff career structure in parliament so that staff have an incentive to stay at the institution.
- **Experience and expectations:** Where there is limited experience in the parliament, a support programme may wish to help build a parliamentary culture, common practice and acceptable standards of conduct. This might include the development of an induction programme for new parliamentarians or other forms of training, the establishment of a code of conduct for politicians and staff, and drawing on international experience to identify effective scrutiny techniques. Working with parliamentarians on such goals is likely to be most effective if built around specific policy concerns, that is, issues-based, such as how to improve parliamentary involvement in PRSPs, rather than abstract concepts of scrutiny. Mentoring by or discussion with politicians from similar parliaments may generate a common understanding of parliamentary roles and functions.
- **Politics:** In many cases, especially where patron-client politics operates, certain interests are likely to dominate and distort parliamentary activity. Usually, it is the governing party that controls parliament and strongly influences factors ranging from the parliamentary agenda to staff recruitment. There may be a limited amount that parliamentary support projects can do in the short term to address deeply entrenched factors. However, projects should seek to build opportunities, structures and incentives for politicians to act as parliamentarians, for example, by developing cross-party initiatives, rather than just as party politicians. Parliamentary committees provide an important opportunity for parliamentarians to work regularly across party boundaries, and to shape policy on that basis. Enhancing the impact and influence of committees

may increase the desire of parliamentarians to serve on them. Projects might also seek to loosen executive control over the parliamentary budget, key parliamentary appointments and the parliamentary timetable.

### ***(iii) Developing local ownership and responsibility***

As the discussion above demonstrates, parliaments are complex institutions and there will be few, if any, easy solutions to the issues limiting their effectiveness. The assessment questions, the points of reflection and the analytical matrix are designed to help frame both problems and solutions for the assessment team. However, even the most thorough assessment is unlikely to come up with definitive answers. The first analysis should be regarded as a basis for discussion and agreement with the key parliamentary stakeholders. This has two purposes: first, it allows the assessment team to test and refine its analysis and recommendations; and second, it provides a mechanism for the key stakeholders to shape the priorities of the support project — and ensure their ownership of the direction and delivery of the projects itself.

The stakeholders who need to be involved in the development of the project should be evident by this stage of the analysis. Preferably, as is discussed in phase one, a reform or development committee containing the key actors will already have been set up. These key figures are likely to include the speaker or presiding officer, the secretary-general or chief clerk, the chairs of key committees, senior figures from the different parliamentary parties and influential individual politicians. However, the significance of each figure will vary according to the content of the support project. For example, if the project envisages comprehensive staff training, the secretary general or chief clerk and other senior members of staff will be critical to the project's success. It will be important that they share the project's aims and objectives and commit to a role in the delivery of the programme.

It will be important for the assessment team to refine the list of the key parliamentary stakeholders that was drawn up in the preparatory phase. As part of the project's risk analysis, the stakeholders should be ranked according to whether their support is 'essential', 'desirable' or 'irrelevant' to specific aims. It may also be helpful to identify the level of support needed from different figures. For example, in some environments it may only be necessary to get the speaker not to object to certain project content, rather than generate his or her active support and involvement, whereas in other parliaments it may be impossible to move ahead without the explicit endorsement of the presiding officer. The key stakeholder group should include leading members of the different political groupings represented in parliament as well as senior administrators. Otherwise, the project risks either benefiting one side of the political spectrum at the expense of the other (typically the government caucus at the expense of the opposition) or lacking sufficient buy-in. For example, even if the presiding officer supports reforms to the administration, if the senior administrators are against it is unlikely that much will be achieved.

The process of developing institutional support can be undertaken through either one-to-one meetings with the key stakeholders or general discussions with a group. Preferably, a cross-party reform or development committee will have been established before the assessment, but parliament should certainly be encouraged to establish such a body before or during the assessment, otherwise it will be difficult to gain cross-institutional support for development activities. In any event, it is important that the process should seek to generate commitments from the key stakeholders on what they will contribute and commit to as part of the project plan. This can then form part of the project plan and act as the basis for a memorandum of understanding between the EU and the parliament.

### 2.3.5. The Assessment Framework

**Figure 4: Preparatory phase checklist**

<b>1. Context-specific analysis: Key indicators</b>	
Constitutional framework	
Political system	
Electoral system	
Party system	
Electoral cycle and recent results	
Party formation (cleavages)	
<b>2. Transition to democracy: Pressure for political change</b>	
Recent democratic history	
Top-down delegation	
Pressure within parliament for change	
Pressure from society	
External international pressure	
<b>3. Interpreting parliamentary performance</b>	
<b>Legal and procedural documents</b>	
The constitution	
Parliamentary rules of procedure	
Parliamentary guides to procedure	
Code of conduct	
Systems of parliamentary immunity	
<b>Parliamentary reports</b>	
Reports from the rules, procedures or members' affairs committees	
Committee policy reports	
Parliamentary strategic plans	
Parliamentary annual reports	
Self-assessment exercises	
<b>Strategic governance analyses</b>	
Government publications	
Reports from regional initiatives (e.g. NEPAD, APRM)	
State of governance analyses by donor agencies (political economy analyses, drivers of change, country governance analyses, etc.)	
International political situation reports (e.g. ICG, TI)	
Public opinion data on perceptions of parliament and CSOs monitoring reports on parliament's performance	
<b>4. Compiling an initial list of parliamentary stakeholders</b>	
Senior parliamentary positions (e.g. the speaker, committee chairs)	
Senior committee figures	
Senior party figures from government and opposition parliamentary caucuses	
Senior staff	
Ex-politicians	
Ministers and civil servants	
Civil society organizations, journalists/media	

**(i) The legislative function**

The primary purpose of parliamentary scrutiny of legislation is to agree the purpose of the proposed law, test its provisions to ensure that it will achieve what is intended and ensure that the bill is coherent and consistent.

- 1. Initiating and drafting:** In some cases the power to initiate legislation is dominated by the government. Where parliaments have the power to initiate legislation, they also need adequate drafting capacity and access to expert legal advice.
  - a. Who has the power to initiate legislation?
  - b. How well are bills drafted by the time they are presented in parliament?
  - c. How good is the drafting expertise available for parliamentarians and committees?
  - d. How fair is the balance between government-initiated legislation and legislation initiated by parliament?
  
- 2. Debating:** Parliamentarians from all sides should have adequate opportunities to debate the principles and content of all bills before parliament.
  - a. How is time allocated to debating the overall principles of legislation?
  - b. Are there adequate opportunities for all parliamentarians who want to contribute to the debate?
  - c. How well does the plenary session perform in examining the detailed provisions of legislation?
  - d. Does the plenary session have the opportunity to amend the bill, or to vote on a bill that has been amended by committee?
  - e. How adequate are the structures and procedures for debating legislation?
  - f. What opportunities exist for the public to contribute to debates?
  
- 3. Detailed scrutiny of legislation:** Examination of a bill's clauses and provisions usually takes place in a specialized committee.
  - a. Who within parliament has the capacity and power to amend legislation?
  - b. How adequate are the opportunities for different parliamentary parties to shape legislation?
  - c. Is adequate time allocated to committee scrutiny of legislation?
  - d. How much expert support does the committee have access to in scrutinizing legislation?
  - e. Can committees call ministers and civil servants to give evidence on the content of the legislation?
  - f. What opportunities exist for committees to take evidence from the public and civil society in the examination of legislation? How well are these used?
  - g. Is a gender-specific analysis undertaken when scrutinizing legislation?

- 4. *Approving and implementing legislation:*** It is the role of government to implement legislation, but parliaments should ensure that bills are enacted and are working in the way that was envisaged.
- a. What powers are used by parliament in the final approval of legislation?
  - b. How much of the legislation approved by parliament is implemented?
  - c. How effective are the parliamentary mechanisms for tracking the implementation of legislation?
  - d. To what extent do parliamentary committees follow up on legislation in their policy area?
  - e. What opportunities exist for the public to identify problems with the implementation of legislation?
- 5.** What changes would improve the quality of legislative scrutiny?

***(ii) The budget scrutiny function***

The purpose of budget oversight is to agree national spending priorities, ensure that specific policy areas are being funded adequately and directed appropriately to meet policy objectives, and monitor income against expenditure.

- 1. *Drafting and deciding spending priorities:*** In most cases budget documents are drawn up by government. However, parliament should be seeking to influence the budget process from the early stages, for example through gathering public input in advance of budget drafting, and preparing a report to government to assist the drafting process.
- a. How is the budget process for determining spending allocations initiated?
  - b. How far are the opinions of parliamentary committees taken into account by ministries in setting their budget priorities?
  - c. In countries with Poverty Reduction Strategies, are there adequate mechanisms for including parliamentary committees or parliamentarians in technical working groups?
  - d. Are there adequate opportunities for individual parliamentarians, parliamentary parties and committees to contribute to budget-setting?
- 2. *The budget debate:*** All parliamentarians should have the opportunity to contribute to the debate on the contents of budget statements.
- a. How good are the opportunities for parliamentarians to debate the budget?
  - b. How good is the financial information provided by government to parliamentarians as part of the debate?
  - c. Is there adequate time available for parliamentarians to debate the budget?
  - d. How closely does the government's provision of the budget conform to a budget cycle?
  - e. What opportunities exist for the public, including diverse civil society/interest groups, to contribute to the budget debate?

- 3. Amending and approving:** Powers to amend allocations within a budget vary from parliament to parliament. Some only have the power to reject or approve the budget in its entirety.
- a. How far can parliament vary allocations within the budget or alter the total budget figure?
  - b. Are there opportunities for committees to examine and amend the detailed spending allocations?
  - c. Does parliament reflect on the gender-related issues of a budget and is it making gender-sensitive budget analyses?
  - d. How far can the committees make use of outside expertise as part of their examination?
  - e. Is there sufficient staffing of committees for detailed financial work?
  - f. Are there sufficient structures and processes for detailed financial scrutiny?
- 4. Audit and monitoring:** While powers to amend the budget may vary, all parliaments should provide oversight of how government money is spent and ask ministries to account for it.
- a. What powers do committees have to call ministers and officials to account for their spending? How well are these powers used?
  - b. Does a supreme audit institution provide reports to parliament? If so, how good are the mechanisms for using this information at making government accountable? To what extent can and do the supreme audit institution and parliament work together to strengthen audit and monitoring?
  - c. Does parliament have sufficient financial scrutiny resources? For example, does a budget scrutiny office (or other staff) exist to provide support to parliamentarians and committees?
  - d. How effectively can parliament draw on external expertise, CSOs and individuals when taking evidence on government spending?
  - e. How good are the structures and procedures for scrutinizing public expenditure?
- 5.** What changes would improve the quality of budget scrutiny?

### ***(iii) The oversight and accountability function***

The purpose of parliamentary oversight is to call on government to account for the implementation of policies and programmes, to identify mistakes and to take remedial action when things go wrong. It is suggested that security sector oversight is also specifically covered when reviewing the questions, as this is often a specific category of oversight in itself (see section 5 of Annex 2).

- 1. Information and reporting procedures:** Parliament's ability to hold ministers to account depends on its capacity to get timely, accurate and comprehensive information from government, public bodies and the private sector.
- a. How good are the mechanisms for individual parliamentarians, committees or parliamentary parties to secure information from a government department?

- b. Are there formal obligations on ministers to provide information to parliament, either in the constitution or the rules of procedure?
  - c. What capacity has parliament to request information or evidence from public sector bodies or executive agencies?
  - d. What capacity has parliament to request information or evidence from the private sector?
2. **Questioning ministers:** Parliaments usually have a variety of mechanisms for questioning government ministers, such as parliamentary debates, interpellations and written or oral questions.
- a. How far do parliamentarians use the system of written questions to elicit information from government? Is there a limit on the number of questions that each parliamentarian can ask?
  - b. Is there a regular cycle of ministerial questions in parliament? How well do parliamentarians use this provision?
  - c. What capacity does the parliament have to submit urgent questions, interpellations or emergency debates that require the presence of a minister in parliament?
  - d. Does the prime minister appear before parliament to answer questions from parliamentarians? How far does this contribute to government accountability?
3. **Committee investigations:** While the plenary session provides the opportunity for cross-party debate, committee inquiries should engage in a more detailed form of scrutiny and oversight.
- a. How far do committees balance their oversight function with their legislative function? Are there ways to ensure balance?
  - b. What capacity do committees have to call ministers and officials to give evidence?
  - c. How far can the committees influence the activity of departmental agencies?
  - d. To what extent do committees use public evidence from civil society and individuals in their investigations?
  - e. How good is the staffing and support to committees in their oversight function?
4. **Executive-legislative relations:** Ensuring that governments respond fully and frankly is a difficult task for almost every parliament.
- a. How efficiently does the executive respond to questions and requests for information?
  - b. How far does parliament follow up requests for information? Does it keep a record of unanswered questions?
  - c. Does parliament have the capacity to censure ministers for non-attendance or failure to respond?
  - d. To what extent do committees have links with their related ministries, outside of the formal channels?
5. What changes would improve the quality of oversight?

**(iv) The representation function**

Parliament derives its legitimacy from its ability to reflect and articulate the people's individual and collective concerns.

1. **Inclusiveness of parliament:** The membership of parliament is rarely a microcosm of society, but it should seek to ensure that all sections of society are reflected in its make-up.
  - a. How far does parliament reflect the diversity of its electorate?
  - b. How easy is it for an average person to be elected?
  - c. How representative of women is the parliament?
  - d. How representative of marginalized groups is the parliament?
  - e. How adequate are mechanisms for ensuring that all groups are represented in the parliamentary process?
2. **Engagement with voters by parliamentarians:** Individual parliamentarians should be accessible and accountable to voters for their activities.
  - a. How accessible are individual parliamentarians to their voters?
  - b. How systematic are the procedures for ensuring that parliamentarians regularly consult and communicate with their voters?
  - c. In constituency-based systems, are adequate time and resources given to parliamentarians to do constituency work?
  - d. How effective are the mechanisms for reflecting constituency experiences in parliament?
  - e. How easy is it for voters to get information about their representative's parliamentary activity (e.g. their voting record)?
3. **Parliamentary consultation:** Parliaments need to be in regular and routine contact with their voters as part of their legislative and oversight roles, drawing on public expertise and evidence as part of the policymaking process.
  - a. How accessible are the systems for ensuring that voters can contribute to the parliamentary process?
  - b. Are there adequate mechanisms for committees to consult the public on legislation, the budget or policy inquiries?
  - c. How easy is it for individuals to submit written or oral evidence to committees?
  - d. How extensive is collaboration between parliamentary committees and civil society in policy development?
4. **Communication with the public:** Parliaments need to ensure that the public understands the role and work of parliamentarians.
  - a. How effectively does parliament communicate its activity to the public?
  - b. How much are parliamentary proceedings reported or broadcast by the media? How far does parliament restrict what might be reported?
  - c. How open and accessible is the parliamentary building to members of the public?
5. What changes would improve the quality of representation?

**(v) *The role of parliament in national policy dialogue and the capacity to manage conflict***

Parliament provides the main forum for public discussion of a country's key political issues and its involvement in the elaboration of overall policy frameworks (national development plans, etc.) is important for achieving public consensus on policy orientations and to subsequently ensuring the proper implementation and oversight of such multi-year priorities. As the representative body of government, parliaments have the potential to be effective institutions of conflict management. They can manage disputes in the political space, facilitate negotiations and build compromise.

1. Parliamentary involvement in national policy frameworks such as the PRSP or government's multi-year programme or medium-term economic frameworks.
  - a. Is parliament engaged in the elaboration of national policy frameworks?
  - b. Does government provide timely information during the different stages of development of the policy frameworks?
  - c. Is parliament contributing amendments to the draft policy frameworks?
  - d. Does the adoption of such policy frameworks require the approval of or a vote in parliament?
2. Parliament as an arena for conflict management
  - a. Does parliament debate issues and concerns that challenge stability and does it reach consensus on those issues?
  - b. Do committees work to build confidence between political factions in a conflict?
  - c. How do power-sharing arrangements affect the ability of parliament to reach compromise?

***Identifying the underlying causes: Points of reflection***

These points of reflection should be used to assess the underlying causes of parliamentary performance in each of the four key functions of parliament.

**A. *Constitutional powers***

Where the role of the parliament is described in the constitution, the key questions are whether its role is sufficiently clear, accepted by all and gives enough authority to the parliament to carry out its functions.

- a. How is the constitutional role of parliament defined in terms of legislation, finance, accountability and representation?
- b. How is this role interpreted by government and by parliament?
- c. What are the gaps between what the constitution says parliament should do and what it does in practice?
- d. What are the main limitations to parliamentary power in relation to the executive?
- e. Is executive dominance all but guaranteed by the constitution (or a result of party politics)?

**B. Procedural clarity**

The rules of procedure shape how the parliament is structured and operates. The rules need to be clear, consistent and coherent. Frequently, rules are interpreted by different groups in parliament or government to their own advantage, and this undermines parliament's role.

- a. Are the rules of procedure clear about the stages of the legislative/budget/oversight process and the responsibilities of parliamentarians at each stage?
- b. Do the rules of procedure provide space for different political groups (including opposition groups) to participate in key management positions in parliament?
- c. Are the rules of procedure widely understood and accepted by parliamentarians and staff?
- d. Who ultimately determines how the rules are interpreted? (Is it a role that falls to staff, the speaker, the leader of the majority party, etc.?)
- e. Is there a guide to the rules for staff and members?
- f. Does the operation of legislative/budget/oversight functions reflect the rules of procedure?
- g. Do the rules of procedure need to be reformed?
- h. Are there any external sources of support or guidance to improve the rules?

**C. Capacity, resources, staffing**

It is common for parliaments in emerging democracies to lack the properly trained staff or enough resources to fulfil their functions. This can have an impact at almost every level and in every area of parliamentary scrutiny and oversight.

- a. Does parliament have enough staff to support the legislative, budget, oversight and representation functions?
- b. Do parliamentary staff have the necessary technical skills? (e.g. in legislative drafting, financial oversight, policy expertise or public consultation)
- c. What material and/or non-material incentives do staff have to perform their duties effectively?
- d. Are there external sources of support and expertise on which parliament can draw?
- e. Does the parliament have adequate resources, space and services for scrutiny and oversight in plenary and committee sessions?
- f. Does parliament have problems recruiting and retaining staff? Why?
- g. Does the parliament offer staff training?
- h. Does the parliament offer any sort of career structure for able and ambitious staff?
- i. Who appoints staff? Are the staff independent or appointed on a partisan basis?

**D. Experience of parliamentarians**

In the early stages of a parliament, there is a limited well of experience and expertise from which to draw in fulfilling parliamentary functions. This may mean that the rules are interpreted in context-specific ways or that politicians have unrealistic expectations about their role.

- a. Are there differing expectations of what parliamentarians should do from the public, ministers, parliamentary staff and the parliamentarians themselves?

- b.** Do expectations of parliamentary roles vary between the parliamentary parties?
- c.** How far do parliamentarians' conceptions of their role conform to the constitution and rules of procedure, as well as international experience?
- d.** How far has the turnover of parliamentarians at each election affected the development of institutional memory, norms of behaviour and procedures?
- e.** Does parliament have a code of conduct to shape members' expectations and behaviour?
- f.** Does parliament offer any sort of training or induction programme, or provide guides to parliamentary procedure for new parliamentarians?

#### **E. Politics**

Ultimately, all parliaments are shaped by the complexion of political forces. At the most obvious level, the balance of power between government and opposition politicians will have a strong effect on how parliament implements its oversight and scrutiny roles. It is common for government parliamentarians to give higher priority to supporting their ministers than making them accountable. This is often reinforced by powerful patron-client networks. Other political interests, such as ethnicity, religion, region, socio-economic class or profession, can also have a bearing on the way parliament operates in practice.

- a.** What are the factors causing parliamentarians (and senior parliamentary staff) to behave the way they do?
- b.** How does this affect the legislative, budget, oversight and representation functions?
- c.** How far do political parties determine the actions of parliamentarians?
- d.** Do parliamentarians receive patronage for certain activities? From whom?
- e.** Do parliamentarians have access to sources of patronage and use them to influence the behaviour of others?
- f.** To what extent does the executive dominate parliament? What are the sources of that dominance?
- g.** Are there other figures in the parliament who exercise authority over the behaviour of parliamentarians?

The matrix shown at Figure 5 is not designed to produce definitive answers. It should instead provide the assessment team with an overview of the nature of parliament's strengths and weaknesses, and the likely causes in each of these areas. This, in turn, should be used to inform the strategies and modalities of a parliamentary support project.

Figure 5: Analytical matrix

	Institutional performance	Level of Problem (1 = high, 5 = low)					Underlying Causes							
		Strong (S)	Adequate (A)	Weak (W)	1	2	3	4	5	Constitution	Procedures	Capacity	Experience	Politics
<b>Legislation</b>														
1. Initiation/drafting														
2. Debating														
3. Scrutinizing														
4. Amending														
<b>Budget scrutiny</b>														
1. Deciding priorities														
2. Debating														
3. Amending and approving														
4. Audit and monitoring														
<b>Oversight</b>														
1. Information														
2. Questioning ministers														
3. Committee enquiries														
4. Executive-legislative relations														
<b>Representation</b>														
1. Representativeness														
2. MP engagement														
3. Consultation														
4. Communication														
<b>National Policy framework</b>														
Parliamentary involvement														

## 2.4. Other external factors that affect the feasibility of parliamentary development programmes

The factors that affect the ability of parliament to benefit from strengthening support are primarily national factors. These include the place of parliament in formal and informal national power structures, and the internal will of the institution to improve its functioning. However, the impetus for democratic development — or otherwise — is also provided by external actors. In the case of ACP parliaments, important signals about the importance of democratic change come from donors. Although international treaty and policy frameworks are very clear in prioritizing democratic development, signals on the ground are sometimes different, as is discussed below. EU Delegation staff should be aware of the formal and informal signals being sent by the international community to national governments. Where contradictory signals are being sent, efforts should be made to ensure a firm consensual position is communicated by the international community in favour of genuine democratic accountability, including a strong parliament. This section discusses some of issues in parliamentary development that can arise from the actions of the international community.

### 2.4.1. The role of donors in promoting democratic governance

Donors play an important role in establishing expectations for democratic development, although this role varies according to a number of factors, including dependence on outside assistance, the availability of support from other international actors and so on. Democratic reverses have sometimes occurred because authoritarian elites calculated, often correctly, that undemocratic moves would not lead to any significant reaction on the part of the international community. Of course, nation states are sovereign and within broad limits are entitled to adopt whatever political systems they wish. However, donor countries are equally sovereign, and are under no obligation to continue to channel support through regimes that do not respect the will of their people. In such countries it is highly unlikely that donor resources will be delivering results for the people.

EU policies on budget support are clear (European Commission, 2007). EU budget support and, indeed, EU governments have agreed that aid to recipient governments can only be provided where democratic freedoms are respected, as outlined in the European Consensus on Development (European Union, 2005):

*The Consensus identifies shared values, goals, principles and commitments which the European Commission and EU Member States will implement in their development policies, in particular... development based on Europe's democratic values — respect for human rights, democracy, fundamental freedoms and the rule of law, good governance, gender equality, solidarity, social justice and effective multilateral action, particularly through the UN.*

The EC has taken action to suspend aid where democratic principles are not respected. However, not all the EU member states have always followed suit, thus creating an inconsistent message. Furthermore, divergence from democratic principles is often not clear-cut — a particular issue with the rise of semi-authoritarian regimes (Ottaway, 2003). The shift towards authoritarianism often occurs over a significant period of time and involves a variety of different government actions, none of which individually appears decisive but, when taken together, they amount to the negation of democratic principles. It is in these circumstances of the gradual erosion of democracy that the political dialogue between EU Delegations

and the respective governments becomes of such importance, especially in identifying and responding to problems early in an apparent shift away from democratic principles.

The EU has been the most effective agent for democratization in recent international history. Almost half the 27 EU member states have had non-democratic governments in the past generation, yet all are now considered confirmed democracies. The EU's success in extending democratic principles within its ranks has yet to be replicated as effectively in its external relationships, but the EU's explicit and material support for democracy through its Consensus on Development Assistance provides an opportunity to nurture democratic practices in difficult environments.

#### 2.4.2. Common donor-created barriers to parliamentary effectiveness

Donors working to help strengthen governance systems operate with the best of intentions. However, interventions that focus on one aspect of governance without considering the holistic needs of democratic governance strengthening can actually weaken national accountability and representation systems. Some of the pitfalls include:

- ***An exclusive focus on strengthening executive capacities without strengthening parliamentary oversight capabilities.*** A strong and capable executive and a weak and ineffective parliament may in the short term appear to create a smooth governance system, but any system without adequate oversight will eventually run into difficulties. These can include state capture by sectional interests and disenfranchisement of the population which in the longer term can result in resentment of government and political instability.
- ***Donor-recipient dialogue, and policy and programme development that bypass parliament.*** In most constitutions, parliaments are considered to be the supreme body for discussing national programmes. However, the advent in recent years of global initiatives such as the Millennium Development Goals and Poverty Reduction Strategies means that the broad parameters of national policies are effectively set internationally. This transnational approach to social policy has helped to focus action against poverty and improved the lives of hundreds of millions. At the same time, opportunities for genuine engagement of parliaments have often been limited, and strategies have been developed in close collaborations between international institutions such as the World Bank and the International Monetary Fund and national governments. These issues are discussed in detail in section 3 of Annex 2.
- ***Off-budget financing:*** In the past, donor support to countries has often been delivered through projects contracted between donors and line ministries. These projects were typically not accounted for in the national budget. This created a number of fiduciary risks, but also undermined parliament's role in overseeing executive actions. The shift to general and sectoral budget support has reduced the importance of this issue, but a substantial proportion of overall development assistance is still delivered off-budget through the project modality.
- ***Risks attached to budget support:*** Budget support programmes are a key method of empowering recipient countries to assume responsibility for implementing a development agenda. Budget support removes the negative features of off-budget project financing noted above. However, depending on how it is implemented, budget support can also bypass parliamentary oversight. The ramifications of the transition to budget support modality are discussed in section 2 of Annex 2.

- ***Support is provided to democratic elections but there is inadequate investment in building democratic institutions:*** The EU has a long and successful record of supporting democratic elections, particularly in countries emerging from conflict. However, as the assessment in Chapter 1 demonstrates, this has not always been accompanied by significant support from the EU and other bilateral and multilateral donors for strengthening the institutions created by democratic elections, particularly parliaments. Weak democratic institutions increase the risk of an undemocratic reversal, not only wasting the resources invested in elections, but also damaging the image of democracy as a viable system of governance.

## 3. PARLIAMENTARY DEVELOPMENT: STRATEGIES AND IMPLEMENTATION MODALITIES

### Chapter overview

This chapter provides operational guidelines for parliamentary development efforts. Section 3.1. outlines the key principles to be taken into account in designing parliamentary programmes. Section 3.2. discusses entry points for parliamentary programmes, such as the electoral-cycle approach, institutional support in combination with direct budget support development financing, integration within multi-year development frameworks such as PRSPs, and expanding donor accountability in line with the Paris Declaration and the Accra Agenda. More general approaches to parliamentary support programmes are also presented, including institutional strengthening, the political party model, the civil society approach and strategic development planning. Section 3.3. discusses different implementation partnership approaches. These include twinning with other parliaments, and forming partnerships with UN agencies, global and regional parliamentary associations, political foundations, international financial institutions, national (domestic) organizations or individual experts as well as private international consulting organizations and individuals.

### 3.1. Principles for developing parliamentary support

As is noted above, it is important that local stakeholders feel ownership of and responsibility for the contents and delivery of the support project. There are a number of additional factors that the European Commission needs to take into account during the design phase. These are drawn from the Paris Principles for Aid Effectiveness. Their application to the development of parliamentary support projects is described below.

- **Context-specific:** The limits to the effectiveness of the parliament will be to a significant extent determined by the interaction of political, economic, social and cultural factors that are specific to a country.
- **Results-based:** A support project should be built around clear and realistic objectives. Too much international parliamentary support is measured by the process and mechanisms used, rather than its impact and outcomes. The Assessment Framework above is designed to highlight which problems might be addressed and how. By addressing the underlying causes the project should match mechanisms to objectives.
- **Ownership:** The process of project design should be a collaboration between the parliamentary stakeholders, the Delegation and the assessment team. Key parliamentary politicians and staff will need to be active participants in the design and delivery of the project.
- **Mutual accountability:** In addition, key stakeholders will need to be responsible for specific parts of the parliamentary project and accountable for their role in its delivery. The EC should also be accountable for its commitments to the parliament. A memorandum of understanding, setting out these responsibilities, should form part of the project plan.
- **Alignment and harmonization:** The form and content of an EC parliamentary support project should be conditioned by the activity of other donors active in the country. In

the past, there has been a tendency for duplication of donor efforts, which creates unnecessary costs for the recipient country/institution and reduces aid effectiveness. An understanding of how others are working with the parliament, as well as in other areas of democratic governance, such as with civil society and the media, will highlight where an EC project can be most effective, or whether the EC should support an existing initiative. Efforts should always be made to build synergies between different democratic governance projects, for example, those working with civil society and the media and on electoral processes, whether these are sponsored by the EC and/or other donors.

- **Realistic expectations:** An externally supported project cannot ‘make’ parliament more effective. Oversight and accountability depend on how parliament uses the tools at its disposal, and this lies in the hands of politicians and parliamentary staff. Projects should ultimately address the structures, procedures and resources to provide parliaments with the ability, capacity and correct incentive structures to perform their core functions effectively.

### 3.2. Entry points for parliamentary development programmes

The Assessment Framework discussed in Chapter 2 includes a comprehensive but flexible methodology for determining areas in which parliamentary strengthening is required, and where external support to facilitate this strengthening would be beneficial.

We recommend where possible that a comprehensive approach to parliamentary development be adopted, as efforts to strengthen a single aspect of parliamentary work may be negatively affected by aspects of parliamentary functioning that are not being addressed. For example, a programme geared to strengthened parliamentary outreach will be less likely to succeed if parliamentarians cannot count on a professional staff complement to organize meetings, handle mission logistics, take minutes of meetings and develop mission reports.

Therefore, parliamentary development is ideally anchored by a *strategic development plan*, developed and adopted by parliament with external support as requested, that can address in a systematic fashion all the identified areas of strengthening work, including those aspects where parliament can upgrade its own systems and functions and those where external support is needed. The strategic development plan is discussed below as one of the entry points for parliamentary development programmes.

Despite the importance of a coordinated and comprehensive approach, the impetus for parliamentary development will often be a *specific need*, a *weakness* or a *thematic issue* identified by parliament or sometimes through donor expectations. Below is a series of possible entry points. The first four areas relate to current development cooperation commitments and approaches. They provide opportunities or, up to a certain point, strong incentives to engage with and support parliaments, such as in *parliament’s responsibilities in the electoral cycle* and *budget approval and oversight*. A series of more traditional entry points and approaches is presented in the latter part of this section.

#### 3.2.1. Parliamentary action in the electoral cycle

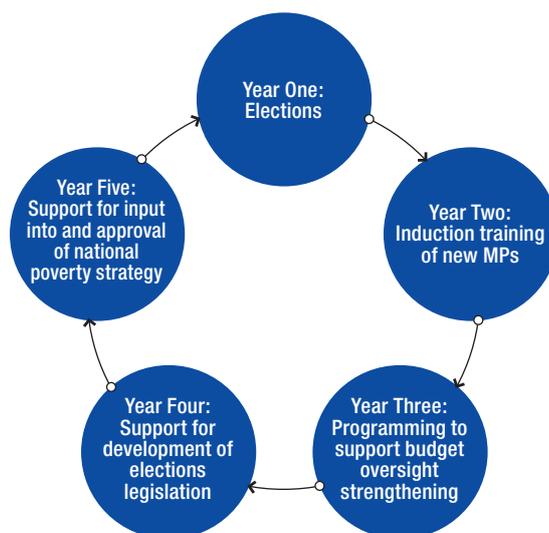
Parliament plays an episodic but important role in ensuring free and fair elections. Parliaments as political bodies should not routinely exercise oversight of electoral management bodies,

but parliament as a legislative and budget-approving institution does have a key role in establishing the legal framework for elections, and in ensuring that funds are made available to election management boards. One highly controversial function that falls ultimately to parliament is the complex and politically charged issue of determining the geographic boundaries of constituencies. Among other sensitive issues relating to elections, parliament also considers and approves legislation governing voter registration systems and voting systems (first-past-the-post or proportional systems, etc.). In many countries these issues are addressed by the executive and the electoral management board, but there is no substitute for the involvement of multiparty parliaments in a public and transparent debate on the pros and cons of different systems. It must be remembered that in elections the executive has an interest in developing systems that will benefit the party/parties of the majority. Even where the executive is scrupulously careful to act in a non-partisan manner, it is inevitable that there will be suspicion of decisions unless there is open parliamentary scrutiny and discussion of electoral organization proposals.

Therefore, the need for enhancement of the role and capacities of parliament should be considered as part of the electoral cycle approach (for a discussion of the electoral cycle approach from the electoral management viewpoint see the EC Methodological Guide on Electoral Assistance, EuropeAid, 2006). Where support is to be provided by the international community, plans and financing options for such assistance should be included in the needs assessment typically carried out some time prior to elections. It is important, as is discussed in section 3.1., that planning for election support takes into account the overall capacities and needs of the institutions — and specifically parliament — that will be created by the elections. In the past, support to parliaments through the electoral cycle approach has often been linked only to electoral management needs, for example, ensuring that elections-related legislation is passed. Instead of this superficial approach, a comprehensive electoral cycle approach would include broad parliamentary development as a major pillar of support, thus helping to ensure that the dividend of democratic elections is realized through institutionalization of democratic governance structures.

Alternatively, support for strengthening parliament's capacities in addressing election issues can be incorporated into a broader parliamentary development project. Timing is important here, and a parliamentary cycle development approach can be a helpful way to plan for the timing of support to parliament to also meet electoral cycle needs. Chronologically, the beginning and end points of the electoral and parliamentary cycles are the same, and the cycles join where parliament is needed to pass necessary legislation and approve budgets to finance elections. The connections between the two cycles also underline the need for investment in elections to be realized through effective and representative parliaments that typically also require support in transitional and post-conflict environments. Figure 6 provides suggestions for a parliamentary development programme linked to the electoral cycle.

**Figure 6: Hypothetical parliamentary cycle approach including support to elections legislation**



### 3.2.2. The responsibilities of parliament in general and sectoral budget support

In the past, where development assistance was provided through individual projects, accountability was usually provided through the project process itself. Results would be evaluated by the donor and any financial management issues would be addressed between the donor and the funding recipient. Today, where assistance is more and more often provided through budget support, accountability is to national systems rather than directly to the donor. The shift to budget support has been endorsed by donor and recipient countries through the Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2008). The latter document underlines the importance in this process of empowering national accountability systems and, in particular, parliaments: ‘Developing countries will facilitate parliamentary oversight by implementing greater transparency in public financial management, including public disclosure of revenues, budgets, expenditures, procurement and audits’. The EC’s agreement to move to general budget support should be accompanied by compliance with article 61(2) of the Cotonou Agreement of 2000 (European Commission Guidelines on Budget Support, 2007), which includes three criteria:

- a. public expenditure management is sufficiently transparent, accountable, and effective;
- b. well-defined macroeconomic or sectoral policies established by the country itself and agreed to by its main donors are in place; and
- c. public procurement is sufficiently open and transparent.

The first criterion underlines the importance of effective national oversight mechanisms, involving parliament as well as of supreme audit institution such as an auditor general or an audit court. Assessments identify the need for the strengthening of the supreme audit institution and of parliamentary financial oversight functions.

When the EC is considering providing parts of its development assistance through budget support, it is negotiated, as part of the multi-year CSPs and NIPs, directly between the national government and the EU Delegation. The EC documentation on budget support recommends

discussions between the EC and parliament, in particular the finance committee, as part of the programming process (European Commission, 2007: 33). The need for such dialogue has also been underlined by a recent European Parliament study on *Monitoring Budget Support in Developing Countries* (European Parliament, 2010). Such dialogue should also take place in the context of the annual review of budget support.

A revision of the budget support guidelines is ongoing as of 2010. It is likely to reinforce the need to engage parliaments in general and sectoral budget support programming and monitoring as well as the need for systematic assessment of parliaments and supreme audit institutions in terms of their budget oversight roles and capacities. The revision will probably suggest appropriate support be given to parliaments and supreme audit institutions where domestic accountability mechanisms are weak. It would be helpful if at this stage the intention to provide support to parliamentary strengthening were to be included in the NIP, providing of course that the recommended exploratory discussion with parliament has shown that the key actors in parliament are supportive of parliamentary programmes.

Budget support can be provided as *general support*, in which EU funds are transferred for general use, or as *sector support*, in which EU funds are transferred to, for example, health or education. In South Africa, uniquely, the legislative sector, comprising the national parliament and the provincial legislatures, receives sector support for development of the legislative sector.

Programmes to support institutional strengthening can be financed as part of the budget support agreement, as 'complementary support' to the main budget support financing or as part of an independent institutional strengthening programme (see European Commission, 2007: 67–69).

An advantage of the use of complementary support is the clear link between programming and improved accountability for the funds provided to the budget by the EC (and other donors in cases of harmonized budget support). An advantage of a separate programme is that it permits a broader and sometimes larger programme of support to parliament and other oversight institutions. Our assessment of current EC support to parliaments shows that it is often on a much smaller scale than strengthening support provided to institutions such as the ministry of finance, sector ministries and the supreme audit institution. One common situation that should be avoided is the strengthening of executive capacities while parliament and other formal (supreme audit institution) and informal oversight institutions (such as civil society) remain weak. This situation can lead to heightened fiduciary risks as executive capacities in budget management outstrip the abilities of the oversight institutions. Beyond the specific funding for institutional capacity building it is important to underline, in the context of budget support programming dialogue and public finance management discussions, the need for adequate resources in the state budget for parliaments and supreme audit institutions to play their oversight role.

EC guidelines on budget support (European Commission, 2007: 67) correctly point out that institutional strengthening programmes are some of the most difficult development programmes to execute successfully. At the same time, the guidelines emphasize the need for public financial management assessments and expectations to be 'rigorous'. The primary measure for eligibility is *progress* towards development goals and financial management norms: 'the key factor in deciding whether eligibility criteria are met is the direction and magnitude of change against the background of the initial quality of the national development or reform policy and strategy, the macroeconomic framework, and public financial management' (European Commission, 2007: 31).

The budget support modality is expected to continue to increase as a proportion of EU development aid. The EC has set a goal for 50 per cent of development assistance to ACP

countries to be provided through budget support (European Commission, 2007: 33), in line with the spirit of the Cotonou Agreement, the Paris Declaration and the Accra Agenda. Therefore, it can be seen that in the context of budget support, parliamentary and audit institution strengthening is important, but at the same time requires careful planning to ensure effective programmes.

In relation to budget support delivered by the EC, the European Court of Auditors (ECA) and the European Parliament in their oversight role of the EDF have underlined the fiduciary responsibility of the EC to ensure that national oversight systems reach acceptable standards (European Parliament, 2010). The EC's response underlined the need for a dynamic and supportive approach to determining the acceptability of national systems. This further confirms the importance of EU Delegations working with national governments, audit bodies and parliaments to ensure that the national budget cycle provides an effective and transparent system of budget development, approval, execution and oversight.

As the EC acknowledges, in many cases these national systems will still be working towards minimum standards when budget support programming is initiated. Continued eligibility, however, will be based on progress towards agreed goals in areas including public financial management: 'The key factor in deciding whether eligibility criteria are met is the direction and magnitude of change against the background of the initial quality of the national development or reform policy and strategy, the macroeconomic framework, and public financial management' (European Commission, 2007: 31). Sector budget support operates under similar principles to general budget support, except that budget support is provided in response to the development plans for a particular sector, such as health, education or transport. In contrast with general budget support, where the policy to be supported is a national development strategy or a PRSP, sector budget support is tied to the implementation of a sectoral development strategy. However, the seven assessments covering overall macroeconomic and policy areas are still conducted to determine eligibility. Therefore, support to parliament and other oversight institutions is also appropriate as a complementary or standalone programme to reinforce strengthened public sector administration underpinning the sector budget support. It will be particularly helpful, in the case of sector budget support, to strengthen the capacities of parliament's finance committee and the standing committee(s) in the functional area to which sector budget support is linked.

There is a comprehensive discussion of parliaments, national budgets and the direct budget support modality of development assistance in section 2 of Annex 2.

### ***Support options for strengthening parliaments in conjunction with budget support***

As is noted above, successful budget support programmes require effective public financial management, an area in which parliamentary oversight plays a key role. Programme options for building stronger fiscal oversight include:

***Technical support to the finance committee:*** Support to the finance committees, or equivalent, is one of the most common types of parliamentary support. It is delivered by various organizations that often specialize in particular modalities of support. Among the most active organizations, in addition to the EC, are the World Bank Institute, UNDP and the Canadian Parliamentary Centre. Examples of support programming include:

- provision of in-country technical training to finance committee members and staff;
- study tours of countries with strong parliamentary finance committees;

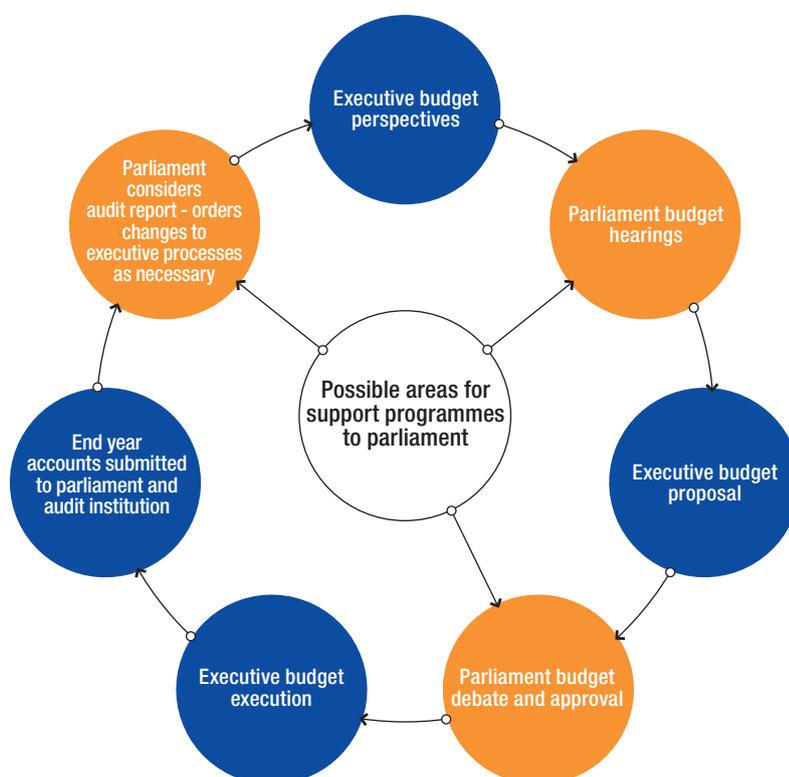
- multi-country seminars on effective budget oversight;
- support to the hiring/strengthening of expert support staff for the finance committee.

All these areas can be useful, but sustainability is often an issue. Innovative strategies that aim to build increased capacity in the longer term include:

**Creation of a parliamentary budget office:** The Congressional Budget Office (CBO)<sup>(5)</sup> in the United States has long been the blue-chip model for parliamentary budget oversight. The CBO's 230 staff members conduct macroeconomic analyses that underpin federal budget estimates as well as reviews of government spending in key areas. The US Congress plays a more extensive role than most parliaments in the development, approval and oversight of government budgets. While few parliaments could sustain as large a budget office as the CBO, there is an increasing trend within parliaments to establish budget offices. Uganda, Kenya and Benin, for example, have all established parliamentary budget offices in recent years. There is strong evidence that these offices have helped to strengthen the effective involvement of parliamentarians in the budget process.

**Support to strengthen budget hearings:** In recent years effective parliaments have played an increasingly important role in providing input to government during the budget development process, extending the work of parliament in the budget cycle. Typically, the government produces draft budget perspectives describing the country's fiscal situation and proposing general directions for the next year's budget. Parliament's finance committee then holds hearings, in parliament and sometimes across the country, gathering input from interest groups, civil society and the public. The committee provides a report to parliament, commenting on the government's proposals and making specific recommendations on the budget. A sample budget cycle strengthening approach is shown in Figure 7.

Figure 7: Support to parliament in the budget cycle



<sup>(5)</sup> <http://www.cbo.gov/>.

### ***Strengthening parliament's relationship with other budget actors***

One common difficulty with effective national budget processes is the disconnect between the different budget actors. Problems can be inherent in the budget calendar, where the timetable for transmission of budget documentation between the institutions can be unrealistic. Constitutional changes may sometimes be required to establish realistic timelines. In a number of countries, timelines are not respected by one or other of the relevant institutions. In particular, the year-end auditing process can be delayed, sometimes for a period of years. This breaks the budgeting cycle, creating serious fiduciary risks. Budgets that are approved but undergo no external audit are effectively unmonitored externally, and there is no independent basis for future fiscal programming. Support to ensure budget cycle continuity and respect for timelines can make a major contribution to improving public financial management and the democratization of the budget process. Examples of issues and opportunities in the relationships between parliament, the supreme audit institution and the executive can be found elsewhere in this Guide (see the Senegal case study in Chapter 1), in the Review of EC Support to Parliaments [http://ec.europa.eu/europeaid/what/governance/index\\_en.htm](http://ec.europa.eu/europeaid/what/governance/index_en.htm) and in the general discussion of parliaments and budgets in section 2 of Annex 2 to this Reference Document.

In cases where budget deadlines are not respected or where the oversight institutions do not have sufficient time to thoroughly carry out their budget responsibilities, a useful starting point in support programmes is an analysis of timelines and the effectiveness of relationships between the budget-handling institutions. This analysis can form the basis for a dialogue between the institutions about ways to improve synergies between them. As is noted in the case study of Senegal, the EC can play a useful convening role in supporting improved synergies between institutions.

Typically, in national constitutions the supreme audit institution is expected to work closely with parliament in ensuring effective government oversight. In developing democracies, this relationship is often insufficiently mutually supportive, with limited dialogue beyond the formal transmittal of audit reports to parliament. Support programmes can involve an audit institution and parliament from a developed country where there is a close and effective working relationship. Programmes might include missions, twinning and exchanges between the developed and developing democracy oversight institutions.

### **3.2.3. Strengthening parliamentary involvement in PRSPs and other national development strategies**

PRSPs geared to accomplishing the Millennium Development Goals have resulted in significant improvements in key human indicators, but there is substantial room for strengthening of national ownership of PRSPs. In particular, approval and oversight of PRSPs by parliaments has often been sidelined while negotiations on programme content take place between the international donor community and the executive (Eberlei and Henn, 2003; Rowden and Icamá, 2004; Sanchez and Cash, 2003). This is despite the presence in many national constitutions of wording giving to parliament responsibility for debating and approving national development strategies.

The effective implementation of national development strategies — particularly the PRSP — is central to the rationale for budget support. Strengthening parliament's role in the PRSP should therefore be considered a priority consideration for institutional strengthening related to budget support, either as complementary programmes or as a standalone project (see the discussion above).

Turning to specific areas of parliamentary support, public participation is a strongly emphasized aspect of the PRSP process, and also a pillar of parliament's constitutional responsibilities. There has been a tendency for parliament's role in providing input to PRSP processes to be sidelined in favour of civil society-driven consultations. The World Bank, which has been the central driver of PRSPs, has acknowledged that parliaments have been marginalized in PRSP processes, and has supported further efforts to build parliamentary involvement (World Bank, 2005; Hubli and Mandaville, 2004).

Parliament and civil society should be supported to work together in providing citizen input into anti-poverty programmes through parliament's constitutional responsibility for representation. Field missions of the relevant standing committee can be organized in either the PRSP identification phase or its evaluation phase. In Niger in 2003, for example, the National Assembly, with donor support, organized missions to examine the primary education services provided through that country's PRSP. The mission report highlighted positive aspects of the programme but also identified serious coordination issues, for example, in matching infrastructure to teaching personnel.

There is an extended discussion of PRSPs, national development strategies and parliamentary development in section 3 of Annex 2.

### 3.2.4. Donor accountability

The Paris Declaration of 2005 established the principle of mutual accountability: that 'donors and partners are accountable for development results'. This was reinforced by the Accra Agenda for Action of 2008, which set out implementation actions in more detail and outlined the process for joint evaluation. The role of parliaments is emphasized: 'mutual assessment reviews...will draw on emerging good practice with stronger parliamentary scrutiny and citizen engagement. With them we will hold each other accountable for mutually agreed results in keeping with country development and aid policies'. To date, there have been few examples of donor accountability to parliament in developing countries. By and large, donors continue to argue that their key relationship is with the executive and that it is up to the executive to either report to parliament on discussions and agreement with donors<sup>(6)</sup> or, possibly, to authorize donors to give testimony directly to parliament.<sup>(7)</sup> Donors need to be careful not to be caught between the executive and the legislature, and should avoid being put in the position of accounting for executive use of development assistance. However, compliance with the Accra Agenda clearly mandates mutual accountability to parliament by donor agencies and recipient governments. Common issues that impact on donor effectiveness and accountability which parliaments might wish to monitor include:

- a lack of donor coordination;
- an over-reliance on civil society;
- a lack of political analysis capacity;
- a short-term mentality, with a focus on the 'photo opportunities' that are high profile for the donor rather than national actors.

Some options for improving donor accountability to parliament include:

- tabling a joint government-EC annual report in parliament on EC and/or harmonized international development assistance, including budget support;

<sup>(6)</sup> See the comments of Luca Barbone, Director, World Bank Poverty Reduction and Economic Management Network (PREM) at <http://go.worldbank.org/NZ67ROC3H0>, 24 October 2005.

<sup>(7)</sup> Evaluations of donor accountability have been carried out. These show limited involvement of parliaments in accountability processes. See e.g. Ilal (2008) on Mozambique.

- holding an annual informal session in parliament during which EC and government interlocutors present the EC development assistance programme and respond to parliamentarians' questions;
- ensuring that parliament is informed about financing agreements signed with external donors, including the EC.

In general, improved donor accountability to developing country parliaments should not require provision of support to parliaments. However, the commitments to parliamentary accountability in the Paris and Accra documents entail a shift away from the traditional model in which donors interact with governments and then governments account to parliament. The Paris and Accra documents are not clear about how they envisage this accountability should be operationalized. Developing suitable modalities for appropriate accountability to parliaments by donors and recipients will not be easy.

One method for institutionalizing processes of donor accountability to parliaments would be by establishing international norms and benchmarks in this area. The various parliamentary norm and benchmark projects are discussed in Annex 3 to this Reference Document. However, at present, none of these existing norms addresses the accountability of donors, or indeed the role of parliament in the oversight of international agreements in general. *International Standards for Democratic Legislatures* (NDI, 2006) identifies this as an area for further development.

Given the rapid growth in governance through the establishment of international policy norms, this is an area for urgent action to ensure that the critical responsibilities of parliaments are not bypassed. Currently, norms on international development practice are typically agreed at 'high-level meetings' between national governments and representatives of international organizations.<sup>(8)</sup> Consultations are usually held with CSOs as part of these processes,<sup>(9)</sup> but the involvement of parliaments is rare.

- There is room for the EC to support the work of international parliamentary organizations in developing appropriate norms for parliamentary involvement in international agenda-setting on aid. While there is increasing acknowledgement in international agendas of the need to involve parliament, this is paradoxically often included in documents without real evidence of discussion with parliaments.
- The European Parliament can play an important role in working with parliaments in the South to establish appropriate modalities that will involve parliaments in aid policy oversight while continuing to respect the separation of powers between parliamentary and executive institutions.
- Civil society organizations, which, as is noted above, have often been consulted on global aid delivery issues, will be an important partner for parliaments, assisting both in providing expert advice on aid issues and helping parliaments to play their mandated representative role linking governments and populations.

### 3.2.5. General types of parliamentary support

Subsection 3.2.4. describes the entry points to parliamentary support programmes that intersect with needs arising from existing EC aid activities and commitments. These may

<sup>(8)</sup> For example, the Accra Agenda for Action was agreed at the 'Third High Level Forum' in Accra, organized by the OECD Development Assistance Committee. There was no recommended or agreed process for debate and ratification by national legislatures, or for the gathering of parliamentary input prior to the meeting in Accra. There was a process of consultation with civil society organizations. This approach is typical for the development of international standards (Djelic and Sahlin-Andersson, 2004).

<sup>(9)</sup> Although it should be noted that civil society organizations questioned the extent to which their views had been seriously taken into account at Accra. See CSO International Steering Group (2008).

be priority points of entry, but parliamentary support is an important area for democratic strengthening in general, which remains a central focus of the EU. The establishment of democratic governance as an unchallengeable norm across the European continent is a substantial achievement of the EU and, as is noted above, support to democratization is central to the EU's development policy.

As is noted in Chapter 1, parliamentary development has not been an area of sustained and strategic focus for the EC in the past, and this Guide is intended to assist Delegation staff and others to design effective parliamentary programmes that permit the EC to play a major role in parliamentary development. Several international organizations have been active in this field over a period of many years and this section refers to examples of successful projects launched by these organizations. We have selected examples that we believe will be relevant to the mandate and operating style of the EC.

The US democratic governance expert Robert Nakamura has grouped parliamentary development work into three broad types: institutional capacity building, party strengthening and a civil society-based approach (Nakamura, 2008). The key features of these approaches are identified in Table 1.

**Table 1: Three approaches to parliamentary development**

	<b>Institutional model</b>	<b>Party model</b>	<b>Civil society model</b>
<b>Assumption</b>	Effective use of legislative powers requires institutionalized support	Political parties are needed to organize and channel popular participation	A democratic political system requires vibrant and active civic participation
<b>The ideas</b>	Legislative strengthening movement in the US states	Historical development of party systems in the USA and the UK and the Responsible Party Model	Citizen power movements invigorated societies by infusing them with new participants and perspectives
<b>Basis for scenarios</b>	If you build legislative capacity, members will use it to fulfil the institutional mission to represent, make laws and exercise oversight	Parties seeking power will build stronger ties between citizens and representatives, and promote and advance competing programmes through legislatures	Parties and legislatures cannot be expected to advance policy concerns of citizens, so civil society should serve as a surrogate for missing public involvement in making and implementing laws
<b>Targeted groups</b>	Secretariat and institutional work groups (committees, etc.)	Party leaders, caucuses, opposition MPs, public accounts committees (in Commonwealth)	Civil society organizations (particularly drawn from or representing the marginalized: the poor, women, children)
<b>Capacities to be built</b>	Policy analysis, party cohesion, advocacy skills, institutional management	Support for members' capacity to articulate ideological differences	In CSOs, the development of legislative venues for expression
<b>Key events</b>	Consideration of the budget bill supported by analysis	Ministerial questioning, adversarial politics	Legislature as arena for public debate. Committee hearings on prospective legislation, oversight and monitoring activities
<b>Legislative benchmarks</b>	Parliamentary budget and management acts	A party connected to the grassroots by votes and structures, vigorous scrutiny by public accounts committees	Transparency legislation to increase access to information, pro-poor legislation, etc.
<b>Result</b>	Stable democracy requires institutions capable of representing and containing conflict	Better choices, more competition, more meaningful choices and capacity to enact preferences	Better societal input from most informed segments. Better choices and more attention to policy implementation

Source: Nakamura, 2008

These models, including their advantages and disadvantages, are discussed below. An alternative approach of medium- to long-term strategic development planning, in which key deficits are addressed across the three categories of intervention, is then considered as well as an issues-based approach.

### ***a) Institutional strengthening***

This is by some distance the most common type of parliamentary strengthening activity, and is a particularly popular approach with UNDP, which runs more parliamentary development projects than any other organization. Institutional strengthening is best understood as including two different strategies: staff strengthening and building members' skills. Although they are often included together in a parliamentary development programme, the capacity enhancing principle behind each is somewhat different. The *staff strengthening approach* emphasizes the continuity provided by staff and the importance of the institutional structure, and provides support in framing the work of parliamentarians. The *member capacity-building approach* focuses more on the importance of leadership by parliamentarians, and shares some features with the party-building approach.

In general the advantage of institution-building is that it is relatively uncontroversial and thus more straightforward to implement than other development strategies. Institution-building is less likely to change the balance of power within the legislature and thus usually obtains the support of the majority party. There are numerous examples that can be used as models. Typically, staff capacities in particular are limited in developing country parliaments and thus institution-building activities focusing on staff (and often information technology upgrading) can be justified.

On the other hand, many evaluations of institution-building programmes have shown limited impact. Because institution-building activities can be carried out as a relatively low-intensity activity, the extent of change in institutional effectiveness is sometime questionable. Activities such as study missions are popular with staff and parliamentarians, but if they are not tied to specific outcomes they may not change institutional practices. However, too close a link between the financing of desired activities, such as missions, and agreed changes in institutional practices can create a perception of 'bribing reform' or even of infringing national sovereignty. Another risk that has arisen with institutional strengthening approaches is the tendency for projects to be dominated by the majority political grouping. This problem is normally not avoided by working through the parliamentary administration alone; political buy-in is required for serious reform programmes, and in many emerging democracies the parliamentary administration itself may not be politically neutral.

In terms of *best practices*, institutional buy-in, as is discussed above, is essential for institutional strengthening models. This must be cross-caucus buy-in. Where it is not possible to involve opposition/minority party groups in the design and management of programmes, these normally should not proceed as they will almost certainly entail creating further power imbalances. Institutional strengthening programmes cannot create a national political settlement, but must be built on such a settlement. Finally, although parliamentary strengthening may seem to involve similar processes to public management strengthening, the dynamics are very different from those found in public bureaucracies, and it is therefore crucial that organizations contracted to support such processes, whether national or international, have specific parliamentary expertise.

## **b) Political party model**

The second and third of Nakamura's models of parliamentary strengthening are found less frequently, particularly outside US-funded programmes. This is mainly because they tend to be politically more controversial and difficult to negotiate with parliaments and particularly with executives. Nevertheless, generally accepted models of democracy are based on open competition between freely organized political parties, and systems where political parties are not allowed to operate freely cannot be described as fully democratic.

Parliaments in particular require interplay between the different political party caucuses in order to operate effectively. Models of parliamentary development with significant party-strengthening components can often initiate substantial improvements in parliamentary performance, particularly in the areas of oversight and representation. Even where full executive buy-in is required or desired as part of programme approval, aspects of these models can frequently proceed with adequate groundwork carried out in advance.

The political party model puts the concept of political competition at the centre of the mandate of the parliamentary institution. This is quite understandable for most citizens of developed democracies, where parliaments are seen as the pinnacle of political debate. Institutions such as Prime Minister's Questions in the Westminster tradition or Questions to the Government in the French National Assembly permit the main political tendencies to set out their positions, presenting alternative governmental platforms and, in the case of the opposition, raising doubts about the competence and effectiveness of the current political majority.

The secret to an effective parliamentary institution in most democratic political systems is that it should provide for transparent political debate and the raising of awkward issues, the airing of diverse political viewpoints, and thorough scrutiny of legislation and government action without blocking governance except in exceptional circumstances. This balance requires a number of political building blocks, including a political settlement and the capacity for agonistic<sup>(10)</sup> debate that acknowledges the importance of different points of view. In this regard, effective political parties within and outside parliament are crucial.

In most cases it is strongly preferable to separate projects offering support to party caucuses in parliament, which are in most cases formally constituted organs of the parliamentary institution, from support to parties outside parliament, which may be most usefully viewed as part of civil society. Support to party caucuses<sup>(11)</sup> is both justified and desirable within a parliamentary development programme, whereas support for parties outside parliament is often best conducted through one of the organizations specializing in such support, such as the German political party foundations (Stiftungs), the US-based National Democratic Institute and International Republican Institute, and the United Kingdom's Westminster Foundation for Democracy.<sup>(12)</sup> Support to political parties is sometimes provided by the international organizations of ideologically like-minded parties, such as the International Democrat Union, Liberal International and the Socialist International. Support to such broader political party development and organization is an important aspect of democratic development, but is outside the scope of this Guide.

The types of work that can be included within a party-focused parliament programme include:

- enabling each party caucus to engage dedicated research staff able to draft legislative amendments, conduct research into executive programmes and develop a clear political orientation;

<sup>(10)</sup> Chantal Mouffe (2000), *Deliberative Democracy or Agonistic Pluralism*, Vienna, Institute for Advanced Studies, available online at [http://www.ihs.ac.at/publications/pol/pw\\_72.pdf](http://www.ihs.ac.at/publications/pol/pw_72.pdf).

<sup>(11)</sup> Known as party groups or party benches in various parliaments.

<sup>(12)</sup> Parliamentary development involving these organizations is discussed in more detail in the section on implementation modalities below.

- providing capacity-building training to party caucus leaderships, including in-situ workshops, study missions and exchanges;
- supporting a process to clearly define the roles, including rights and responsibilities, of party caucuses, and the political majority and opposition within parliament;
- developing training to define the roles, responsibilities and appropriate interactions between parliamentary party caucuses and the extra-parliamentary political party in order to promote better representation and participation;
- offering training and advice to party caucuses on how to engage and consult with civil society during legislative and oversight processes; and
- providing training to party caucuses on how to interact and cooperate with the media for more transparent and accountable legislative and oversight processes.

The advantages of party caucus-focused development work within parliaments include the potential that strong caucuses provide for enhanced executive oversight, the increased profile of the parliamentary institution as the prime location for political debate (as opposed to confrontations on the streets or discussions restricted to within the ranks of a ruling party), and a greater emphasis on the inclusiveness of parliament. The potential for improving oversight is substantial. An effective opposition party will bring many more important governance issues to light than even the most responsible government caucus. The knowledge that government actions will attract careful scrutiny undoubtedly encourages both ruling party politicians and public servants to respect the law and show good judgment in the use of public resources. Even a small opposition operating in a context of media and human rights freedoms can ensure government accountability.

Nevertheless, support to parliamentary party caucuses has to overcome several obstacles. The most common of these is the fear or belief by government that foreign donors are interfering in the sovereign affairs of the country, particularly in a way that could damage the government's position. This can be a genuine and serious potential concern. Another related issue is the need to ensure that support to parliamentary caucuses is not used for wider public campaigning. As is noted above, wider political party work is best conducted as an entirely separate activity. The strengths of party caucuses within parliaments — and thus opportunities for development — vary between countries, a factor often linked to the type of electoral system that is in operation.

*Best practices* in supporting party caucuses address these serious barriers. First of all, it is essential that support to caucuses be provided in an entirely non-partisan fashion; all parliamentary groups should receive equivalent support and assistance. Also, somewhat in contrast to Nakamura's typology of three separate types of programme, support to *parliamentary* party caucuses is most likely to be accepted and to succeed linked to a broader programme of institutional strengthening. Alternatively, parliamentary caucus strengthening can be incorporated as part of a comprehensive strategic action plan where all the key areas of parliamentary activity are targeted for strengthening, including the capacities of parliamentary groups. Finally, working with parliamentary groups may be an activity to be carried out in a second phase of programmes, after confidence has been built between the parliamentary leadership, the donor, the service delivery team and, in many cases, the executive.

### **c) The civil society model**

The third model for parliamentary strengthening identified by Nakamura is probably the least commonly applied, but also a promising approach that, at its best, can help to break

down mistrust and competitive relationships that often pit parliaments against civil society. There is a discussion of the important relationship between civil society, parliaments and democracy in Box 8.

In Nakamura's formulation the civil society model is mainly about creating a demand for parliamentary effectiveness through pressure exerted from civil society groups. The approach seeks to build interaction between civil society and parliament as a means of strengthening democracy. This runs contrary to a common tendency at present for civil society to bypass parliament, which it often sees as a secondary institution in comparison with the executive. If civil society insists on parliament acting as a vector for its ideas and campaigns, parliamentarians will be encouraged and/or pressured to play their oversight and representation roles more effectively. In many cases, the EC may be providing support to CSOs, perhaps through funding instruments such as the EIDHR. As always, synergies should be sought between these different democracy-building activities.

*The media* is a specific and important component of civil society. Parliament's relationship with the media will have a substantial effect on public perceptions of the institution. Effective relationships with the media allow parliament to communicate its work and to have a dialogue with the population. Often in developing countries, there is a need to support the development of a professional parliamentary press corps or gallery and to enhance the communications skills of parliament and parliamentarians. For this to be effective, joint training for parliamentarians, parliamentary communications staff and journalists is useful, and assists them to get to know each other better. There is an organized parliamentary media in most European countries, and there are many opportunities for mutual development through twinning and exchanges and so on.

Civil society can work with parliaments in a number of ways, and there are numerous opportunities for intervention to support challenging but constructive relationships. A sample of these opportunities include:

- ensuring that parliamentary committee meetings are open to the media, CSOs and the public under normal circumstances (e.g. when not discussing sensitive security matters or personnel issues);
- organizing standing committee hearings on the budget and other key legislative and oversight areas;
- working with CSOs to organize missions of enquiry on key issues (see Box 9);
- contracting with CSOs to provide expert support to specialist standing committees;
- conducting annual workshops with CSOs to share mutual concerns and agree collaboration action plans;
- working with CSOs to develop monitoring and evaluation systems for PRSP implementation;
- supporting the development of a professional parliamentary press gallery through a twinning programme with the parliamentary press association of a developed democracy;
- for the EC, ensuring synergies between parliamentary support initiatives and civil society/non-state actor support programmes.

**Box 9 - Benin: Legislative action on violence against schoolgirls**

Benin is one of the most successful examples in sub-Saharan Africa of 'third wave' democratization. The democratic transition at the end of the 1980s culminated in the National Conference, a socially inclusive forum in which the details of the new democracy system were decided (Koko, 2008; Gbado, 1998). Power has changed hands peacefully three times, and the National Assembly has pioneered innovations in the areas of budget oversight and outreach to citizens.

The issue of sexual harassment of schoolgirls in Benin had been raised by CSOs, and identified as a major reason for continuing lower rates of school attendance for girls compared with boys (Akpo, 2008; Wible, 2004). In conjunction with UNICEF and local and international CSOs, the assembly organized hearings in communities across the country on the issue of sexual violence in schools and against girls and women in general. Analysis of the legal situation found that there was a legislative gap. A legislative proposal was developed and submitted by one of the assembly's women deputies, Lamatou Alaza, and passed in July 2006<sup>(13, 14)</sup>. It was the culmination of an impressive campaign that united parliament – particularly its women deputies – and CSOs to improve the lives of Benin's girls and women. This type of successful campaign would be impossible in a country without genuine freedom of speech, an active civil society and an effective legislature. It is an example of the democratic dividend.

The key *advantage* of parliamentary development working through civil society is the potential for combining the strengths of representative and participatory democracy. This can strengthen both parliament and civil society. It is an approach that also helps to knit a stronger democratic fabric. As is discussed throughout this Guide, democracy cannot be reduced to a set of institutions that stand alone. Indeed, strengthening one institution without building interconnections is not an effective approach to democracy-building. Parliaments in developing countries typically lack the resources necessary to conduct in-depth research or to easily obtain information from the country's regions. Civil society capacities and networks can greatly expand the parliament's reach and the quality of its oversight and representation. CSOs have played a key role in several countries, for example, in helping to strengthen budget oversight. Conversely, CSOs in developing countries do not have the broad popular mandate of elected parliamentarians. Working together makes each sector stronger.

The *pitfalls* of parliamentary-civil society collaboration derive primarily from the potential for competitiveness between the two types of institution. Other issues can arise. The political affiliations of some CSOs can hamper or divert collaboration away from mutual strengthening. Executives and donors sometimes prefer to work with civil society rather than parliaments, partly because in many developing countries civil society is highly dependent on external funding and thus very open to working with donors and governments. Finally, it is important that working with civil CSOs is not perceived as an alternative to parliaments engaging directly with populations.

In regard to the pitfalls in the specific area of working with the media and parliaments, there are sometimes misunderstandings between parliamentarians and the media about the foundations of a positive relationship. Parliamentarians who are insufficiently aware of the responsibilities of the media in a democratic society may expect the media to always report their activities favourably. At the same time, the media in developing countries is often resource-poor and unable to hire professional reporters, which has a negative impact on the quality and professionalism of reporting. These issues can be addressed at least in part through the communications and media component of a parliamentary support programme.

<sup>(13)</sup> <http://www.womensenews.org/article.cfm/dyn/aid/2842/context/archive>.

<sup>(14)</sup> La loi n° 2006-19 du 05 septembre 2006 portant répression du harcèlement sexuel et protection des victimes.

*Best practices* in civil society-focused parliamentary strengthening are built on careful planning and dialogue at the beginning of parliamentary programmes. Often this might include a facilitated session at some point that would allow issues and misperceptions to be addressed prior to discussions about possible programmes. Obviously, the civil society partners of parliaments need to be carefully selected, given the tendency for civil society to be politicized in many countries. Media and communications programmes should be inclusive and need to take account of and involve the different categories of the media, particularly state and private, government- and opposition-affiliated media, and electronic as well as the printed media. It is important to be aware that radio tends to be the most accessible medium in many developing countries and thus efforts should be made to engage with radio. Several successful programmes have involved the development of a parliamentary radio station, but these often use low-power transmitters and need to be retransmitted outside the capital city in order to permit wide public access.

#### **d) Strategic development planning**

There are several types of possible programmes that do not fit neatly into the three categories discussed above. As is discussed above, it is often preferable for projects to straddle categories. For example, it may be difficult for a parliamentary party-focused project to achieve the necessary consensus to be launched, but party caucus strengthening activities may well be possible within a wider institutional development programme. This subsection examines the potential for strategic development planning to encompass the full spectrum of development activities.

One issue that has been raised repeatedly in parliamentary development work is the danger of programme duplication, as well as donor support to repetitive iterations of similar initiatives. One donor may support training for staff in a technical area in its home country parliament, and a few years later a different donor may sponsor a similar activity. Donor coordination should help to resolve this issue, and strong parliaments will set up donor coordination offices. However, in less well-organized parliaments there may be little coordination, and different groups within the institution may not even be aware of what other parts of the institution are doing. Another issue with parliamentary support is that it can lack strategic direction. Standalone activities are much less likely to be successful than those which are part of an overall development plan that includes processes for sharing learning and avoiding duplication.

Other studies and evaluations of parliamentary programmes have recommended strategic development plans as a key approach to parliamentary development (Murphy and Alhada, 2007). A number of parliaments have developed and implemented multi-year strategic development plans with donor support (see Box 10). UNDP, which has supported several strategic development planning processes, is writing 'practice guidelines' for parliamentary strategic development plans, which should be issued in 2010.<sup>(15)</sup> Developing and implementing a multi-year plan involves a number of steps. UNDP suggests seven key stages:

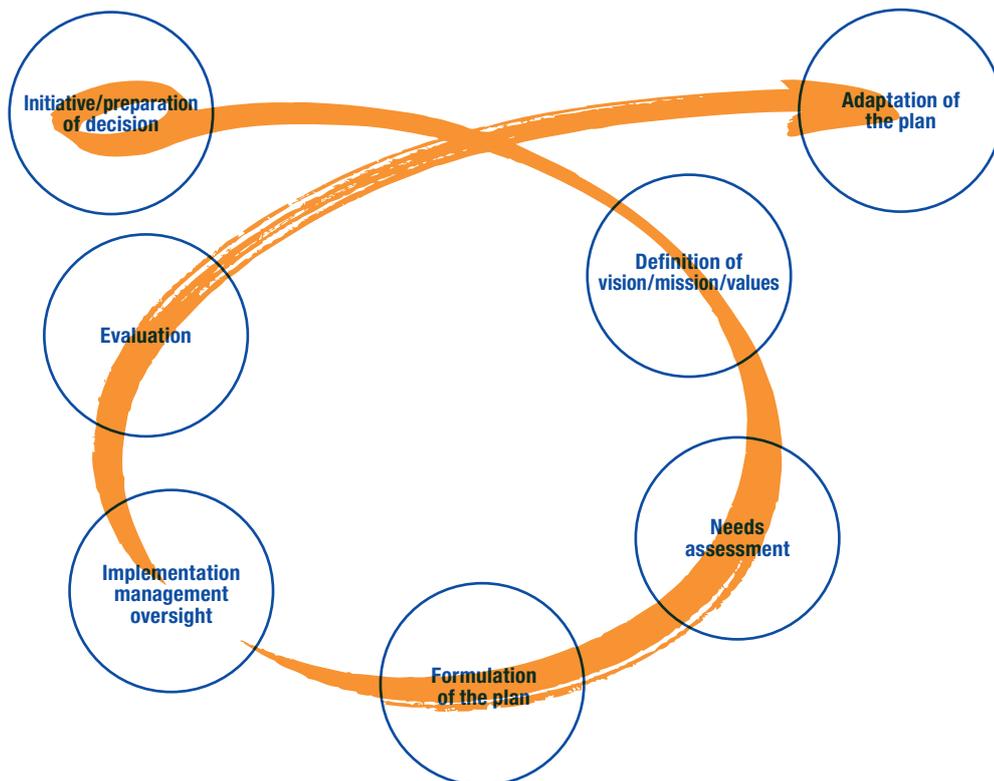
1. **Vision, mission and values:** Define the vision and set a mission statement with a hierarchy of goals.
2. **Needs assessment/baseline analysis:** Various analysis techniques can be used in strategic planning, including SWOT analysis (Strengths, Weaknesses, Opportunities and Threats) conducted according to the desired goals and/or the benchmark analysis (see the discussion of benchmarks initiatives in Annex 3).

<sup>(15)</sup> See [http://www.undp.org/governance/focus\\_parliamentary\\_dev.shtml](http://www.undp.org/governance/focus_parliamentary_dev.shtml).

3. **Formulation:** Formulate actions and processes to be taken to attain these goals via strategic objectives and programme of activities.
4. **Implementation:** Implementation of the agreed processes and activities.
5. **Oversight:** Monitor and obtain feedback from implemented processes to ensure management oversight of the operation.
6. **Evaluation:** In addition to ongoing monitoring, longer term evaluations are indispensable to ensuring the relevance and the coherence of the strategic development plan in the longer term.
7. **Adaptation of the plan:** A reorientation or reformulation of the parliament’s strategic development plan can take place in response to the need for modifications according to parliament’s needs.

The UNDP strategic planning approach is demonstrated graphically in Figure 8.

**Figure 8: Schematic of steps in the development and implementation of parliamentary strategic development plans**



Strategic development planning has the potential to overcome some of the inherent weaknesses of any single approach to parliamentary development. A good strategic plan will include objectives and actions to strengthen institutional structures and processes, ensure a healthy climate of multiparty parliamentary competition within parliament, and foster links and synergies with civil society. The presence of a long-term vision for the institution will help give potential donors confidence that their resources will be used strategically and with a view to long-term impact.

As with any approach, strategic plans need to be operationalized with careful forethought, and they are not applicable or desirable in certain circumstances. Strategic planning requires thorough buy-in and ownership from the parliamentary institution, and needs to have the committed support of the entire parliamentary leadership, including both elected officials and senior staff. An excessively rigid approach will result in the plan not being implemented while, on the other hand, a plan that is significantly altered every year will not contain a long-term institutional vision. One issue that has arisen with strategic development plans is the tendency for donors to ‘cherry pick’ items of special interest, resulting in an unbalanced implementation. This runs contrary to donors’ commitments to support nationally driven development outlined in the Paris Declaration and the Accra Agenda for Action. Parliaments may also choose to implement the easiest and most attractive options at the beginning of a strategic plan, leaving the difficult reforms to ‘the future’. Strategic development plans will be particularly useful in scenarios of sector budget support to parliament, as in South Africa (see the discussion in Chapter 1).

### **Box 10 - Burkina Faso’s strategic development programme**

The Constitution of 1991 set in place a semi-presidential system with a unicameral parliament, the National Assembly. Multiparty parliamentary elections were first held in 1992, followed by further democratic parliamentary elections in 1997, 2002 and 2007.

This period of stability permitted parliament’s leadership to consider options for institutional strengthening. After organizing a number of individual strengthening activities, including training seminars and study missions, the assembly decided it needed a long-term and coordinated approach to institutional strengthening. The first step was a baseline study carried out in 2003, involving a comprehensive assessment of perceptions of parliament across the country. An opinion survey was conducted, as well as workshops, interviews and focus groups with key representatives of civil society, labour unions, the media, and current and former parliamentarians. The baseline study concluded that overall perceptions of parliament were not positive and that the institution needed to consider reforms to improve its efficacy and make much greater efforts to relate to the population and interest groups within the population.

The National Assembly decided to develop a ten-year strategic development plan (Parliamentary Strategic Development Plan, PSDP) covering the period 2004–2014. A funding arrangement to develop the PSDP was negotiated with UNDP. A structure for the development of the plan was put in place, with one of parliament’s vice-presidents selected to coordinate between parliament and the team of national and international consultants that was contracted to develop the PSDP. The consultants met with key actors inside and outside parliament and developed a draft strategic plan, which was organized into six strategic objectives (Assemblée Nationale du Burkina Faso, 2004):

- The National Assembly is able to legislate effectively.
- Oversight of government activities by the National Assembly is improved.
- Relationships are strengthened between elected representatives and the population they represent.
- A parliamentary culture promoting peace, tolerance and constructive debate is established.
- The parliamentary administration’s capabilities are reinforced with a view to increasing efficiency.
- The concept of gender is taken into account in the National Assembly.

For each of the strategic objectives, a number of outcomes that would lead to the objectives being met was identified, and within these activities a series of actions was proposed. For example, in the area of legislative effectiveness, one of the desired outcomes related to the legislative and oversight roles of the Finance and Budget Committee in relation to the budget. The outcome and associated actions for this one area are translated and reproduced below:

<p>1.3 The Finance and Budget Committee is adequately equipped and supported to permit it to fulfil all its legislative and oversight responsibilities relating to the national budget.</p>	<p>1.3.1 An annual programme of training on the analysis of the budget documents is organized for the benefit of the members of the Finance and Budget Committee and support staff.</p> <p>1.3.2 A study is conducted of the advantages and disadvantages of electronic transmission by the government of budgetary documents. Appropriate revisions are made to the relevant regulations.</p> <p>1.3.3 A political agreement is sought within parliament for the nomination of the Chairperson and Vice-Chairs of the Finance and Budget Committee for a two-year mandate in order to ensure the retention of expertise in this important area.</p> <p>1.3.4 Government presents to the Finance and Budget Committee, in the course of the first trimester of each year, a document outlining its general budget perspectives. On the basis of this document the committee organizes public hearings and meetings with the public and groups with special interest in the budget, and submits, before the end of the second quarter, a report accompanied by recommendations. The report is published.</p> <p>1.3.5 The process of adoption of the 'loi de règlement' is reorganized in conjunction with the Cour des Comptes in order to ensure that the Finance and Budget Committee has enough time, information and technical support to examine the national accounts for the preceding year.</p>
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**Extract from Burkina Faso PSDP**

Once the PSDP was adopted, a coordinating committee was established, including parliamentarians and staff representatives as well as key external actors. A Programme of Priority Actions (PAP) over the next two years was subsequently adopted for implementation. For each activity, the PAP identifies the actors to be involved, expertise needed from within and outside parliament, and includes detailed financial costing as well as anticipated funding sources. Midway through each two-year PAP, the process of development of the next PAP is put into action. In 2009, a mid-point evaluation of the PSDP was planned, with revisions made to the PSDP to meet changed circumstances since 2004.

***e) Issues-based support***

Beyond the various entry points and types of support presented in this section, an issues-based approach can be very useful in ultimately reinforcing parliament. Parliamentary development activities are likely to attract greater interest and support among parliamentarians if they are tied to issues on the national political agenda or issues that are dear to most parliamentarians.

There are two types of issues-based approach. The first aims to mainstream parliamentary involvement in any important sectoral policy discussion or sectoral support. As the key representative body of a society it as an actor that has to be engaged in both policymaking

and the oversight of the implementation of those policies (see section 3 of Annex 2 on national development strategies). Such mainstreaming would mean that when in a partner country the EC supports, for instance, the health sector, the parliament would be informed, engaged and consulted on the sectoral support and be an important actor in the oversight of the support. The EC should more systematically engage with parliament on sectoral support throughout the different phases of its assistance and foresee a specific place for parliament in those programmes with, where appropriate, the provision of technical assistance to the relevant thematic committees.

The second type of issue-based approach fits into more traditional parliamentary development support. Rather than taking a purely institutional or a comprehensive parliamentary development approach, support might be provided in the context of a specific issue that is high on the parliament's and the country's agenda. This approach may be a good entry point for parliaments in countries that may not be ready to embark on a broad reform agenda. The Niger National Assembly's work on the country's decentralization law is a good example of an issues-based support approach (see Box 11). In a nutshell, the issue-based approach takes the issue through the different processes and roles of parliament and provides support throughout the cycle of work, gathering information on the issue through hearings or outreach, and then provides support with legislative drafting or how to translate the information into law, and support for communication about parliamentary work, and so on.

### **Box 11 - Niger**

Decentralization has been a recurring and important topic in Nigerien political history. Decentralization plans have been repeatedly proposed but not implemented. President Tandja's government proposed an ambitious decentralization plan in 2001. The government introduced its decentralization legislation to the Niger National Assembly in the spring of 2001. Two of the bills were controversial: one specified the boundaries of the new communes, and the other designated the seats of each commune. Having heard numerous complaints from their constituents, deputies were well aware of potential problems with these two bills. UNDP with the National Democratic Institute (NDI), which had initiated a support programme to the National Assembly, were asked to assist the assembly on the issue of the decentralization law. It was decided to defuse the tensions in the regions around the law, to assist the National Assembly with a big public outreach campaign throughout the country, and to collect through this more information from citizens before considering the legislation. During the campaign, deputies participated in 30 town hall meetings and ten national radio shows across the country. In many ways, this campaign represented one of the most important political developments in Niger since the resumption of civilian rule. Between those who attended the forums and many others following the events through the media, UNDP/NDI estimated that the consultations reached over one million people. They also gave many deputies a new understanding of local problems and concerns. As the deputies approached voting on the ambitious decentralization plans, they repeatedly referred to the public consultation mission as their single greatest source of information. After numerous debates analysing citizen input and proposed amendments (as well as amendment drafting training), the National Assembly passed the decentralization plan in May 2002. During the process, it significantly modified the proposal through about 200 amendments, something that is still rare in Niger's history.

### 3.3. Implementation modalities

The Paris and Accra agreements on aid effectiveness make delegated cooperation the normal modality for delivering EC development support in ACP countries, and it is a preferred modality of assistance in other third countries. There are various forms of delegated cooperation which are discussed in detail in the EC document, *Guidelines on Making Technical Cooperation More Effective* (European Commission, 2009). Typically, this decentralized management entails the partner country managing programmes using EC procedures.<sup>(16)</sup> Alternative modes include pooled funding arrangements with the partner country, international organizations or EU member states and national organizations. Figure 9, which is drawn from the Guidelines, outlines the modalities of delegated cooperation.

**Figure 9: Overview of the modalities of delegated cooperation**

<b>Entity</b>	<b>Management mode</b>	<b>Legal instruments</b>	<b>Procedures</b>
<b>i. International organization</b>	Joint management	Contribution agreement	Procedures of the international organization
<b>ii. National (public or private) body of a donor country</b>	Indirect centralized management	Delegation agreement	Choice between the EC rules or those of the delegated body
<b>iii. Beneficiary country</b>	Decentralized management	Financing agreement	EC rules. Possibility to use rules of beneficiary country or other donor

Notwithstanding the funding modalities through which parliamentary development programmes are ultimately implemented, it is important to emphasize the commitment of the EC to fostering country ownership and leadership. In the case of parliamentary development, this entails institutional ownership of the development process. Current EC thinking on capacity development approaches is available in the *Toolkit for Capacity Development* (2009).<sup>(17)</sup> In addition, Delegation staff implementing support to parliamentary development should consult the Guidelines cited above.

The most important factor in the success of parliamentary support activities is, of course, the leadership and commitment of the parliamentary institution itself. The Assessment Framework discussed in section 2.3 of Chapter 2 is specifically designed to ensure that the institutional development process is truly owned by the parliament.

Whichever particular cooperation modality is adopted, parliamentary support activities typically engage parliamentary development expertise in order to facilitate the development process. The different models that have been widely used to implement parliamentary support programmes, and the types of actor most closely associated with each of these approaches, are discussed below.

Inevitably, some approaches are closely associated with specific organizations that specialize in certain types of parliamentary development. For example, the global and regional associations of parliaments such as IPU, the Commonwealth Parliamentary Association (CPA) and Assemblée Parlementaire de la Francophonie (APF) specialize in strengthening through information-sharing at workshops and conferences, although they may, for example, also deliver expert-driven, country-specific programmes. However, the objective is not to

<sup>(16)</sup> See <http://capacity4dev.ec.europa.eu/guidelines-making-technical-cooperation-more-effective>. See particularly Annex 6, 'Short guide to EC rules and procedures: How to apply EC procedures to TC'.

<sup>(17)</sup> See <http://capacity4dev.ec.europa.eu/toolkit-capacity-development>.

recommend specific organizations, but rather to look at *approaches* that can be used. Often, a combination of approaches and development partners is involved; for example, UNDP has an agreement with the French National Assembly whereby the National Assembly makes itself available to assist with UNDP-managed parliamentary support activities.

At the end of each category of implementation partners there are relevant weblinks to additional information on the types of services offered by the different potential partners. Further advice and contacts can be obtained from EuropeAid's E4 Democracy support cluster.



### 3.3.1. Parliamentary twinning

A number of Western parliaments have international development arms that specialize in parliamentary twinning activities. The expertise of staff, and less frequently parliamentarians from a Western parliament is made available to a developing country parliament. Typically this is on a short-term basis, for example, to deliver a training module on a specific subject, such as minute-taking or internal financial management, although occasionally staff can be seconded to a developing country parliament to act as mentors for a period of several months. Twinning is an attractive approach because there are clear common understandings, even if there is a large difference in human and financial resources. Twinning sometimes takes place on a parliament to parliament basis, and in other cases it is part of a broader programme of support managed by another organization.

Many EU member state national parliaments have international development arms, some with considerable development experience (see below). However, parliaments typically have limited staff resources that can be allocated to international work, and this is often restricted to periods when the donor parliament is not sitting. Funding arrangements for twinning programmes vary depending on the resources available to the donor parliament, but often staff time is provided at a subsidized rate, while travel and other costs must be covered by the recipient programme.

### **Box 12 - European Parliament Office for the Promotion of Parliamentary Democracy (OPPD)**

#### **OBJECTIVE**

To support parliamentary development in new and emerging democracies (NED).

#### **BENEFICIARIES**

Parliamentary institutions of NED, its members and civil servants.

#### **ACTIVITIES**

- In coordination with other EU institutions, the OPPD provides demand-driven and tailor-made technical assistance to NEDs in:
- strengthening principal functions of parliaments;
- setting up parliamentary organizations;
- implementing administrative and institutional reform;
- initiating inter-parliamentary legislative cooperation and sharing of best practices; and
- developing information and communication (ICT) strategies and e-democracy projects.

#### **CONTACT DETAILS**

Office for the Promotion of Parliamentary Democracy (OPPD)

European Parliament  
Willy Brandt Building 04M061  
B-1047 Brussels - Belgium  
Tel: 00 32 2 284 42 29

Email: [oppd@europarl.europa.eu](mailto:oppd@europarl.europa.eu)

Web: [www.europarl.europa.eu/oppd](http://www.europarl.europa.eu/oppd)

The European Parliament itself established a dedicated international parliamentary development office in 2008. The Office for the Promotion of Parliamentary Democracy (OPPD) supports parliaments in new and emerging democracies outside the EU (see Box 12). OPPD provides tailored training and counselling to members and staff of emerging democracy parliaments, as well as networking and peer-to-peer exchanges with parliamentarians and the relevant administrative services of the European Parliament. The OPPD can be a useful partner of the EC at the identification and formulation stages of EC parliamentary development projects and can be a complementary partner in the provision of support, as experiences in Moldova and Kyrgyzstan have already shown. Collaboration eventually reinforces the EU's influence and visibility.

The Canadian Parliamentary Centre is particularly active in a number of African countries.<sup>(18)</sup> The centre, which is loosely affiliated with the Canadian Parliament but mainly funded through Canada's official development agency, CIDA, focuses, among other areas, on supporting regional international initiatives on parliaments and gender, anti-corruption and poverty reduction.

### **Summary comments**

Parliamentary twinning is a natural approach to parliamentary development in ACP countries. Partnerships may already exist between the recipient parliament and one or more parliaments in Europe. In the past, most twinning and partnership activities have been short term in nature, although some longer term support arrangements are now in place. Support can be provided on a parliament to parliament basis or as part of a broader strategic programme of parliamentary strengthening. There may be some ambivalence about building relationships with the parliaments of former colonial powers. The European Parliament's OPPD is an important new resource for parliaments and EU Delegations seeking advice and support on parliamentary development.

- European Parliament - <http://www.europarl.europa.eu/oppd>
- French National Assembly - <http://www.assemblee-nationale.fr/international/>
- French Senate - <http://www.senat.fr/international/coop.html>
- German Bundestag - [http://www.bundestag.de/htdocs\\_e/bundestag/international/index.html](http://www.bundestag.de/htdocs_e/bundestag/international/index.html)
- Belgium House of Representatives - <http://www.lachambre.be>
- Spanish Senate - [http://www.senado.es/legis9/rip\\_i/index.html](http://www.senado.es/legis9/rip_i/index.html)
- Swedish Parliament - [http://www.riksdagen.se/templates/R\\_Page\\_4395.aspx](http://www.riksdagen.se/templates/R_Page_4395.aspx)
- Scottish Parliament - <http://www.scottish.parliament.uk/nmcentre/news/news-10/pa10-003.htm>

### 3.3.2. The United Nations Development Programme

UNDP is the only UN organization with representation in the vast majority of nations, 166 at the time of writing this Reference Document. While other agencies or bodies of the UN are involved in certain thematic issues of parliamentary development, the most active agency, UNDP, has substantial experience in parliamentary development, and at any one time is actively involved in over 60 parliaments — more than any other actor. UNDP has a parliamentary expert team based in New York and Brussels, which provides advice and develops information and training materials that are of broad relevance to all parliamentary development professionals. For several years, UNDP has operated a Global Programme for Parliamentary Strengthening, which supports a number of national demonstration projects as well as regional and global parliamentary development programmes. In 2010, UNDP, with a number of different partners, launched AGORA, the Portal for Parliamentary Development — a parliamentary 'knowledge web hub' which brings together information about parliamentary development from all the major actors in this field, makes this available online and provides a supportive virtual community. See the text box below for more information.

The range of UNDP's parliamentary programmes is very wide, and delivery mechanisms are also varied. Sometimes UNDP engages experts directly who work to deliver services in parliaments, while in other cases resources are transferred directly to parliaments to deliver agreed programmes. Sometimes delivery is subcontracted to national or international NGOs. UN programmes may be funded through the agency's own resources, or they can be funded through agreements with other donors. Often, programmes are co-funded by UN internal funds and donor contributions. UNDP often takes the lead in managing multi-donor supported parliamentary support programmes. UN programmes are typically delivered through agreement with national governments and therefore programmes must be acceptable to those governments.

#### **Summary comments**

UNDP's parliamentary development programmes are well developed and have global back-up through knowledge centres in New York and Brussels. A number of different delivery modalities are used. UNDP specializes in longer-term parliamentary support initiatives. For more information on UNDP's work in parliamentary strengthening see

[http://www.undp.org/governance/focus\\_parliamentary\\_dev.shtml](http://www.undp.org/governance/focus_parliamentary_dev.shtml)

**Box 13 - AGORA: The Parliamentary Development Portal, [www.agora-parl.org](http://www.agora-parl.org)**

AGORA is a one-stop reference centre and hub for knowledge-sharing on parliamentary development. This multilateral, global initiative brings together parliamentarians, parliamentary staff, donors and practitioners as well as academics, CSOs and the media. The portal seeks to consolidate knowledge, expertise and lessons learned, and to facilitate active collaboration among the worldwide parliamentary development community of practice. AGORA was officially launched in Paris on 2 March 2010.

AGORA has three main objectives: to act as a hub of information and expertise on parliamentary management and parliamentary development, to promote the global streamlining of parliamentary development activities, and advocate for parliamentary development worldwide and to consolidate knowledge and expertise by creating an active online community for those working in parliaments and in the field of parliamentary development. The public part of the portal offers extensive information on parliamentary development, while a restricted access platform acts as a virtual meeting space for registered members. AGORA is the result of a partnership involving all the key parliamentary development actors (from UNDP, National Democratic Institute (NDI), International IDEA and the World Bank Institute, to CPA, the European Parliament and the EC/AIDCO). It is the complementary instrument to this Document 'par excellence' where relevant knowledge, lessons learned and various experiences of parliamentary development can be found.

Source: <http://www.agora-parl.org>

**3.3.3. Global and regional parliamentary associations**

The IPU is well known as the global membership organization of parliaments, and several of its initiatives are discussed in this Guide. Most national parliaments are members, with the important exception of the US Congress. There are also numerous regional parliamentary associations and organizations based on cultural and historical affiliation, including the Commonwealth Parliamentary Association and the Assemblée parlementaire de la Francophonie. In addition to associations of parliaments there are a number of associations, both global and regional, of parliamentary presiding officers (speakers) as well as of parliamentary staff. Most of the organizations charge membership fees, which tend to be on a sliding scale based on the relative affluence of the member parliaments.

The core work of parliamentary associations is to build a supportive professional community. The centrepiece of the year's work for most organizations is the annual conference, which provides an opportunity for members to keep up to date on developments in the parliamentary community. Typically, workshops are held on topical subjects. Norms of parliamentary practice are shared informally, and several organizations have adopted comprehensive norms or benchmarks for democratic parliament projects, which are discussed in detail in Annex 3. In addition, more formal training programmes are often offered on specific technical areas of parliamentary work.

Some parliamentary associations have developed their own programme of technical support to parliaments. The APF, for example, has operated the NORIA programme since 2002, which helps parliaments in developing countries in Africa and Asia with their information technology needs. CPA has operated technical assistance programmes with a number of its smaller member parliaments. By and large, assistance is provided in the shorter term rather than on a long-term basis. Often, parliamentary association expert support is provided to

wider parliamentary development programmes delivered through other organizations, such as UNDP (e.g. in Timor Leste) or the EC (e.g. in South Africa).

In addition to the formal parliamentary membership associations, there are several voluntary associations of parliamentarians involved in development work, including Parliamentarians for Global Action (PGA) and European Parliamentarians for Africa (AWEPA). The latter organization in particular is heavily involved in providing technical support to parliaments in Africa, including several long-term projects. AWEPA projects tend to be funded by European government development agencies, and the EC supports some AWEPA projects, including, for example, a project to help establish the Parliament of South Sudan, which was launched as a result of Sudan's 2005 peace agreement.

### **Summary comments**

Most parliaments are involved with traditional parliamentary associations, and planning for parliamentary support should take into account the services available through such associations. These may provide a basis on which to provide extended support. Parliamentary associations can often offer short-term expertise for training, workshops and so on, on a contract basis.

- The Inter-Parliamentary Union - <http://www.ipu.org>
- Association of Secretaries General of Parliaments (directly linked to the IPU) - <http://www.asgp.info>
- Commonwealth Parliamentary Assembly - <http://www.cpahq.org>
- Assemblée Parlementaire de la Francophonie - <http://apf.francophonie.org>
- Association of European Parliamentarians for Africa - <http://www.awepa.org>
- Parliamentarians for Global Action - <http://www.pgaction.org>

### **3.3.4. Political foundation programmes**

In a number of countries, major political parties have their own international development arms or associate organizations. Several countries, most notably the USA, Germany and the UK, have specific funding programmes that support political foundations. Political foundations work differently according to their host country, but there are some common patterns. Support is often provided through parties, although in some cases institutional support is offered to parliaments. The German foundations of Stiftungs, such as the Konrad Adenauer Foundation, which is linked with the German Christian Democrats, and the Friedrich Ebert Foundation, which is linked with the German Social Democrats, often work with political parties with which they have some ideological common ground. The US-based foundations, NDI and the International Republican Institute, operate on the principle of political neutrality and their work with political parties tends to involve training and other activities open to organizations across the political spectrum.

NDI in particular operates a number of important parliamentary strengthening projects, and NDI has established a position as one of the intellectual leaders of the parliamentary development community. Much of the current work on international parliamentary benchmarks originated through NDI initiatives. Core funding for the US political foundations is provided by the US government-sponsored National Endowment for Democracy, with programme

delivery supported on a country-by-country basis by a number of funders, including USAID and European official development agencies such as the UK's Department for International Development (DFID) and Sweden's Sida.

The Westminster Foundation for Democracy has traditionally operated in a somewhat similar manner as the German Stiftungs, but in recent years has begun working with DFID to deliver broader parliamentary strengthening programmes. Several other European countries have political foundations that operate international political party development programmes, and in a few cases also work directly with parliaments. One of the most active of these organizations is the Netherlands Institute for Multi-Party Democracy (NIMD).

### **Summary comments**

The political and party foundations differ according to their host country and the extent to which they are 'political' in their operations. Obviously, they can play a significant role in political party development, where this is programmed as part of EC support. NDI and to an increasing extent the Westminster Foundation for Democracy are active players in broader parliamentary development.

- Network bringing together more than 60 European political foundations and civil society organizations active in democracy promotion  
<http://www.european-network-of-political-foundations.eu/cms/>
- Westminster Foundation for Democracy - <http://www.wfd.org>
- Netherlands Institute for Multi-Party Democracy - <http://www.nimd.org>
- National Democratic Institute - <http://www.ndi.org>

### **3.3.5. International financial institutions**

International financial institutions (IFIs) include not only the World Bank and the International Monetary Fund, but also regional banks such as the African Development Bank. Traditionally, IFIs worked with national governments to ensure economic stability and growth and to invest in major capital projects. With the rise of 'policy funding' since the 1980s, however, they have increasingly become involved in broader governance strengthening issues. With the advent of PRSPs in the late 1990s, the IFIs have played an increasingly important role in social and fiscal policy. Support to effective oversight has become a priority and, as a result, the IFIs and in particular the World Bank have devoted increasing effort to building relationships with parliaments and to providing technical assistance, particularly to support budget legislative and oversight activities.

The World Bank Institute (WBI), which is the knowledge and capacity-building arm of the World Bank, has an extensive programme of activities in the area of parliamentary development. These include short-term training activities, particularly focused on oversight in the budget process, the fight against corruption, legislative strengthening and regional parliamentary knowledge-sharing. WBI has pioneered various learning methodologies and in addition has produced a number of important resource materials on parliaments, particularly in the areas of the national budget and anti-corruption. Like NDI, WBI is at the cutting edge of international thinking about the role of parliaments and is playing a major role in supporting the development of international norms for democratic legislatures. WBI has helped to sponsor a number of parliamentary anti-corruption networks, including the Global Association of Parliamentarians

against Corruption (GOPAC), the secretariat of which is based at the Canadian Parliamentary Centre (CPC), and which has a membership of over 900 parliamentarians from more than 90 countries. GOPAC supports parliamentarians in pressing for anti-corruption initiatives within parliaments, in their roles as legislators and in their activities to scrutinize government actions. Currently, GOPAC is focusing on anti-money laundering work as well as parliamentary adoption of the UN Convention Against Corruption. Many regional and national chapters of GOPAC have been created in the past 5 years.

Separate from the WBI, the Parliamentary Network on the World Bank (PNoWB) has been running since 2000. The PNoWB is a network of parliamentarians from around the world, the main objective of which is to strengthen accountability and transparency in international financial institutions in general and the World Bank in particular. The PNoWB holds regular global conferences and has a number of regional networks. Involvement with PNoWB would be helpful for parliamentarians wishing to share knowledge and best practices on parliamentary involvement in international development policy, donor accountability and PRSPs.

### **Summary comments**

WBI is the leading global source of expertise and learning opportunities on parliamentary budget oversight and anti-corruption activities. WBI does not generally run long-term, in-country technical assistance programmes, but it should be considered a key resource and potential partner in the delivery of support to parliamentary budget cycle training.

- World Bank Institute - <http://wbi.worldbank.org/wbi/about/topics/governance>
- Global Association of Parliamentarians Against Corruption - <http://www.gopacnetwork.org>
- Parliamentarians Network on the World Bank - <http://www.pnowb.org>

### **3.3.6. National democracy promotion organizations and experts**

Given the importance of national ownership in EC development assistance delivery, national democracy promotion organizations should be considered an important potential delivery partner in parliamentary development. There is one or more democracy promotion NGO in most countries with democratic systems. These organizations obviously vary substantially from country to country and it is not possible to provide a useful categorization of the work they do and their potential for working with parliaments. Often, democracy promotion organizations have been supported by one or more international donor, and many have played a crucial role in democratization (e.g. the Institute for Democracy in South Africa [IDASA]). In many cases, democracy promotion organizations are also involved in the promotion of human rights and freedom of speech.

Similarly, in almost every emerging democracy there is a group of academic and other experts who have worked as consultants on various democratization, human rights and public administration reform initiatives. It is likely that there are several experts of high international standing and capacity in their domain in every country.

The political class in many emerging democracies is quite small, and the actors in national democracy promotion organizations, as well as national experts, are often perceived as having links with one or more of the political currents in the country. It is crucial *both* that national expertise is used in the development and delivery of parliamentary development

programmes *and* that the organizations and/or expertise engaged are acceptable across the political spectrum.

There are often experts in parliament among both elected members and senior staff. This expertise will be essential to project success. Caution needs to be shown in assuring political neutrality or balance. Furthermore, it is typically neither appropriate nor lawful to pay indemnities to politicians and or parliamentary public servants in addition to the salaries they receive from the state.

- Institute for Democracy in Africa - <http://www.idasa.org.za>
- Centre for Legislative Development of the Philippines, active in Asia - <http://www.cld.org>

### **3.3.7. International consultants, consultancies and democracy support actors**

In the parliamentary development sphere as in others, there has been growing reliance on international consultants and consultancy organizations. With a few exceptions, the major management consultancy firms have not been heavily involved in this field, and thus parliamentary development work is populated with small companies, partnerships and sole consultancies.<sup>(19)</sup>

Teams of experts have frequently been assembled to work on particular projects by the contracting agency; this, for example, is normally the process adopted by UNDP. In other cases, a tender is put out for certain deliverables, with the respondents responsible for identifying a suitable team, usually based on the tender guidelines (which include a requirement for certain levels of expertise and a breakdown of national and international experts, etc.). This latter approach is often used by the EC.

Obviously, in a field with no dominant players, evaluation of expertise has to be done on a case-by-case basis. However, one important consideration is that parliamentary development is a specialized field. Although general management consulting expertise is useful, this is an environment that cannot be compared to typical public administration. In a democratic parliament, no one is the ultimate boss, decisions must often be made by consensus, and the political game itself is one that is built on articulating and working through difference. Management consultants will need to understand not only the multi-layered nature of parliament, but also the importance of institutional ownership of the development process. Some parliamentary experience, whether as a parliamentarian or a member of the senior staff, is highly desirable if not essential for success. Furthermore, the criteria for evaluation of success are different from those in public administration. It is not uncommon to hear parliaments criticized by development agency staff for their lack of a common voice or 'inefficiency' in passing legislation. While these comments might reflect real dysfunctionalities, the most effective parliaments in developed democracies are also places of disagreement, and occasionally even of blockage of government actions. This is all part of the nature of democracy, which the British leader Winston Churchill discussed in the aftermath of World War II: 'Many forms of Government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time' (Churchill, 1947).

Beyond the consultancies there are a number of international democracy support organizations, such as the International Institute for Democracy and Electoral Assistance (IDEA) (<http://www.idea.int>), which are also developing expertise in parliamentary development.

<sup>(19)</sup> A few US for-profit and non-profit private firms have developed specialized expertise in parliamentary development. See e.g. Chemonics International, <http://www.chemonics.com/>, and DAI, <http://www.dai.com/>. Some European foundations or not-for-profit firms such as the European Centre for Development Policy Management (ECPDM) <http://www.ECPDM.org> and Democracy Reporting International <http://www.democracy-reporting.org> are also developing expertise in this field.

# ANNEX 1. PARLIAMENTS AND DEMOCRATIC DEVELOPMENT

*In the terrible history of famines no substantial famine has ever occurred in a country with a democratic form of government and relatively free press (Sen, 2001: 7).*

## 1.1. Introduction

In recent years the concepts of good governance and democracy-building have become central features of international development theory and programmes. Almost every multilateral and bilateral development agency is formally committed to supporting good governance and democracy and, equally, almost every developing country declares itself a democracy. Practice does not always follow words on either side, but there is no doubt that in the past 20 years far greater attention has been paid to the importance of effective, participatory government in development than was the case previously.

There is no absolutely scientific method of measuring the spread of democracy; governance systems can vary substantially and still provide effective citizen choice of leaders and representation in decision-making, while many countries have democratic structures that function less than perfectly. Nevertheless, there is growing consensus on the fundamental features of democratic systems.<sup>(20)</sup> By any measure, the number of countries with operating democratic systems has grown substantially since the beginning of the ‘third wave’ of democratization in the 1980s (Barkan, 2009). Whereas no country in the world enjoyed universal suffrage in 1900, by the turn of the 21st century two-thirds of countries had electoral democracies with universal suffrage and competitive elections (Freedom House, 2002).<sup>(21)</sup>

As most people are aware, democracy has ancient roots. The word has its origins in ancient Greece, whose city-states’ democratic systems are the best known from antiquity. However, there are numerous examples of democratic systems in the ancient world that predated Athens and Sparta, including in Africa, India, Persia and Mesopotamia, (Bernal, 1987; Diop, 1981; Snell, 2001). Across pre-colonial Africa, consensus on community issues was reached through open-air forums, described by Portuguese colonists as *palavra*, from which the English word palaver is a corruption (Sopova, 1999). *Palavra* and parliament, a word of French origin meaning a talking forum, thus share common roots and meaning. These forums were largely suppressed during colonial rule, although they survive in some areas (Rangers, 1999). The former South African president Nelson Mandela describes attending such community meetings as a child: ‘Everyone who wanted to speak did so. It was democracy in its purest form’ (Mandela, 1995: 18).

Early democratic systems were primarily direct, with the whole enfranchised population turning out to vote on community issues. These democracies were not perfect. Typically, much of the population was not involved in decision-making, with women, minority groups, slaves and other marginalized people usually excluded from the democratic forums. However, the roots of modern parliaments can be found in these ancient forums where important issues were discussed in public. The fact that similar forums emerged independently in various parts of the ancient and medieval world suggests that collective decision-making is part of the common human patrimony.

<sup>(20)</sup> See for example Kofi Annan (2005). See also the Warsaw Declaration (2000), “Toward a Community of Democracies”, Warsaw, Poland, June 27 available at [http://www.demcoalition.org/pdf/warsaw\\_english.pdf](http://www.demcoalition.org/pdf/warsaw_english.pdf).

<sup>(21)</sup> Although Freedom House ranks only about half the countries in the world as generally ‘free’, a categorization that includes a number of other political, economic and civil liberties in addition to electoral democracy. See <http://www.freedomhouse.org/template.cfm?page=35&year=2006>.

As societies became more complex, the direct democratic forums tended to die away, given the impossibility of every enfranchised citizen participating in decision-making about an ever-increasing range of issues. In most societies, state power began to be centralized in the hands of a supreme ruler, who engaged servants to implement his decisions, collect his taxes and carry out his public works.

The autocratic system might seem efficient; after all, decisions can be made quickly if no one has to be consulted. However, two problems arose with autocracy. The first to become apparent was that the populace tends to resist unaccountable power. Famously, the English Magna Carta of 1215 arose from a demand that the power of the king should be subject to the rule of law. The Magna Carta provided for the creation of a Grand Council (the proto-parliament) that would be loyal to the state rather than to the monarch, and would exercise oversight over some royal actions. Similar conflicts between rulers and their subjects have taken place throughout history, often resulting in the forging of agreements for various types of democratic oversight.

A second motivation for the spread of democracy arises from efficiency advantages. Studies of human motivation have clearly shown that people tend to be more productive if they feel that they have 'ownership' in designing and executing the tasks they are expected to carry out (Miller and Monge, 1986). This general principle is reflected in an economic 'dividend' for democracy which is found in most, but not all, studies of the relationship between democracy and economic growth in developing countries (Faust, 2007). Democracy is only one of many factors that can affect a society's success. Thus, there are democratic societies that are relatively unsuccessful and autocratic societies that are relatively successful but, on the whole, democratic societies outperform their non-democratic counterparts. Natural selection will therefore tend to favour democratic over non-democratic regimes, with democratic systems likely to become more common than non-democratic in the long term.

While democracies tend to be more economically productive, it is also true that wealthier societies are more likely to be democratic. The Canadian sociologist Ronald Inglehart argues that the development of modern democracy arises from interacting economic and social development processes. Modernization provides people with more resources and in turn a modern economy requires better educated and better trained workers. People with more education have greater capacities and are more likely to expect the freedom to make important choices in their lives. This creates pressure for guaranteed rights to freedom of expression and equal opportunities, which can only be ensured in a democratic system (Inglehart and Welzel, 2006). There is, therefore, a mutually reinforcing relationship between development and democracy, meaning that the science of economic development cannot be considered separately from the art of democratic governance (Power, 2009).

Thus, in sum, democracy can be seen as arising from the general will of the people, resulting in turn in greater social cohesiveness and greater productivity when compared with autocratic regimes. Parliaments were the earliest democratic institutions. While more complex societies initially fostered autocratic governance systems, effective governance and efficient economic systems require consent, and representative democratic systems have become generally accepted as the most efficient and effective way of ensuring this consent and providing a balance between effective government and popular participation and oversight.

There is an ebb and flow in democratization. Three waves of democratization have been identified: an initial long and slow spread of democracy in North America and Europe during the 19th century; a second wave after World War II; and the third wave involving much of Africa, Latin America and the Communist bloc beginning in the 1980s (Huntington, 1991).

Between these periods of democratization there have been sometimes lengthy periods when the number of democracies has stopped increasing — or has even fallen. Since the end of the third wave of democratizations around the turn of the 21st century, relatively few new democracies have been created. However, there has been an important consolidation of democratic practices, especially in areas where modern democracy is new. By the turn of this century, all but five of Africa's 48 states had held multiparty elections to national legislatures.

In several countries, the efforts of incumbent governments to ignore or subvert election results have been strongly resisted by popular movements, and the number of countries that have undergone peaceful and democratic transfers of power after elections has increased. The strength of popular opinion in favour of democracy is perhaps the strongest indicator that the movement towards democracy around the globe is unlikely to falter or be reversed. The polling consortium Gallup International regularly polls citizens in countries around the world on their attitudes to democracy. In line with previous results, its 2006 survey of 62 countries found that nearly four-fifths of people across the world believe democracy is the best system of government (Gallup, 2006: 43).

## 1.2. Parliaments and systems of democratic governance

This section examines the place of parliaments in contemporary governance and explores the different models of democratic parliaments present in the world. As is noted above, democratic systems differ widely, and while there is no common agreement on what constitutes an ideal democracy, there is a consensus shared by more than 90 per cent of UN member states on the core elements of democracy,<sup>(22)</sup> as is reflected in a number of UN resolutions. In recent years there has been growing consensus that representative liberal democratic institutions — parliaments — provide a solid foundation on which democratic rights can be exercised. Parliaments can be rightly criticized in many cases for failing to engage sufficiently with the population (Naidoo, 2003). This is an important area in which parliamentary support programmes can help to strengthen local capacities and build links. However, it should also be noted that opportunities for a more *participatory* democracy, particularly promoted by civil society activists, rest on a functioning *representative* democracy (Doherty, 2001).

Parliaments along with the executive and the judiciary normally make up the three main autonomous state institutions. The relationship between these institutions varies. In some systems the emphasis is on the *separation of powers*. As is noted in the introduction to this guide, in the United States, for example, the state institutions are strictly separated by constitutional decree. As in the USA, in Napoleonic systems there is typically a clear power separation between the different state institutions. Most francophone and lusophone countries in the African, Caribbean and Pacific regions follow the Napoleonic separation of powers model quite closely. In other systems the relationship is seen more as a *balance of power*, and there may be some overlap between institutional roles. In the Westminster system in particular, the executive, legislature and judiciary have in the past been intertwined. For example, in the classic Westminster system the leader of the executive is chosen from among the legislators and retains her or his seat in parliament. Some judges may also sit as legislators in parliament. However, there is an increasing tendency for a clearer separation of powers, and in many ACP Westminster-inspired systems the country's leader is chosen by direct suffrage rather than elected from within parliament.

Democratic systems can be divided into three types: parliamentary, presidential and the semi-presidential. As is noted above, in the classic *parliamentary system*, the country's leader is elected indirectly by members of parliament, and the government can only continue to

<sup>(22)</sup> See the 2005 General Assembly resolutions A/RES/59/201, which provides a list of the essential elements of democracy adopted by 172 UN member states with 15 abstentions, and A/RES/60/1 on the 2005 UN Summit, which contains explicit and extensive references on democracy.

govern as long as it is able command a majority within parliament. In the *presidential system*, the president is normally elected by direct universal suffrage, while parliament is elected separately, regardless of whether parliamentary elections take place on the same day as presidential elections. The president selects a cabinet of ministers who are not members of parliament (a parliamentarian appointed to the cabinet must resign and is usually replaced by an alternate or *suppléant*). The cabinet may or may not have to be approved by parliament. In *semi-presidential systems*, the president is directly elected as in presidential systems. However, there is also a prime minister who normally heads the government and is responsible for the day-to-day execution of government programmes and policy.

There are many different types of semi-presidentialism. Some are very close to presidential rule, where for example the president presides over cabinet meetings, whereas others are closer to the parliamentary system, for example, where the prime minister is in full control of day-to-day government business, and where the prime minister and ministers are clearly accountable to parliament. Normally in semi-presidential systems, the prime minister is appointed by parliament on the recommendation of the president. Similarly, cabinet ministers are usually subject to approval by parliament. The presidential and semi-presidential systems often appear to function in a similar fashion, with parliamentary work tending to focus on oversight of executive action. However, the semi-presidential system is usually a less centralized system than full presidentialism, with government needing to maintain parliamentary support – ‘confidence’ – in order to continue in power.

In the British-inspired system, the government is formed by the party winning a majority of constituency seats in a general election, or a coalition of parties making up a majority of parliamentarians. The leader of the winning party becomes prime minister. By tradition, the prime minister is a member of parliament, usually the House of Commons or lower house. Cabinet ministers, who are nominated by the prime minister, are also almost always members of either the House of Commons or the upper house (the House of Lords). If non-members of parliament are selected for a cabinet position, they traditionally are either appointed to the upper house or stand in a by-election for a seat in the lower house. In the United Kingdom, the strict separation of the legislature and judiciary is also absent. Twelve members of the House of Lords are also Lords of Appeal in Ordinary, commonly known as Law Lords, who sit as the highest UK appeal court.<sup>(23)</sup>

While aspects of the British system can be found in most Commonwealth countries, many countries have moved towards a clearer division of powers between the three branches of government. For example, in many countries, such as Ghana, Kenya and Zimbabwe, a president with executive powers is directly elected. Often, some or all cabinet ministers are not members of parliament. In general it can be concluded that there is a worldwide tendency towards a more formal separation of powers between state institutions.

### 1.3. Functions of parliament

In most countries, parliament’s core functions are detailed in the country’s constitution. Typically, although not always, the constitution gives parliament primary responsibility for legislation, executive oversight and popular representation. Parliaments normally also approve the budget and oversee its execution by the executive, as well as auditing budgeted expenditures. Parliament also has an important responsibility to ensure that the perspectives of all groups within the population are adequately represented. This section discusses these different roles of parliament as well as some aspects of the internal functioning of parliaments. These roles are discussed in relation to the practical parliamentary strengthening work set out in Chapter 2.

<sup>(23)</sup> The British upper house of parliament is in a state of flux. Legislation passed in 2009 means that the judicial function of the House of Lords has been passed to a new Supreme Court of the United Kingdom. In addition, initiatives are under consideration that would result in the election of some or all members of the upper house.

### 1.3.1. Legislation

The task of legislating is in practice almost always shared with the executive, although in the great majority of cases it is the legislature that votes formal approval of all legislation. In most countries other than the United States, legislation can be introduced either by parliamentarians (and/or party caucuses, etc.) or by the executive. In the majority of countries in both the developing and the developed world, the executive plays a larger role in developing legislation than parliament, and most legislative proposals are introduced directly or indirectly by the executive. This is partly a reflection of the lack of resources and technical capacities in the legislature, which parliamentary support programmes may be able to help rectify. However, there are also good reasons why the executive should be better equipped than parliaments to develop legislation, particularly of a technical nature. In almost all countries the executive is organized into ministries which gather together expertise on their subject area, such as health, education and finance. This is essential because it is for the executive to *execute* policy and programmes. Therefore, by default, ministries have the critical mass of subject expertise necessary to understand both the policy issues that need to be legislated on and the likely impact of legislative changes on programme delivery in their area. Except in the special and relatively rare case of systems like the United States, where Congress plays a major role in the policy development process, parliaments do not have such knowledge, and developing that knowledge would be costly and likely to lead to continuous conflict with the executive. Therefore, the role of parliaments in legislation is more often than not covered by the following activities:

- Set-piece debates between government and opposition on legislation of key importance, whether the national budget or some substantial change in policy direction. Again, the opposition's purpose in the debate is not necessarily to defeat the government but rather to highlight the different approaches of the two sides. This function is often described as the *arena* role of parliament.
- In-depth analysis of legislation proposed by the executive by committees of parliament, including the proposal and adoption of amendments in many cases; this depends on the ability of different parliamentary groups to work together in a depoliticized atmosphere in committee. Effective analysis of key legislation may well include recourse to expertise, either from within parliament or through outside experts, which is discussed below.
- Proposals for individual members' legislation on issues of personal or symbolic importance, often as a way to highlight an issue rather than envisaging the passage of the legislation. Sometimes, an individual member's legislative proposal will be readopted by the executive after due consideration. Occasionally, as in the example below, a member's proposal will become law.

Thus, the key capacities that a parliament typically needs to have in regard to the legislative function are:

- A.** legislative drafting capacities, particularly the ability to craft effective amendments to legislation (where possible, a dedicated legislative drafting team will be established);
- B.** capacity among both members and staff to analyse legislation and its likely impact; and
- C.** the ability to work together across political boundaries in committees to improve legislation.

**Box 14 - Case study: Legislation on smoking in Niger**

Gado Boureima was a backbench member of the Niger National Assembly between 1999 and 2004. Mr Boureima, who had worked internationally as a management consultant, was familiar with the trend in many Western countries towards legislation prohibiting smoking in public places. He felt strongly that people in Niger had the same rights to protection from the hazards of second-hand smoke as people in wealthy countries. While Niger, a poor Sahelian country, cannot afford many of the health programmes and services available in the West, he felt there was no significant expense attached to making public buildings smoke-free, and that reduced mortality would save precious health care resources for crucial services such as pre-natal care or reducing the impact of killer diseases like malaria. Although he was a member of the governing party, the National Movement for the Society of Development, his party leaders and the health ministry felt this legislation was not a main priority. Undeterred, Mr. Boureima proposed an individual member's bill, which was passed and became law.

**1.3.2. Oversight**

Oversight refers to parliament's role in monitoring government activities and ensuring that they are consistent with national legislation and that resources are being used efficiently and effectively.

In many ways, oversight is the most important function of any parliament. As is noted above, there are often good reasons for executives to take the lead in developing legislative proposals, even if parliament carefully reviews these proposals and makes amendments to strengthen the legislation and respond to the needs of particular interest groups. In contrast, the executive, by definition, finds itself conflicted in its efforts to police itself. This is particularly the case where the political autonomy of the civil service is in question.

Although governments, often with donor support, have made great efforts to increase internal accountability, these systems cannot take the place of parliamentary oversight, which is generally carried out in public and includes representatives of different political tendencies with a strong interest in ensuring issues and problems are brought into the public domain. In the past, it has often been suggested that the public airing of errors and misconduct can lead to political crisis and instability. However, it is increasingly understood that regular and consistent public accountability provides a strong incentive towards ethical conduct in government and public service, reducing the likelihood of major and destabilizing scandals. Considerable attention is paid in this Guide to strategies for increasing parliaments' oversight capacities.

Parliamentary oversight can be carried out in a number of different ways. As with other areas of parliamentary activity, oversight procedures and tools vary from parliament to parliament, and particularly depend on the type of parliamentary system. In principle, systems based on the separation of powers, as is the case with most parliaments in francophone and lusophone countries, are in a stronger position to carry out oversight because there is minimal or no overlap between executive and legislative institutions, although this is not always the case in practice. In Westminster-style systems, ministers usually sit in parliament and there may appear to be a conflict of interest in oversight. In the majority of Commonwealth countries this issue is addressed through Public Accounts Committees, which review how government programmes have been implemented and which, by convention,<sup>(24)</sup> are chaired by a member of the parliamentary opposition.

Some of the different vehicles for carrying out parliamentary oversight are discussed below. The special case of the budgetary process, including the audit functions of parliament, is examined in more depth below and in section 2 of Annex 2.

- A. *Parliamentary committees.*** In addition to their function of studying legislation, discussed above, parliamentary committees typically play a major oversight role. They scrutinize the activities of the ministry or ministries covered by their mandate. They may call ministers and government officials to account for their activities. They may commission research into the functioning of particular government programmes from either the parliamentary secretariat or outside consultants. They may call expert witnesses to gather their views on the functioning of particular programmes, and/or conduct hearings into specific issues so that representatives of interest groups can have their concerns recorded and considered. Committees often produce reports on specific issues based on studies they have undertaken.
- B. *Special committees.*** In most parliamentary systems, special committees can be established to look into issues of particular concern. These might be subcommittees of standing (permanent) parliamentary committees, or they might be special committees established by parliament as a whole to address a single key issue.
- C. *Questions to ministers.*** In almost every system, there is provision to question ministers, who are ultimately accountable for everything that goes on within their ministry. In the Westminster model where the minister is a member of parliament, ministers are expected to speak to legislation and respond to questions on a regular basis. In the Napoleonic system, there is normally a process of *interpellation* in which ministers can be called to account for activities in their department. The rules surrounding who can call ministers to appear vary from parliament to parliament. A balance needs to be struck between effective oversight, meaning the majority party should not be able to block interpellation, and political grandstanding, in which the minister is interpellated by the opposition for dramatic or disruptive effect rather than to assist strengthened accountability.
- D. *Written questions.*** Questions can usually be posed either verbally or in writing. Where technical answers are required, such as the number of people in a particular area benefiting from a particular programme, the written question format is used, allowing the minister time to gather the necessary data and respond. A well-organized opposition will use written questions to gradually build up a case to challenge government activities in a particular area. In the past, written questions were often the only way that internal government information could be obtained if governments did not want to release it publicly. With the growing tendency in both developed and developing countries towards the passage of legislation providing public rights to access to information, written questions may have become less crucial, although the grounds under which governments can refuse to provide information to parliamentarians will usually be narrower than in access to information legislation. Questions of all kinds bring attention to an issue, even if the information requested of ministers is already in the public domain.
- E. *Parliamentary inquiry.*** Again, most parliamentary systems provide for a parliamentary inquiry to be set up to look at particular problems or scandals. This provides a formal method of dealing with major issues. If the reason for the inquiry is a particular problem, such as for example the reasons for public disturbances that might have occurred in a particular locality, a parliamentary inquiry will often travel to the affected area in order to examine the evidence in person and give an opportunity for affected citizens to speak directly with the committee. Usually, a parliamentary inquiry will produce a report into the issue, with recommendations for changes. In Napoleonic systems, there is often a provision for a special legal process managed by parliament through which ministers

found to have committed misconduct can be impeached; a similar process exists in the United States. The report from a parliamentary inquiry may or may not be publicly released, although there is a tendency towards greater transparency.

- F. *Audit court or auditor general.*** In parliaments inspired by the Napoleonic governance system, there is usually an independent audit court that performs annual audits on accounts from the executive and conducts specific inquiries where there are concerns about specific areas. The audit court may be a chamber of the country's Supreme Court or it may be entirely separate. The audit court's reports are submitted to parliament, which must adopt them, with or without changes, before the year's books can be closed. The auditor general plays a similar role in Westminster-style parliaments. The auditor general usually reports to parliament rather than the executive. The audit court in Napoleonic systems will be appointed through a process laid down in the country's constitution, which usually involves the executive and parliament and often includes the country's lawyers' and/or judges' association.
- G. *Public accounts committee and/or finance and budget committee.*** In Westminster-style parliaments the role of overseeing the use of government resources is played by a public accounts committee (PAC). As is noted above, the PAC is usually headed by a member of the political opposition. The PAC will work closely with the auditor general, who produces regular and special reports into the use of government resources. In well-functioning democratic systems, PAC members from different parties try to set aside partisan concerns and work closely together to ensure effective oversight. Of course, this is not always possible, especially where judgement about a particular programme depends on conflicting visions of what it should be aiming to achieve. The place of the PAC and/or budget and finance committees in the budget cycle is discussed below.
- H. *Party caucuses.*** Party caucuses play a key role in oversight. In liberal democracies the opposition's role is two-fold: to represent an alternative government and to hold the current government to account. In most parliaments any political grouping comprising a set percentage of parliamentarians can organize together as an official parliamentary group and receive certain privileges, which might include office space, the right to hire some staff, recognition in debates, the right to propose legislation, a budget for caucus activities, and so on. In some countries, there is an *official opposition*, which is the largest of the opposition parties. It may have certain rights under the country's constitution, subordinate legislation or the internal rules ('standing orders') of parliament, including the right to be consulted before major executive decisions are made such as the declaration of war, or even the right to regular general briefings about the affairs of state. This permits the opposition to more effectively play the role of 'government in waiting'. The leader of the opposition often receives a significant state salary in addition to her/his normal remuneration as a parliamentarian.

Effective oversight depends on the availability of information and research on government expenditures. In modern governments the number of activities being carried out is enormous, and parliamentarians cannot really have in-depth knowledge of what is going on within the executive. There are many ways, both formal and informal, in which parliamentarians can obtain the information they need to conduct proper oversight, through either internal parliamentary systems or external institutions and organizations. Different parliaments have different types of secretariat support. The make-up and role of the secretariat is discussed below. External sources used to obtain information for oversight include:

- ***The media.*** Parliamentarians often have a love-hate relationship with the media; they want the media to report their activities, but are less happy when their work habits or financial dealings are criticized. Conversely, the media depends on politicians for good

quotes and information but does not want to be turned into a communications arm of one parliamentary group or another. Countries with strong parliaments and strong democratic traditions usually have an effective *parliamentary press gallery*, an association of journalists who specialize in covering parliament and are usually provided with accreditation by parliament, giving them access to resources such as reserved parliamentary gallery space, and access to parliamentary research facilities and Internet connections. The Assessment Framework in Chapter 2 includes discussion of assessing parliamentary communications capacities as well as those of the independent parliamentary media, and options for supporting stronger media and communications capacities.

- **Civil society.** Civil society and parliaments are closely interlinked and, like all close relationships, there are areas and moments of both effective collaboration and friction. Civil society organizations can be an invaluable source of information on what is happening in the field, as well as of expertise to analyse government activities and legislative proposals. There is an extended discussion of the complementary relationship between civil society and parliament as well as methods for strengthening synergies without compromising the independence of either institution in Chapter 2.
- **Expert consultants.** Often, there is insufficient expertise among either parliamentarians or parliamentary staff to be able to properly analyse programme effectiveness for oversight purposes. Experts, whether from academia or private consultancies, can be brought in on a paid or voluntary basis to conduct specific analyses and provide policy recommendations. The disadvantage of reliance on experts is that capacities are not developed within the institution. If similar expertise is required consistently, it might be better to establish research units within parliament, as is discussed in the section below on the parliamentary secretariat.

#### **Box 15 - The growing strength of civil society**

The growing strength of civil society in developing countries, often strongly supported by donors, provides both opportunities and threats for the parliamentary institution, as is noted above. Too often, the participatory approaches of civil society are viewed as an alternative to parliaments rather than the foundations on which effective parliaments are built. One approach that can overcome this tension is to view parliament as the interlocutor between civil society and government. Although civil society organizations often feel they will achieve more by dealing directly with government, parliament provides an excellent forum for publicly airing an issue and building public support.

### **1.3.3. Representation**

Parliaments are the key institution in a *representative democracy*. As is noted above, the early direct democratic systems could not cope with states with large populations and complex government systems. Individual citizens do not have the free time or the expert knowledge necessary to be involved in each decision about governance and public administration, and must rely on their representatives to exercise good decision-making judgment and policy management skills on their behalf.

There are different philosophies about the extent to which parliamentarians need to reflect the points of view of their constituents, and in many countries there is an increasing tendency to use referendums rather than parliament to decide some of the most crucial issues. Even here,

of course, the legislation that establishes a referendum, including exactly what question is to be asked, must be passed by parliament. Even in countries that depend heavily on referendums, the great majority of laws are dealt with by parliament and parliamentarians have to decide how they wish to reflect the interests and viewpoints of their constituents when casting their votes.

The basic method of ensuring representation is through the regular elections held to choose parliamentarians. There are different methods for electing parliamentarians, and each strongly affects the way the parliament carries out its representative functions. In some systems, parliamentarians are elected on national lists, which encourages them to primarily consider the overall national interest when deciding how to vote on specific issues. Where parliamentarians are elected on a constituency-by-constituency basis, they will tend to consider local concerns on issues, even though many state constitutions specify that parliamentarians are only to take account of the national interest. Frequently, a mix of systems is used, with some members chosen on the basis of party lists and others by constituencies. The impact of electoral systems on the inclusivity of parliament is discussed below in this Chapter, as well as section 1 of Annex 2.

Between elections, there are various formal and informal ways that parliamentarians can gather the opinions of their electors to feed into policy and legislative processes.

- Constituents can contact their parliamentarians and express their views individually or as part of CSOs.
- Parliamentarians often return regularly to their constituencies and hold meetings where they gather public opinion. Increasingly, especially in more affluent countries, these consultations are carried out online. New technologies have made it much easier for parliamentarians to gather the views of their constituents, and for constituents to make sure their views are heard. Sometimes, however, this may appear like a cacophony of competing perspectives from which it is difficult to draw conclusions about 'what the public thinks'.
- Parliamentary committees may hold hearings on specific proposals and/or oversight issues, as is discussed above, where citizens and civil society representatives can express their points of view on issues.
- Most parliaments have a system for accepting petitions on any issue. Once the formalities for submitting a petition are complied with, the petition is tabled in the legislature. Some parliaments have a specific petitions committee that considers petitions and recommends them for debate or referral to the executive for response and/or action.
- A number of national constitutions have the right of citizen initiative, whereby a quota of constituents (usually a large number or a fixed proportion of the electorate) can propose a piece of legislation which parliament must consider. In practice, this tends to be an unlikely means for passage of legislation because legislation requires support within parliament not merely for parliamentary votes but even more crucially to manoeuvre and negotiate the various steps and procedures that legislative proposals must pass through on the way to becoming law. However, the process of obtaining the necessary number of citizen signatures places pressure on the executive and the legislature to take action on the issue addressed by the citizen initiative.

**Missions.** There are various ways that missions — travel by parliamentarians into the field — can bring parliaments closer to the people. Missions can be organized to discuss important legislative proposals, or as part of the oversight of government programmes discussed above. Parliamentary party caucuses or benches may organize missions, although care needs to be

shown that this activity is not simply an extension of party campaigning. Missions provide an opportunity to strengthen links with local CSOs and the local media. Many developing country parliaments have difficulty affording regular parliamentary missions, and lack of contact with constituents is a major criticism of many developing country parliaments. One area where developing country parliaments have often not realized their full potential is in providing input into, and oversight of, national programmes such as PRSPs, and this is an area where missions can be useful in assessing needs and determining programme effectiveness. Support to missions has been an effective part of various parliamentary support programmes. There is an extended discussion of parliaments and national programmes, specifically focused on the PRSP, in section 3 of Annex 2.

**Constituency offices and outreach.** Most developed country parliamentarians have one or more constituency offices where they can meet constituents and staff can note down concerns and refer the issue to other agencies as appropriate. This is less common in developing countries, again often due to cost. Clear guidelines also need to be established about how these offices are to operate.

#### 1.3.4. The budget cycle

Parliament should play a key role in the budget process. Its budget functions include aspects of legislation and oversight and, in the best cases, representation through dialogue with interest groups. The budget process should be seen as a *cycle* that involves parliament as well as the executive and state oversight institutions such as the auditor general or the audit court. If any element of the cycle does not function correctly, there is an accountability gap and therefore a fiduciary risk. There is an extended discussion of parliaments and the national budget in section 2 of Annex 2, focusing particularly on budget oversight and the impact on parliament's role of the shift towards the direct budget support modality of development assistance.

The powers of parliaments to amend proposed national budgets vary widely. In many countries, parliaments may amend budgets only if they do not increase overall expenditures, although a democratic parliament should always have the power to reject the budget outright. In a typical inclusive budget process:

- The executive will develop a basic framework for the next year's budget including fiscal guidelines and priority programme areas.
- Parliament's finance and/or budget committee will consult with interest groups on these proposals, preparing a report and recommendations for the executive.
- The executive develops the detailed budget document and submits it to parliament, often including a budget speech and debate in which the broad directions of government fiscal policy are addressed.
- Parliament sends the detailed budget proposals to committee for discussion, with the finance committee acting as process coordinator.
- Armed with the committee reports the parliament in plenary session discusses and votes on the budget proposal.
- The executive implements the budgeted programme.
- The finance committee will receive regular (often quarterly) reports on budget execution; parliamentary committees may conduct oversight missions to assess progress.

- Sometimes, the executive requests a mid-year adjustment to the budget because of the changing fiscal situation. Large and frequent mid-year amendments are often a sign of weakness in budget forecasting and fiscal control, although they can reflect legitimate executive responses to unexpected emergencies.
- After the end of the fiscal year, the executive will produce accounts that are usually submitted jointly to the parliament and the supreme audit institution (audit court or auditor general).
- The supreme audit institution reviews the accounts and identifies areas of weakness, both in terms of fiscal controls and quality of programme execution, submitting its report with recommendations to parliament.
- Parliament receives the supreme audit institution's report and transmits it to the various parliamentary committees, again with a coordinating role played by the finance/budget committee in the Napoleonic system, or the public accounts committee in most Westminster-inspired systems. An overall report with recommendations for changes and further executive action is produced and submitted for approval by the plenary, at which point the books for that year are considered closed.

Quite often in developing country governance, there are delays in the auditing process. Government may not produce its accounts on time. The supreme audit institution may be backlogged or not properly functional. These delays can run into years. When books are not closed within a reasonable period, fiscal control is at substantial risk, as large discrepancies between projected and actual expenditures may go unaddressed. Furthermore, in these situations there is no baseline for the government's fiscal situation that can be used to project revenues and expenditures for the coming year.

The budget process is of increasing importance to donors because of a shift towards direct budget support, whether general or sectoral. Budget support depends on effective national institutions for both execution and oversight. Within budget support programmes or through complementary programmes, resources should be available to strengthen key oversight institutions, including parliament and the supreme audit body. It is usually valuable to study the budget cycle as part of planning technical support programmes, to ensure that timelines are appropriate. Quite frequently, parliament is not allocated sufficient time to consider budget proposals and/or to review year-end accounts. Issues related to direct budget support are discussed in some detail in Chapter 2 and section 2 of Annex 2.

### **1.3.5. Inclusivity of parliament**

Parliament is the pre-eminent forum for national debate. It is crucial therefore that all perspectives are properly represented. In some electoral systems, such as the first-past-the-post system used in the United Kingdom, minorities tend not to be well represented, particularly where they are spread fairly evenly around the country and thus nowhere have a sufficient population concentration to elect a representative.

A number of techniques are used in different countries to ensure better representation of minorities within parliament. Proportional representation systems will generally increase minority representation. In some countries, special constituencies are used to ensure that localized minority groups are represented.

Some aspects of representation cannot be addressed through proportional representation in voting. For example, in most parliaments around the world, the number of women

represented is much lower than 50 per cent. A variety of mechanisms have been used to increase women's representation, ranging from targeted training of women candidates to quotas on party candidate lists to quotas in general elections. Questions related to gender and parliaments are addressed in section 1 of Annex 2.

The internal functioning of parliament also affects the extent to which the institution is representative of a country's diversity. Sometimes, groups may be represented in the full body of parliamentarians but under-represented in senior decision-making bodies.

Inclusivity (or 'representativeness') affects the way parliamentary business is done. The concerns of certain regions or interest groups may not be properly reflected in either the work of committees and the plenary, or the research and analysis carried out by parliamentary staff. In the long term this can diminish the credibility of parliament among under-represented groups and can even place a democratic system at risk. Examples of good practice might include standing committees geared to addressing the needs of minorities or underprivileged groups, as well as research on the differential impact of legislation and government policies on different groups. These types of initiative are often resisted on the grounds that they detract from an overall national perspective, but the impact of not dealing with issues of equity and representation can be very damaging in the long run.

One aspect that affects how representative parliaments are in their daily business is the status and use of different national languages. This is often a highly sensitive issue and it is addressed in diverse ways. Some parliaments impose a single official language on the grounds of national unity. Other parliaments encourage the use of national languages and provide translation, although this is often only in plenary sessions for reasons of cost.

Minimum education criteria for parliamentarians is another issue that involves a trade-off between representativeness and efficiency. Some countries require parliamentarians to have a sufficient level of education to make a significant contribution to legislative scrutiny. However, this will tend to exclude certain groups. Furthermore, even parliamentarians with minimal formal education may be able to effectively represent their constituents.

#### **1.4. Parliamentary organization and administration**

The parliamentary administration or secretariat is often not mentioned in constitutional provisions on parliaments. However, without an effective secretariat it is unlikely that the parliament will be effective. There is wide diversity between parliaments in both the organization of the secretariat and the quality of its functioning. In some parliaments the secretariat is rigorously politically neutral while in others it is highly politicized, and many staff members are replaced when the political leadership of parliament changes. In parliamentary best practice the staff should belong to a parliamentary civil service that is separate from the national public service, although there are parliaments whose administrations function well even where parliamentary staff are members of the national civil service. It is important, however, that parliament has the authority to select its own staff and that the executive cannot move parliamentary staff or introduce its chosen staff into parliament, thus reducing the autonomy of parliament. The Assessment Framework in Chapter 3 contains tools and advice for the assessment of the development needs of parliamentary administrations.

Some of the key staffing positions and roles are as follows:

1. **Clerk (Westminster-type systems) or secretary general (Napoleonic systems).** The senior administrator of parliament should be in a position to oversee the smooth functioning of the administration and execute the collective decisions of the senior political leaders of the institution, which is described as the bureau in many parliaments. The secretary general should be the ultimate management authority for all non-political staff, and has a liaison role in ensuring that even political staff are hired according to the formal rules of the institution — the standing orders or internal regulations. In some parliaments the secretary general is ultimately responsible for administering the finances of the institution. In other countries, particular those which follow the Napoleonic model, this role is held by one or more parliamentarian known in French as the *Questeur*. Most parliaments administer their budgets independently of the executive, which should be considered a basic requirement for parliamentary autonomy. At the same time, there is an expectation that parliament will carefully manage resources and many parliaments choose to live within overall annual national fiscal guidelines. In general, citizens expect parliamentarians to live modestly, and deviation from that norm, whether in developed or developing countries, can lead to a substantial public opinion backlash.
2. **Committee staff.** Committee staff should play a key role in the institution. Each standing committee should have at least one dedicated staff member and there should be additional staff able to take on support roles for special and temporary committees. The extent to which committee staff are well qualified and used effectively varies greatly by institution. A common weakness is for committee staff to be used mainly for administrative roles such as photocopying, whereas in the most effective parliaments the clerk is an expert on the committee's policy area. Typically, committee staff develop the first draft of meeting minutes, which are then corrected and signed off by the committee chair or secretary and presented to the committee for approval.
3. **Legislative budget office.** Increasingly, parliaments are establishing legislative budget offices (LBO) staffed with financial experts who analyse key government fiscal propositions, especially of course the national budget. The LBO model is based on the US Congressional Budget Office (CBO), which has a major role in the US budget process. The CBO has a large staff and a generous administrative budget, whereas in most developing country parliaments the LBO has a proportionally much smaller budget. LBO projects are often supported by donors as a means to increase parliament's effectiveness, especially in the context of the shift to budget support aid modalities.
4. **Legislative drafting.** Legislation needs to be crafted using exact terminology, and this is a role usually reserved for legal experts. Frequently, parliaments lack qualified personnel to work with parliamentarians in developing legislative proposals. Some parliaments have established a legislative drafting office which groups drafting expertise in one place. Again, many donor programmes have supported the strengthening of legislative drafting capacities in parliament. As in other areas, these efforts need to be sustainable.
5. **Library and archives.** The parliamentary library in most Western parliaments is much more than merely a place to house books. Libraries may have a team of researchers who are able to take on research projects for committees and individual parliamentarians. This is an important function that permits parliaments to effectively balance executive powers, but which is often underdeveloped in emerging democracies. Increasingly, research is carried out online and many donor projects have permitted better connectivity. Most parliaments have an archive which, beyond its function as the repository of organizational records used by researchers inside and outside parliament, also demonstrates the continuity and durability of democratic governance in a country.

- 6. Communications.** The communications functions of parliament are important to both the prestige and the smooth running of the institution. Communications staff need to publicize parliamentary business, liaise effectively with the media, organize coverage of field missions and help speak for parliament as an institution, and often produce regular electronic and written publications on parliament's work. The production of the formal parliamentary record of debates is usually managed by a separate team but is also a key communications as well as a legislative product.
- 7. Party caucus staff.** Democratic parliaments are unique institutions in that they depend on the interplay of different political currents. These are usually organized into caucuses or benches that regroup one or more political party's representatives and which should have the necessary staff support in order to develop strong policy positions and political strategies. Donors and recipient governments often shy away from working with parliamentary party caucuses because of the perception of politicization, but effective party caucuses are necessary for effective parliaments. Party caucuses need to have control over their staff, but at the same time parliament has a fiduciary responsibility as an institution to ensure that funds are used for the purpose intended, not, in the case of party caucuses, for supporting the general extra-parliamentary work of political parties in wider society.
- 8. Parliamentary assistants.** In well-resourced parliaments, each parliamentarian will have one or more staff members who not only support her or him administratively, but also help to prepare the parliamentarian for effective involvement in parliamentary business. Staff will produce briefing notes that highlight issues and concerns, and recommend policy positions on oversight issues. In many developing country parliaments such positions do not exist; indeed, parliamentarians often may not even have an office, severely limiting their ability to work on parliamentary business.

## 1.5. Issues in parliamentary organization

This introduction to the organization and operation of parliaments has indicated areas of best practice. However there are a number of aspects of parliamentary practice where there is no international consensus, including the following.

- **Openness versus collegial working.** Plenary debates should be open. In the Westminster model of parliaments, both plenary and committee sessions are normally open, whereas in Napoleonic parliaments committee meetings are often closed. There are advantages and disadvantages to each system. Where committee meetings are open, the public (often through the media) is able to follow discussions, thus increasing transparency in the institution and the democratic system in general. Where they are closed, it is argued that members from different political tendencies can work together collegially without the need to 'grandstand' to supporters outside the institution. In general, however, there appears to be a trend towards greater openness in parliamentary business. Even in parliaments that follow the Napoleonic model, committee meetings tend nowadays to be held in public unless there is a pressing reason to hold the meeting '*à huis clos*'.
- **Arena versus transformative parliaments.** Some parliaments emphasize their role as places for airing major national debates rather than substantially altering government policies and programmes. This is often inevitable where one party holds a clear majority and there is strong party discipline. The opposition will tend to use plenary debates to raise doubts in the public's mind about the competence of the governing administration

and present itself as an alternative government. In the transformative model, which is most commonly associated with the US system, policy is genuinely made and changed in parliament.

- ***Tendency for core features of parliaments from distinct traditions to endure – ‘system logic’.*** In the ACP region, systems based on the British, French and Portuguese traditions are prevalent, with some examples of the US and Spanish models. The French, Portuguese and Spanish models tend to have similarities derived from Napoleonic governance principles. While every parliament has its unique heritage and individual modes of operation, it is important to understand that the different models tend to work as *systems*. Certain reforms may seem a good idea, but are not likely to be considered seriously unless it can be shown that they fit well with the basic principles of the applicable parliamentary system. The tendency for institutions to continue operating according to an embedded set of principles is called *isomorphism* (DiMaggio and Powell, 1983). Wherever possible, in cases where technical assistance is being provided to a parliament, experts should be recruited who are experienced in the relevant parliamentary model, or at least are sensitive to the foundations on which the parliament is based.

# ANNEX 2. THEMES IN PARLIAMENTARY DEVELOPMENT

## Introduction

Chapter 3 discussed in general terms the main entry points and implementation modalities for parliamentary development programmes. Some parliamentary development programmes aim at overall institutional strengthening. More usually, however, there are priority areas which may have been identified by the parliament, by the Assessment Framework process described in Chapter 2 or, sometimes, by donors.

This annex examines five specific focus areas for parliamentary development: parliaments and gender; parliaments and the national budget; parliament and national political dialogue, in the case of poverty reduction strategies; parliaments and conflict situations; and parliaments and oversight of the security sector. These provide background on key issues in parliamentary work and examine the strengths and weaknesses of earlier EC and other programmes. Each section makes **recommendations on best practices for future parliamentary strengthening** in that area.

For programme design and implementation, the focus sections of this annex should be read in conjunction with Chapter 2 and Chapter 3. The specific issues raised by the focus areas will affect the selection of the general strategies and implementation modalities addressed in Chapter 3. For planned programmes that address specific focus areas rather than general parliamentary strengthening, the Assessment Framework presented in Chapter 2 can be adapted according to the focus area, although it should be borne in mind that institutional strengthening typically operates most effectively on an institution-wide basis.

Each of the five focus sections describes a range of different development strategies and actions to address the specific institutional development topic. Of course, the strategies adopted need to be driven by the parliament's own priorities and needs. In many cases, parliament may not feel ready to confront certain issues at the outset. Change agents, both inside and outside the institution, need to select development activities carefully, building support step by step. Nevertheless, it is hoped that the discussion of the five development focus areas will provide ideas and inspiration for strengthening parliamentary effectiveness, even in challenging circumstances.

## 2.1. Parliaments and gender

### 2.1.1. Section overview

This section explores the continuing absence of gender equality both in parliaments and in governance more generally. It explores some of the reasons for gender inequality as well as its ramifications. Various options for improving gender equality are addressed, with special attention paid to the issue of quotas, exploring their advantages and disadvantages. The section also examines strategies for increasing the effectiveness of women parliamentarians.

Another dimension of gender inequality is the policy process, where women's concerns and needs are often not properly taken into account. There is a discussion of means and methods for gender mainstreaming in the policy process, and for introducing gender analysis into legislative scrutiny. Gender-based budgeting is an important area in which parliament has a key role to play.

The section concludes by looking at organizational structures that can be helpful in addressing the representation and policy aspects of gender inequality. These include gender equality committees and cross-party women's caucuses.

The promotion of gender equality is central to the democracy support activities of international donors, including the European Union (EU). The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, established states' obligations to achieve equality in all aspects of economic, social and political life. In 1995 the Fourth UN World Conference on Women, held in Beijing, set out an action plan which emphasized the continuing challenges not only for the advancement of women, but also for the sharing of power and decision-making by women and men at all levels.

Although an increasing number of women hold positions of power in government, and the proportion of women in parliament is rising worldwide, statistics reveal a persistent gender imbalance. For example, at the start of 2008, only seven Heads of State (4.7 per cent) were female. Within parliamentary institutions, the UN's benchmark of having at least 30 per cent female members has been achieved by just 24 lower houses. A quarter of parliaments have less than 10 per cent women members and, globally, the national average number for women parliamentarians stands at 18.3 per cent.<sup>(25)</sup>

The under-representation of women in political decision-making structures has implications at all levels. Most obviously, the policy process is deprived of valuable insights and perspectives. Women, by virtue of their life experience, are likely to have a particular perspective on issues relating to reproductive rights, maternal health and childcare. Women are also more likely to suffer financial hardship, lack property rights and to take responsibility for the well-being of dependents. It is estimated that 70 per cent of the world's 1.8 billion people living in poverty are women. The absence of women in parliamentary politics shapes the way in which policy is formulated, but also means that certain issues are less likely to make it on to the political agenda in the first place. With women accounting for more than half the world's population, this has repercussions for the quality of political representation, and raises questions about the legitimacy and authority of political institutions.

Support to parliamentary institutions should be conceived in this context. There are two distinct but interrelated challenges. The first is to increase the number of women elected

to national parliaments. The second is to improve the impact of parliaments in developing policies that take into account their effect on women and men, and seek to address the imbalances that exist.

This section examines both sets of challenges. It examines parliamentary inclusiveness and assesses the quality of representation. The main issues for parliamentary support programmes in developing democracies are set out, specifically addressing gender issues in parliamentary development. The European Commission (EC) has developed an extensive range of support materials on gender in development more generally. Many of these materials are of relevance to parliamentary development, and this section should be read in conjunction with the broader body of analysis and advice available through the EC, including, for example, the *Toolkit on Mainstreaming Gender Equality in EC Development Cooperation*.<sup>(26)</sup>

### 2.1.2. The representativeness of parliament: Obstacles to gender equality

The number of women parliamentarians has steadily increased over the past 60 years, alongside the number of democratically elected parliaments. In 1945, just 3 per cent of members were female in the 26 existing parliaments. By 1975, this had increased to 10.9 per cent in 115 parliaments, and by 2000 13.4 per cent of the members of 177 parliaments were women. At the end of 2008 the percentage of female politicians in the world's 189 national parliaments exceeded 18 per cent for the first time (18.3 per cent).



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The global figures mask enormous regional variation. At the top end is the Rwandan Parliament which, following the 2008 election, has 56.3 per cent women — the first parliament

<sup>(26)</sup> See <http://ec.europa.eu/europeaid/sp/gender-toolkit/index.htm>.

ever to have a majority of women parliamentarians. Seven additional countries have more than 40 per cent women members: Sweden, South Africa, Cuba, Iceland, Argentina, Finland and the Netherlands. Regionally, the Nordic countries have consistently had the highest overall average, with more than 41 per cent of parliamentary seats held by women. At the other end of the scale, in 50 parliaments less than 10 per cent of the parliamentarians are women, mainly in countries in the Middle East, the Pacific and sub-Saharan Africa. Excluding Australia and New Zealand, the Pacific region has an average of only 2.5 per cent elected women.<sup>(27)</sup> The reasons for these differences can be grouped under four main headings: cultural, financial, political and electoral factors.

### ***Cultural perceptions, roles and responsibilities***

A 2008 Inter-Parliamentary Union (IPU) survey of politicians in 110 countries asked women parliamentarians to identify the factors that provided the largest deterrent to entering politics. The top three factors were domestic responsibilities, prevailing cultural attitudes and lack of family support. All three confirm the common assumption that women face challenges in combining family lives with political responsibilities. This is particularly acute in developing countries where domestic responsibilities are made more difficult by poverty and the increasing number of female-headed households. In addition, in many countries there is a traditional perception that a woman's role should be confined to the domestic sphere. In such circumstances women struggle to be considered serious political figures or potential leaders and are deterred from putting themselves forward. When they are active in community issues, the media may not give women as much coverage as men, whose issues are often seen as 'more important'.

### ***Lack of financial support***

Both men and women mention finance as a constraint on their political ambitions, with nearly a quarter of the IPU survey respondents referring to funding challenges. In countries where the main form of campaigning is still face-to-face contact, often in large, rural constituencies, candidates need access to funds simply to get around and meet voters. Higher levels of poverty among women mean they are especially disadvantaged. Studies suggest that women candidates are generally reliant on female donors to back their campaigns, but the vast majority of political donors are male.

### ***Lack of political party support***

Lack of political party support and a lack of experience in wider political movements are also key issues. Party candidate selection is usually controlled by the political party hierarchy and women are disadvantaged by a selection process that often resembles an 'old boys network'. In addition, in new democracies where civil society movements — particularly those promoting women's issues — are scarce, women find it difficult to gain wider political experience. Political parties obviously want candidates with a high profile, and where women generally have a low public profile they are less likely to be selected. Finally, while women are often active in party politics, they rarely occupy decision-making positions within parties. Worldwide, only about one in nine leaders of political parties is a woman.

## ***The effect of the electoral system***

Research shows that women are far more likely to be selected under proportional systems than single-district, constituency-based systems, where parties usually compete for votes around a single candidate who is well-known locally, and parties may not be willing to ‘bet’ on a woman candidate. In proportional systems there is usually more opportunity to balance the ticket, because voters in a much wider area — or even the whole country — vote for a list of candidates, and parties can select candidates, including women, who appeal to different subsets of the electorate.

### **2.1.3. Issues for parliamentary strengthening programmes**

As is demonstrated above, the reasons for the under-representation of women in parliaments relate primarily to the overall national culture rather than specific features of the parliament itself. Addressing such issues is often beyond the scope of traditional parliamentary support programmes. However, parliamentary support programmes can be harmonized with broader capacity building initiatives for women, including training in campaign techniques, public speaking, media skills, leadership skills and so on. Women parliamentarians may be enlisted as leaders and role models for this type of initiative. Furthermore, increased awareness within parliament of the importance of gender equality will filter through to the political parties, providing a boost to initiatives to increase the proportion of women they select as candidates.

The policy which appears to have the biggest impact on the proportion of women being elected to parliament is the use of quotas. An estimated 40 per cent of countries have implemented quotas that guarantee a certain number of seats for women. In these countries the average proportion of women parliamentarians is 22 per cent, as opposed to 14 per cent in those countries without quotas.

There are two main forms of quota: ‘candidate quotas’ and ‘reserved seats’. Candidate quotas set down in electoral law, political party law or the constitution that a specified number of candidates must be women. Candidate quotas do not, however, guarantee that a certain proportion of women are elected. Reserved seats, in contrast, reserve a set number of seats in parliament that can only be filled by women. In Rwanda, 30 per cent of the parliamentary seats are reserved for women, based on a separate electoral procedure. In other countries, such as Tanzania, the reserved seats are filled by women on party lists, according to the proportion of votes won by the political parties.

Quotas are sometimes criticized for limiting the choices available to voters, lowering the quality of candidates and weakening the legitimacy of women elected under such a process compared with other politicians. However, given the barriers to representation faced by women, and the existence of gender inequality at almost every level of government and society, quotas provide a way to redress some of this imbalance and widen the opportunities for female political candidates.

Supporting the implementation of quota systems is most effective when carried out simultaneously at different levels of the political system rather than in parliamentary assistance programmes alone. Quota systems typically gain support through campaigning by civil society and lobbying within political parties. Electoral assistance programmes can also be an entry point for raising discussion of quotas. Quota legislation ultimately must be passed by parliament, however, and parliamentary support programmes can help parliamentarians

understand the issues, as well as providing information on quotas for those parliamentarians wishing to advocate quotas in parliament and broader society.

#### **2.1.4. Women in parliament: Enhancing participation and impact**

Once elected to parliament, women parliamentarians face numerous challenges in making an impact in male-dominated institutions. The impact that women can make will depend on the economic and social context in which the parliament operates, the experience that specific women parliamentarians possess, the institutional structure, the procedures and protocol of parliament, and the tone and tenor of debate.

##### ***The representation of women in parliament***

In order to play an effective role in democracies, parliaments need to represent different groups and interests within society, be they ideological, sectional, geographical, ethnic, religious or of a particular sex. This is important even in political systems where parliamentarians are mandated to act in the interests of 'the nation' as a whole. Few parliamentarians wish to be defined entirely by a single demographic or interest group, however, and typically they attempt to mediate between different interests as they choose policies to support.

For women parliamentarians, therefore, gender adds a dimension to representation. They are expected to represent 'women's issues', that is, policy concerns which emanate either directly from gender, such as reproductive rights and maternal health care, or from the social roles that women are frequently expected to perform, such as childcare, parental leave and discrimination in the workplace. Women parliamentarians also bring a 'women's perspective' to the policy debate, where their views are informed and shaped by their gender and life experience.

Women parliamentarians are not a homogenous group, but research suggests that there is a gender divide in certain policy areas. A 1996 study showed that in the economic sphere, women parliamentarians were more concerned about part-time work, low pay and pension rights, while men were more concerned about unemployment.<sup>(28)</sup> Women are also more likely to advocate measures in the areas of health and reproduction, childcare, education, domestic violence, welfare and the environment (Ballington, 2008: 32). In a 2008 IPU survey, 90 per cent of women parliamentarians stated that they felt a special responsibility to represent the needs and interests of women (Ballington, 2008: 34).

There are good reasons for women parliamentarians to have a specific gender focus, but one effect is that they tend to be over-represented in so-called soft policy areas, such as health and education, but under-represented in 'hard policy areas' such as economic policy, defence and foreign affairs. This means that women parliamentarians have a disproportionately limited impact on these hard policy areas, which often structure the resources available for the soft areas, and on the overall conditions of defence and foreign policy (Waring et al., 2000). The idea that a policy area such as defence is more important than health or education is itself open to challenge, but these perceptions are structurally embedded in political practices across the globe.

In general, many parliaments remain largely male domains, the rules and procedures of which have been established, organized and dominated by men for their own convenience. Little consideration is given to issues such as parental responsibilities (Karam and Lovenduski, 2005: 188).

### Box 16 - Quotas for parliamentary elections

#### Why?

- While women do much of the grassroots organizing in political parties, they are rarely appointed to senior positions.
- Women are under-represented in almost all of the world's parliaments.
- Decision-making in political systems dominated by men tends to overlook the needs of women and children.

#### How?

There are different quota systems:

- reserved seats (constitutional and/or legislative),
- legal candidate quotas (constitutional and/or legislative),
- political party quotas (voluntary).

#### Are they effective?

Studies show that political systems with quotas do a better job of representing the interests of women and children, and that, frequently, minimum quotas are voluntarily exceeded as women are motivated to participate in the political process.

#### Further reading

<http://www.quotaproject.org>

<http://www.iknowpolitics.org>

### 2.1.5. Issues for parliamentary strengthening

Many barriers to the full participation of women are linked to the under-representation of women in parliament. The more women parliamentarians, the greater the impact they can have, with greater opportunities to form strategic partnerships both in parliament and outside, with civil society groups, around policy issues. The greater the proportion of women serving on key parliamentary committees, the more likely it is that gender-related issues will be taken seriously, and the easier it will be to form alliances with male colleagues around these issues.

Institutional changes can also improve opportunities for women in parliament. These can be grouped into four areas: procedural change, representational change, influence on outputs and discourse change.

#### *Procedural change*

The formal and informal procedures that govern parliament tend to be absorbed by politicians over a period of years. Parliamentarians are socialized into certain parliamentary roles and in a male-dominated institution, this frequently works

against the active participation of women. Training and orientation for new parliamentarians can address some of these difficulties. Parliaments can also adopt measures which acknowledge these imbalances, such as giving precedence to women in certain debates and the use of women's whips to organize the women parliamentarians in a political party.

#### *Representational change*

Women need to be in positions of influence in parliament in order for change to take place. At the beginning of 2008 only one in ten presiding officers in parliaments was female, and there was similar under-representation with committee chairs and whips. Procedural mechanisms can be introduced to ensure the presence of women in key positions. In addition, new structures can be introduced to ensure that women's interests are represented. The creation of gender equality committees in parliament and a ministerial portfolio for women can promote the advancement of women politicians.

### ***Influence on output***

Influence on the output of parliament refers to the extent to which women's issues are part of the political agenda and reflected in legislation. Procedural knowledge is required to get gender issues on to the parliamentary agenda. Once issues such as equality legislation are being debated, many male politicians are unwilling to oppose women's rights in public.

However, the public debate and decisions of parliament are only the final point in a much longer process of discussion and negotiation by the political parties, committees and parliamentary business managers. This process can stretch over months or years. It is also difficult to directly attribute causation. A recent study of Rwanda concludes that the increased number of women parliamentarians has not had a dramatic effect on parliament's policy outputs, acknowledges that the Rwandan Government was already very friendly to women and cites the commitment of the dominant party to gender equality as the significant factor (Devlin and Elgie, 2008). It is necessary to work at numerous political levels simultaneously in order to influence and shape policy outcomes.

### ***Discourse change***

This refers to the language, tone and tenor of the debate in parliament, and is partly about changing parliamentary language so that gender-specific terms are replaced by neutral synonyms; but it is also about expanding the scope of parliamentary discussion so that issues relating to gender equality become a routine part of debate.

### **2.1.6. Mainstreaming gender in the policymaking process**

Strengthening the presence and participation of women is likely to enhance the quality of policy outcomes and better ensure that governance reflects the needs of the whole population, both women and men. This section identifies what gender mainstreaming means for parliaments and examines its implications for legislation and oversight. It looks at the significance of gender equality committees and all-party women's caucuses in parliaments, and focuses particularly on the role of parliament in the budget process and the development of gender-sensitive budgeting.

The European Commission defines gender mainstreaming as:

*the integration of the gender perspective into every stage of policy processes — design, implementation, monitoring and evaluation — with a view to promoting equality between women and men. It means assessing how policies impact on the life and position of both women and men — and taking responsibility to re-address them if necessary. This is the way to make gender equality a concrete reality in the lives of women and men creating space for everyone within the organisations as well as in communities to contribute to the process of articulating a shared vision of sustainable human development and translating it into reality.<sup>(29)</sup>*

Policy affects women and men differently. For example, women make up a far greater proportion of the poorly paid, insecure, informal sector of the economy. Women have less access and often fewer rights to education, land, credit and decision-making power. The international community is committed to redressing this gender inequality by establishing equality of opportunities in health, education and basic human abilities; equality of access

to resources, property rights and participation in economic decision-making; and equality in security and reduced vulnerability to violence and conflict. Gender-sensitive policies are different from gender-blind policies, where no account is taken of the differential impact of policy. Gender-blind policies often result in unequal outcomes because of the structural inequalities between women and men.

Gender-sensitive policy can be divided into three categories. First, there is gender-neutral policy, where policymakers assess and understand the implications for women and men, but the policy itself is not designed to redress that imbalance. Second, there is gender-specific policy, which is targeted to tackling specific injustices. Third, gender transformative policy redresses imbalances through the allocation of resources and by improving women's access to the decision-making process.

### ***Gender mainstreaming and the legislative process***

Parliaments must have the means to understand the implications of legislation and policy for both men and women. This is achieved through the incorporation of gender analysis into the legislative process, which generally involves four or five stages. The first stage is understanding the gender dimensions in the policy area under consideration, for example through gender-disaggregated data analysis to understand how women and men are affected by existing policy. The second stage involves the formulation of policy and/or legislation built from the original analysis, for example through specific targets designed to overcome gender imbalance. Third, legislation is drafted using language that does not reinforce any gender stereotypes, and checked against international standards on gender equality such as CEDAW. The fourth stage is passage through parliament, during which parliamentarians should be enabled to assess the draft legislation for its impact on gender equality, which might involve gender impact assessments carried out by staff or invited experts. The final stage involves monitoring and follow-up. Parliaments are responsible for implementation oversight, which is usually carried out by subject-specialized legislative committees. This may involve preparing an analysis of implementation and recommended improvements, and may even spur further legislation.

### ***Gender equality committees***

The number of parliamentary committees dealing with gender issues has increased dramatically. In 1991 such committees existed in 21 of 96 parliaments studied. By 2008 there were 93 committees in 80 countries, and just 35 countries reported to the IPU that they did not have such committees.

These committees serve several purposes. They may perform a legislative function, playing a permanent role in the lawmaking process and assessing each bill for its impact on gender equality. The members of such committees build up expertise around the gender dimension in many different policy areas, which can enrich parliamentary debate and introduce new issues on to the political agenda. In addition, many committees combine their gender role with other areas such as human rights, social affairs, youth or children, providing a cross-cutting approach that can further a generalized rights-based approach to governance. Third, committees often oversee the work of government departments, for example, by assessing the work of the government's equality commission against its targets and highlighting areas for improvement. Committees may also oversee the government's progress on international obligations on gender equality such as the Beijing Declaration and CEDAW.

The Joint Monitoring Committee (JMC) on the Improvement of Quality of Life and Status of Women in South Africa is an example of parliamentary best practice. Drawn from both chambers of parliament, the JMC was originally an ad hoc committee, becoming permanent in 1998. Its task is to monitor legislation and commission research into areas of inequality, and it has become a driving force in pushing issues on to the agenda and ensuring legislation is passed, such as the Domestic Violence Act, the Recognition of Customary Marriages Act and the Maintenance Act.

The JMC also assesses the gender impact of legislation on subjects as diverse as firearms and banking. Working in partnership with the Commission for Gender Equality, it routinely monitors the progress of government departments and provides a vital link with civil society. It provides input into the government's Medium Term Expenditure Framework (MTEF), is involved in the national budget approval process, and encourages government departments

to develop tools to enable a better understanding of how spending affects women. It has thus developed a strategic relationship which bridges parliament, government and civil society, and plays a pivotal role in seeking to ensure that the gender dimension is considered throughout the policy process.

### **Box 17 - Gender-sensitive budgeting: Practical experiences**

Gender-sensitive budget analyses are now conducted regularly in at least 40 countries worldwide, including a number of ACP and European countries. The South African legislative sector's work on gender budgeting has been supported by the EC (see Chapter 1).

Effective legislative involvement in gender-sensitive budget analysis requires close collaboration with government, which must compile the data necessary to assess the differential impact of budgets.

In 2003, the European Parliament called on the EC to develop an action strategy for the EU and EU member states on gender budgeting. EU countries including France, Belgium, Germany and the United Kingdom have all mandated specific ministries to produce gender impact analyses.

Civil society also plays a key role in many countries, both in advocating gender-sensitive budgeting and working with ministries to carry out analyses. For example, the Women's Budget Group works with the treasury in the UK to produce gender analyses of economic policy.

Parliaments in several European countries have passed legislation requiring national budgets to benefit women and men equally. In Austria, for example, the objective of gender equality has been enshrined in the country's constitutional law.

For more information see

<http://www.gender-budgets.org>

<http://www.wbg.org.uk>

### ***Cross-party women's caucuses***

In many parliaments there is an overlap between the work of gender committees and that of cross-party women's caucuses. These caucuses are present in a significant proportion of African, Caribbean and Pacific (ACP) parliaments and bring together women parliamentarians from different political parties around issues of common interest, in a less formal context than standing legislative committees.

The creation of a women's caucus can provide a broad impetus for greater gender equality through information sharing and advocacy, awareness-raising on gender issues in constituencies and linking with civil society, and act as an informal watchdog. Two-thirds of respondents to the 2008 IPU survey believed women's caucuses had helped to break down barriers between the political parties, a

particularly useful function in post-conflict settings where political parties often reflect the hostilities of previously warring factions.

Although such caucuses often operate without official parliamentary status or resources, they have been responsible for significant policy outcomes. In Uruguay, for example, the caucus helped to create the Gender and Equality Commission in the Chamber of Deputies; in Brazil it mobilizes around the budget and votes as a bloc to ensure funding for social programmes and gender equality initiatives; in Macedonia, the Assembly's Women's Parliamentary Club helped alter the election law to guarantee that every third candidate on the party lists is female. In the IPU's survey of women politicians, the most commonly cited recommendation for change was the creation of gender equality committees and women's caucuses (Ballington, 2008: 82).

### ***Gender-sensitive budgeting***

Gender-sensitive budgeting is also known as gender-responsive budgeting or sometimes simply as gender budgeting. Parliament has a vital role in the national budget process, as is discussed in section 2 below. Although the role of parliaments in the budget process differs from country to country, every democratic parliament scrutinizes and approves government expenditure plans, and monitors and audits actual expenditures. Government policies and budget expenditures rarely affect women and men equally. For example, government spending on water, domestic fuel, childcare, welfare benefits, education and health can reduce the burden of domestic responsibility on women and allow them to join the labour market. This may increase economic growth, empower women and help to tackle poverty. Gender budgeting is not just about direct spending on women. It analyses the entire budget from a gender perspective.

### ***Gender-based analysis of the budget***

The budgeting process should be understood as a political rather than a technical exercise. In addition to the differential impact of policies on women and men, the national budget is shaped by the interests of various stakeholders in government, parliament and wider society. Gender-sensitive budgeting should therefore involve the integration of gender assessments at every stage of budget preparation to anticipate the likely effect of expenditure, or the lack of it, on both women and men. Assessments should also address government revenue-raising strategies.

### ***Analysis of expenditure***

Gender-based expenditure analysis can be broken down into three main categories (Wehner and Byanyima, 2004). The first is allocations specifically targeted to either women or men, such as women's health programmes, domestic violence counselling for men or special employment programmes for unemployed women with children. This sort of expenditure is usually a very small part of the overall budget. Second, equal opportunity allocations are intended to promote gender equality in the public sector. Policies might include daycare facilities for employees' children or paid parental leave. The vast majority of spending, however, falls into the final category of general expenditure. This is where gender assessments are critical to assess how these allocations affect women and men.

A report jointly published by IPU, UNDP, WBI and UNIFEM, *Parliament, the Budget and Gender* (Wehner and Byanyima, 2004), describes the three stages of gender analysis. The first is a gender analysis of the current situation in a sector, involving, for example, assessment of the situation of women and men in the spheres covered by a specific government department. The second stage is a detailed analysis of the policy priorities in that policy sector, specifically determining whether existing policies are addressing or exacerbating the difficulties faced by women. The third stage assesses budget allocations and programme outcomes measured against government gender equality commitments. Ideally, each proposed sector budget would include a gender impact assessment that specifically sets out how government spending is likely to affect gender imbalances. This provides a baseline against which government policy and spending can be measured.

### **Analysis of revenues**

Gender analysis of revenues is less developed than analysis of expenditure, and tends to be a more significant issue in developed countries where the government's revenues depend on taxation, rather than in developing countries which are more reliant on external funds. Nonetheless, this sort of analysis can highlight issues for both developing and developed countries.

*Parliament, the Budget and Gender* identifies two sets of issues which have a bearing on the gender analysis of revenues. First, women tend to take up the majority of work within the unpaid care economy. When governments reduce expenditure on hospitals or care for the elderly, women as unpaid primary carers usually pick up the slack, further reducing their ability to generate income. Second, women spend a higher proportion of the income under their control on basic goods such as food, education and health care. Thus, increases in the price of basic goods will have a direct impact on women — on their purchasing power and by potentially forcing them to work longer hours.

Where tax revenues form a significant part of government income, the pattern of taxation and benefits can have a direct impact on gender imbalances, in areas such as child benefits, maternity rights and pensions policy. Where countries are reliant on donor funding, however, programmes may be tied to specific objectives which themselves affect women and men differently. In both cases gender analysis should be employed to assess the impact of the government's sources of income.

### **Medium-term expenditure frameworks**

The WBI's *Parliamentary Oversight of Gender Equality* suggests that parliaments should have a role in the development of the MTEF, which provides a multi-year framework for government spending and programmes and thus structures the impact of national budgets on gender inequalities.

### **Gender-responsive budgeting and aid effectiveness**

The EC/UNIFEM programme 'Integrating Gender Responsive Budgeting into the Aid Effectiveness Agenda' seeks to demonstrate how gender responsive budgeting tools and strategies can help ensure that aid provided through general budget support (GBS) and

sector budget support contributes to the achievement of gender equality goals. A number of knowledge briefs and case studies from the programme are available at

<http://www.gender-budgets.org>

### **2.1.7. Issues for parliamentary strengthening**

A large number of tools have been applied differently in many countries to promote gender-sensitive budgeting. Many of these can be adopted by parliaments directly using their powers to consider legislation and carry out oversight. As a minimum, parliaments should ensure that government departments present a gender impact analysis of their policy priorities and spending, so that they are held accountable for how spending and policy is delivered, and pressured into changing policies that are failing to tackle persistent inequalities. Three main areas for action can enhance the capacity of parliament to enact gender-sensitive budgeting:

#### ***The provision of gender-disaggregated data***

Parliaments must be able to gain access to statistics broken down along gender lines in order to be able to assess differential impacts. For example, analysis of education budgets needs to include data on the number of girls in secondary education, their attendance records, academic achievement by subject and their progress compared with boys. Policy can only be assessed and adapted if its gender impact is understood. In many countries, data is simply not collected in sufficient detail. Parliaments need to ensure that government departments collect and collate the statistics required and make them available for parliamentary and public analysis.

#### ***Using analysis as the basis for change***

Although gender budget analyses are being carried out more frequently, whether these have had real impacts on government spending and the extent to which gender analysis is an integral part of the budget process remain open to question.

Countries are still experimenting with the most effective way of using these tools. For example, in the Philippines a minimum of 5 per cent of development assistance goes to programmes that mainstream gender concerns, but critics argue that *all* assistance funds should mainstream gender issues. In Tanzania, the Tanzania Gender Networking Programme (TGNP) brought non-governmental organizations (NGOs) together with government financial officials to assess government spending. The TGNP was subsequently asked to provide consultants to help government departments with the budgeting process. As the gender budgeting field develops, parliaments can play an important role in identifying best practice, integrating analysis and action, and bridging government and civil society.

#### ***Extending parliamentary influence over the budget process***

Parliament's formal powers to shape the budget are often constitutionally limited (see the discussion in section 3 below). Furthermore, the complexity of and level of detail in a budget statement often hampers parliament's ability to conduct analysis and propose amendments.

However, developing a gender-sensitive budget analysis can help to focus and strengthen parliamentary oversight and scrutiny more generally. Mainstreaming gender issues within parliamentary committees, for example, enables the committee's legislative work to be underpinned by a sophisticated and nuanced understanding of the impacts of policy on women and men, enabling the committee to make informed and specific proposals on spending priorities.

Parliament may also seek to influence the budget even when it has no formal role in doing so. For example, in South Africa the Women's Budget Initiative included parliamentarians and representatives of civil society organizations (CSOs) who commissioned research into the gender impact of budgets. This provided analysis and commentary on successive government budgets, highlighting their weaknesses and identifying ways in which they could be improved. This has helped to shape government and public perceptions of spending priorities. Governments are unlikely to easily cede additional oversight powers to parliament, but parliaments can position themselves in a way that makes them difficult to ignore.

### **2.1.8. Conclusions**

Parliamentary strengthening in relation to gender has a dual purpose in both increasing the number of women representatives in parliament and improving parliaments' representation of women's concerns. The two are closely linked. The goal of achieving closer gender parity in parliament is an end in itself, and also a means to an end. Parliaments with more female members are likely to better represent the interests of the whole population — both women and men — in legislation and government oversight.

The barriers women face in entering parliament are linked to overall gender inequality in society: the dual burdens of work and family obligations, women's segregation into lower-paid jobs, the feminization of poverty, lack of access to education and often limited property rights. Increased female representation in parliament will move such issues up the policy agenda, and in turn facilitate the election of more women to parliament.

Parliamentary support programmes therefore need to find ways to increase gender equality inside parliament and thus in wider society. This means addressing the factors that limit women's access to political influence, such as electoral system design, access to resources and support from political parties. In addition, strengthening programmes need to support assessment and adaptation of the internal structures and procedures of the parliament to permit equal participation by women and men. Programmes can then support the introduction of mechanisms and techniques to integrate gender concerns into policy development, such as Gender Equality Committees, cross-party caucuses and gender-sensitive budgeting.

Ensuring representation of women parliamentarians and women parliamentary staff in parliamentary support steering committees and the systematic involvement of women in all the activities of a support programme are small but meaningful contributions to addressing gender equity. Parliaments operate in widely divergent contexts which will determine the types of support that are appropriate. However, experience suggests that three factors improve the chances of success: (i) political will on the part of the political parties and senior parliamentary figures; (ii) the development of gender equality initiatives in partnership with men, who, if convinced of the need for greater equality can become important allies in the reform process; and (iii) links with CSOs, which provide an external perspective and can increase the pressure for change.

As the IPU notes, 'Men and women must agree and acknowledge that women's inclusion and participation in parliamentary processes not only benefits society and the global community, but is also necessary for legitimate democracy' (Ballington, 2008: 83). The disempowerment of women operates at numerous levels inside and outside parliament. The form and shape of inequality will continue to change, and will continue to present politicians with new challenges to address. Ultimately, however, parliamentary institutions must evolve in response to these and other challenges if they are to retain and build on their authority and legitimacy as representative institutions.

## 2.2. Parliaments and the national budget

### 2.2.1. Section overview

This section demonstrates that an effective parliamentary role in the budget cycle is an essential part of accountable governance. It discusses how and why parliaments in emerging democracies are often marginalized in the budget process, and thus why support to strengthening parliament's role in budgeting is often a priority. The section describes the budget cycle and parliament's role in it. The role of parliament in budgeting varies between constitutional systems, and these differences are explored. It discusses the relationships between parliament and other state actors in different constitutional systems.

The section examines the constitutional and institutional preconditions for effective budget oversight, and assesses the empirical evidence on legislative budget oversight in ACP countries. It explores the impact of GBS on legislative oversight. Examples are provided of parliamentary budget strengthening activities by the EC and other donors. The section makes recommendations on future EC support of parliamentary budget oversight strengthening in the context of general budget support development assistance.

All democratic legislatures play a key role in the national budget process. The budget process is crucial to democratic governance since it is the tool that allows the population, through its representatives, to control public revenues and expenditures, thereby determining the capacity of the political system to respond to citizens' needs.

Despite the ubiquity of the role of parliaments in national budget processes, the specific role of legislatures in the formulation, analysis, decision, execution, oversight and audit of execution varies substantially. The involvement of legislatures ranges from those with a considerable influence over the whole process to those which merely rubber-stamp executive decisions. Many factors contribute to the strength of the legislature in the budget process, although there is no exact and direct correlation between effective parliamentary involvement in the budget process and any single factor such as particular forms of government, levels of development or even the strength of the democratic system. Effective parliamentary input and oversight in the budget process are even more crucial in developing democracies because civil society, which closely monitors government actions in developed democracies, tends to be weaker and less independent.

The national budget process is often distorted in heavily aid-dependent countries by off-budget revenues and expenditures that are not overseen by the legislature. Recipient and donor countries have made considerable efforts to remedy this situation through harmonization of development aid and a greater emphasis on channelling donor funding through national processes, including legislative oversight. These efforts are embodied, for example, in the Cotonou Agreement and the Paris Declaration, and were subsequently consolidated in the Accra Agenda for Action. The European Commission has made substantial efforts in this direction, for example through a shift to GBS and sector budget support. However, parallel assistance to enable legislatures and other autonomous oversight institutions to effectively carry out their roles has often been very limited, as is noted in Chapter 1.

Effective parliamentary involvement in the national budget process is key to both democratic development and effective aid. This section is therefore devoted to understanding the role that democratic legislatures should play in the budget process, and how parliamentary

support programmes can help to strengthen that role. The section focuses particularly on the legislative budget oversight function, and takes special account of the impact of the shift to development financing through budget support. The analysis is in three parts. The first focuses on general experiences and theoretical elements of parliamentary budget oversight, drawing from experiences of various countries and donors. The second analyses the direct budget support experiences of the EC and other donors. The third recommends best practices for EC actions to support legislatures in the context of general budget support.

### **2.2.2. Legislatures in the budget process**

Many factors influence the role of parliaments in the budget process. These include the type of political system (presidential, parliamentary, semi-presidential); the electoral system (plurality/majority, proportional, semi-proportional); the legislature's formal powers (including the power to amend the executive's budget); political dynamics and party competition; the ability and will of legislators to exert the legislature's powers; and the technical capacity of the legislature. In developing countries, dependence on foreign aid also influences the role played by parliaments in budgeting — details of national budgets are often effectively negotiated between executives and donor countries, providing little opportunity for parliamentary input.

Legislative involvement in the budget process can be grouped into three main types: budget approving, budgeting influencing and budget making. These roles can be determined by law and by practice, and most often by a combination of the two. Budget-approving legislatures only rubber-stamp the budget proposed by the executive. Budget-influencing legislatures can amend or reject the executive's budget proposal, but do not formulate major aspects of the budget themselves. Budget-making legislatures have both the legal authority and the technical capacity to amend or reject the executive's budget proposal and present alternative budget elements.

Legislatures' budgetary powers can range from the iconic strength of the US Congress, which is a budget-making legislature, to the relatively weak Westminster-style parliaments, which normally rubber-stamp the executive's budget without amendment. The close relationship between the executive and legislative branches in the Westminster model makes rejection of key parts of the executive's budget an issue of 'confidence' in the government. Most English-speaking ACP countries have adopted variations of the Westminster model. The group of budget-influencing legislatures includes the parliaments of the Nordic countries, most of continental Europe and Latin America, and some Asian countries.

While legislative budgetary activism can be seen as a sign of a vibrant democracy, it can also be a risk for fiscal responsibility. If legislative powers to influence and design budgets are misused, overspending and macro-economic instability can occur. As a result, some countries have adopted restrictions to limit this disruptive potential.

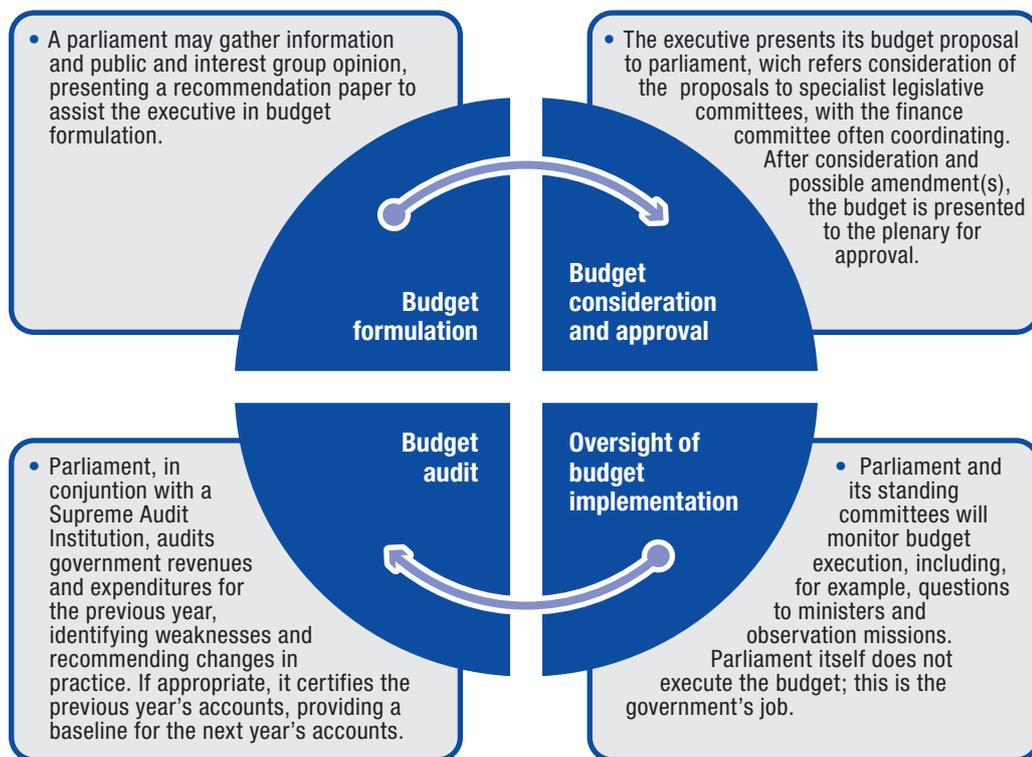
The participation of the legislature in all stages of the budget process strengthens democracy. For example, legislative involvement in the budget formulation process helps ensure that constituents' needs and interests are taken into account in public policy. Active legislative monitoring of budget implementation is important, especially in many developing and transition countries where budget implementation can be substantially different from approved budgets, negatively affecting the effectiveness and efficiency of expenditure, as well as distorting the will of the citizens expressed through the legislative approval of a national budget.

### 2.2.3. The role of the legislature in the budget cycle

The role of the legislature in the budget cycle is normally defined in the country’s constitution or, in the case of systems with unwritten constitutions, through tradition and precedent. The roles defined in the constitution can range from restrictive, when the legislature’s role is limited or it cannot amend the budget, to broad but undefined, when the constitution allocates some budgetary powers to legislatures but they are not developed in practice, since parliaments do not make full or proper use of them.

The budget process can be seen as a cycle with six main stages: preparation or formulation, analysis, deliberation, approval, oversight of execution and audit. Audit can be considered a form of *post facto* oversight. The process is considered cyclical because oversight and auditing should inform the formulation of subsequent budgets, which in turn will be implemented and submitted to oversight.

Figure 10: The role of parliament in a typical budget cycle



Although preparation of the budget is normally carried out mainly by the executive, in some countries legislatures participate at this stage either through formal channels defined in the constitution, or informally, relying on networks and informal relations between parliamentarians and executive bodies. In Westminster-based systems where cabinet ministers are members of the legislature, other parliamentarians can often participate using their daily dealings with ministers to influence budget preparation. Outside Westminster-based systems, parliaments tend to have a lesser role in budget-making, although there are exceptions. For example, the Swedish Parliament approves expenditure ceilings for the next three fiscal years, which provides a basis for the annual budget proposal.

The quality of the participation by the legislature in the analysis, deliberation and approval of the budget depends on existing rules and practices, and particularly on the time allocated to the process. In some cases parliaments might have only a few days (15 days in Mexico) to consider the executive's proposals, while in others they receive budget proposals well in advance (8 months in the USA). Another influence on the legislature's impact on the budget approval process is whether legislative committees discuss budget proposals behind closed doors or in public.

Budget execution is in almost all cases an executive monopoly. In the few cases where parliamentarians are involved in execution, such as where they have a 'constituency fund' to allocate, inappropriate allocations are frequently noted, and considerable public confusion about the respective roles of the executive and the legislature can result.

Oversight is the central function of legislatures in the budget process. It can be of two types: *ex ante*, or oversight of the preparation of a policy; and *ex post*, or oversight of the implementation of a given policy.

Finally, audit is carried out by the relevant legislative committees. In the Westminster system this is normally performed by the public accounts committee (PAC) with the support of the auditor general, whereas in the Napoleonic families of systems it is normally the finance/budget committee in conjunction with an Audit Court or similar judicial institution. These bodies produce reports about budget execution and legal compliance, which provide an opportunity for further follow-up by civil society actors.

Civil society participation in the budget process has increased substantially in many countries in recent years. This has been the natural result of democratization and the emergence of ideas on participatory democracy, boosted in many developing countries by donor emphasis on popular participation. The space for civil society participation in budget formulation is normally limited, and often not formally guaranteed. CSOs tend to rely on informal mechanisms, networking and direct contacts with government departments and public entities. Civil society groups, including specialized 'budget focus' organizations and networks, have played a key role in identifying and publicizing discrepancies between approved and implemented budgets, and problems in budget execution in general. As is noted above, they can also make use of audit reports to publicize and further investigate issues in budget execution. In practice, however, in many if not most developing countries, budget groups and other CSOs have only a limited impact on the budget process due to capacity constraints (technical, financial and human resources).

#### **2.2.4. Key parliamentary actors and institutions for budget oversight**

Legislatures have different tools for budget oversight, including committee and plenary hearings, the creation of commissions of inquiry, questions, interpellations, the use of ombudsmen and auditors general, and public accounts committees.

As is noted above, oversight tools can be of two types: instruments of *ex ante* control, when legislative oversight is performed before the government approves a specific policy or engages in a particular activity; and instruments of *ex post* control, when oversight is performed after the government has enacted a policy. *Ex post* control instruments can be either internal (committees, hearings, parliamentary questions, interpellations, etc.) or external to it (ombudsman, auditors general, etc.). Supreme audit institutions (SAI) play a crucial role in the budget process in collaboration with parliaments.

In the Napoleonic system, the SAI – which might be called *Cour des comptes* (court of accounts) in the francophone tradition, or the Tribunal de Contas or *Tribunal Administrativo* (administrative court) in the lusophone tradition – combines judicial and administrative authority, is independent of the legislative and executive branches, and is normally part of the judiciary. In this system the institution can make judgments on government compliance with laws and regulations and oversees the spending of public funds. In this model, the SAI audits government bodies and usually other state-owned entities. This model is used in some Latin European countries, most Latin American countries, and francophone and lusophone African countries.

In the Westminster system, used in most Commonwealth ACP countries, the Office of the Auditor General (OAG) is an independent body that reports to parliament. The OAG submits periodic reports on the financial statements and operations of government entities, typically with less emphasis on legal compliance and more on outcomes than in the Napoleonic systems. The OAG is not part of the judiciary and does not perform judicial functions, although its findings may be passed to legal authorities for further action when warranted.

Legislatures in some countries (including in the ACP countries, e.g., Nigeria and Uganda) have created parliamentary budget offices, which are independent and non-partisan offices that provide unbiased and simplified budget information to help build legislators' understanding and thus strengthen their role vis-à-vis the executive in the budget process. These units can also undertake specific analyses at the request of legislators. These offices help opposition members in particular to play a more effective role, as it is often difficult for them to obtain information directly from the executive, which creates a power imbalance in parliament and hampers effective legislative oversight.

As is noted above, civil society is playing an increasingly important role in audit and budget oversight. For example, through public expenditures tracking surveys (PETS), CSOs are monitoring government spending in key areas of interest – analyses that can be used to influence future budget allocations and to make both the executive and the legislature more accountable.

### 2.2.5. What determines budget oversight capacities?

As is discussed above, systems of government, income levels and political regimes affect oversight potential and the number and types of tools that are available for parliamentary budget oversight. In this context, presidential systems tend to have more oversight tools than parliamentary ones. As might be expected, high income countries also tend to have stronger oversight systems, although there is no direct correlation between income levels and the effectiveness of legislative oversight.

Strong SAIs are crucial for effective parliamentary budget oversight because legislators need solid, comprehensive and independent information in order to carry out their oversight responsibilities. Key factors in the effectiveness of supreme audit institutions include:

- **A supportive environment:** the wider institutional setting that allows them to properly conduct their work and promote accountability, including a strong parliament and mechanisms to ensure flagrant abuses are addressed;
- **Clear mandates:** based on written legislation, determining SAI independence, reporting responsibilities, the scope of audits and the entities to be audited;

- **Independence:** formal and informal autonomy from vested interests and from interference by the executive;
- **Adequate funding, facilities and staff:** ensuring quality work and high credibility;
- **Sharing of knowledge and experience:** to harmonize methods, share good practices and promote good quality (World Bank, 2001).

In a study of parliaments with PACs, the World Bank Institute (WBI) found the following factors were associated with effectiveness (similar factors should also be applicable in Napoleonic systems):

- Having a broad mandate;
- Power to select issues for enquiry without government direction;
- Power to publicly report conclusions, suggest improvements and follow up;
- Strong support from the Auditor General, members and research staff creating a unity of purpose about PAC work;
- A bipartisan approach among committee members;
- Involving the public and encouraging media coverage (Stapenhurst et al., 2005).

Legislatures, SAs and CSOs require timely and reliable budget information in order to perform their oversight role. Reliable information systems, combined with robust data, are necessary inputs to effective participation in budget oversight. Legislation guaranteeing access to public information is also a prerequisite for effective legislative oversight in general and budget oversight in particular.

Increasingly, parliaments in developed and emerging democracies are establishing parliamentary budget offices as a means to focus parliamentary efforts on budget oversight. This is a promising area of support to parliamentary strengthening, and is discussed in Chapter 3 as one of the key support options for strengthening parliaments in conjunction with budget support.

In conclusion, budget oversight involves a system of vertical and horizontal accountability, comprising vertical relations of responsiveness and responsibility from governments to citizens, as well as horizontal inter-institutional relations between the judiciary, the executive and the legislature. Legislators should be able to participate appropriately throughout the various stages of the budget process, ensuring that governments are accountable for their use of public resources. Civil society plays an increasingly important role in the most accountable national budget systems.

### 2.2.6. Empirical evidence on budget oversight in ACP countries

The most recent report of the Open Budget Survey (OBS) carried out by the International Budget Partnership (IBP)<sup>(30)</sup> shows that budget transparency around the world is generally weak, and that timely and comprehensive budget information is rarely provided, limiting government accountability (IBP, 2009). The ACP countries had the lowest average scores apart from the Middle East and North Africa region.

A similar pattern is discernible when looking at the strength of oversight institutions. ACP countries generally perform poorly in terms of legislative effectiveness and the strength of SAs. One reason for this poor performance is the limited time these institutions have to analyse and

<sup>(30)</sup> See <http://www.internationalbudget.org> and the Open Budget Initiative website <http://www.openbudgetindex.org>.

approve the budget. In many countries, the budget is received by parliament less than six weeks before the start of the budget year, limiting or precluding opportunities for citizen participation. In the case of SAIs, lack of independence and the power to decide what kind of audit to perform are the key factors in the poor scores of many ACP countries on budget oversight.

As is mentioned above, effective legislative oversight is directly correlated with level of income. There are various reasons for this, including the ability to fund effective oversight institutions. However, another factor is dependence on foreign aid. Countries heavily dependent on foreign aid to finance their public spending tend to perform poorly on the OBS. Aid dependency tends to make accountability to donors more important than accountability to citizens, which has clear implications for transparency, parliamentary budget oversight and accountability in the overall political system. Although the OBS did not include all the ACP countries, the study findings confirm the particular challenges facing the EC and other donors as they shift development assistance to general and sector budget support. Even where significant donor assistance has been provided to strengthen national budget systems, performance on the OBS often remains weak.

The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action provide a policy framework for more national ownership, harmonization and mutual accountability in development aid. These elements provide a key rationale and entry point for the EC in supporting legislative strengthening, which provides a necessary and irreplaceable component of executive financial management strengthening. The Paris Declaration and the Accra Agenda mandate a shift towards provision of development assistance through national financial mechanisms. However, this shift does not guarantee effective use of assistance directed through national systems. Nor does it guarantee democratic accountability. Effectiveness and democratic accountability are the result of mutually agreed processes of legislative and other oversight and institution strengthening, engaged as part of the process of shifting to the budget support development assistance modality. The experience of budget support is discussed below.

### **2.2.7. Legislative budget oversight in the context of general budget support**

GBS was introduced in the late 1990s, partly in response to dissatisfaction with the effectiveness of existing aid instruments. GBS was closely linked to the Heavily Indebted Poor Countries initiative, and to the introduction of Poverty Reduction Strategy Papers (PRSPs), which replaced structural adjustment programmes in the global development agenda. GBS focuses on harmonized collaboration between donors and partner countries, and involves not only financial inputs, but also associated conditionalities, dialogue and technical assistance. GBS is expected to yield the following results:

- Improved coordination and harmonization among donors;
- Alignment with partner country systems and policies;
- Lower transaction costs;
- Higher efficiency in allocation of public expenditure;
- Greater predictability of funding;
- Increased effectiveness of state and public administration;
- Improved domestic accountability through an increased focus on national accountability channels.

The most comprehensive evaluation of GBS was carried out in 2004, using a sample of six GBS countries (IDD and Associates, 2006).<sup>(31)</sup> The key findings relevant to this study are that:

- Although there were many technical analyses of public finance management systems, assessments of political risks were less explicit, underestimates and inadequately reflected in GBS design. Political context was not adequately integrated with other contextual elements.
- Inadequate consideration was given to the great differences in capacity and governance in the GBS countries.
- Alignment with government budget cycles has improved, including alignment with government budget calendars.
- Donors are actors within policy systems, not just external influences on them. Acting judiciously, they can help refine and accelerate reforms for which there are already domestic proponents, but the local political and institutional context is crucial.
- The channelling of aid funds through government budgets has created more interest in the fiduciary standards of public finance management. Donors are not the only stakeholders that are vulnerable to fiduciary risk<sup>(32)</sup> in the use of public funds — the partner country's citizens, not least the poor, are the primary victims of poor financial management.

In sum, this and similar studies show that GBS has increased government capacity and accountability in public financial management. However, while GBS encourages reform of beneficiary country mechanisms and improves accountability, it also tends to be excessively biased towards government-donor relations,<sup>(33)</sup> and not sensitive enough to the political and institutional context. This has implications for the budget process, in which some actors, such as civil society and the legislature, are commonly overlooked. The most prominent attempt to address these concerns is the introduction of the Public Expenditure and Financial Accountability (PEFA) process.<sup>(34)</sup>

PEFA is a partnership initiated in December 2001 by the EC and the World Bank, which was subsequently joined by many other donors. The PEFA initiative arose from the growing awareness, stemming particularly from the use of budget support, of the importance of public financial management for development and the ineffectiveness of existing instruments for analysing public financial management. PEFA was adopted to support harmonization of the approach to public finance management taken by countries that benefit from international aid. The PEFA framework consists of the analysis of 28 indicators clustered in six categories:

1. **The credibility of the budget:** the budget is realistic and implemented as intended;
2. **Comprehensiveness and transparency:** the budget and fiscal risk oversight are comprehensive, and fiscal and budget information is accessible to the public;
3. **Policy-based budgeting:** the budget is prepared with due regard to government policy;
4. **Predictability and control in budget execution:** the budget is implemented in an orderly and predictable manner and there are arrangements for the exercise of control and stewardship in the use of public funds;

<sup>(31)</sup> Burkina Faso, Mozambique, Rwanda, Uganda, Vietnam and Malawi.

<sup>(32)</sup> Fiduciary risks are commonly defined as the risk that funds are not used for the intended purpose, do not achieve value for money or are not properly accounted for. Corruption is one of the possible sources of fiduciary risk.

<sup>(33)</sup> See Davila et al. (2009) — a background study for the OECD DAC Anti-Corruption Task Team on how donors have responded to corruption in practice.

<sup>(34)</sup> See European Commission, 'Public Financial Management: Assessing trends using the PEFA methodology. In General Budget Support Guidelines', Annex 1.5. See also <http://www.pefa.org>.

- 5. *Accountancy, recording and reporting:*** adequate records and information are produced, maintained and disseminated to meet decision-making control, management and reporting purposes;
- 6. *External scrutiny and audit:*** arrangements for scrutiny of public finances and follow-up by the executive are in operation.

PEFA results are not intended to determine the level of funding a country will receive, but rather to identify key areas where reform, and support for that reform, is needed. Dimension 6 (external scrutiny and audit) is the key dimension encompassing legislative budget oversight. Da Renzio et al. (2009) analysed PEFA results, finding that average scores tend to deteriorate as the phases of the budget process are moved through. External scrutiny in general is the weakest dimension of the budget process, such as the scope, nature and follow-up of external audit, and legislative scrutiny of the external audit report. These data suggest that legislatures as well as SAIs are still weak in performing their audit function, confirming the OBS findings discussed above. There was no significant difference between ACP and other developing countries.

One significant finding was that higher aid dependency levels are associated with small improvements in PEFA scores (de Renzio, 2009). This suggests that, contrary to the OBS findings, support provided to aid recipient countries may have helped improve financial accountability.

In sum, legislative and SAI oversight and audit are among the weakest links in the budget cycle. If oversight and audit are not carried out effectively, the integrity of the entire budget cycle is compromised because there is no firm link between approved budgets and implemented programmes. Furthermore, deficiencies may not be brought to light and resolved for future budget cycles.

Subsection 2.8 explores the earlier activities undertaken by the EC and other donors in legislative oversight strengthening. These activities provide an experiential basis on which future interventions can be planned.

## **2.2.8. The experience of the EC and other donors in budget oversight initiatives**

### ***Multilateral donors***

The United Nations Development Programme (UNDP) and the World Bank Institute (WBI) are the multilateral organizations most heavily involved in parliamentary development and legislative budget oversight strengthening activities. UNDP has considerable experience in parliamentary development activities. It currently supports parliaments in over 60 countries, mostly in Africa, Asia and the Pacific, and in the Arab region.<sup>(35)</sup> A 2004 analysis shows that a quarter of the African projects were focused on strengthening parliamentary oversight and accountability, including budgetary issues.<sup>(36)</sup>

<sup>(35)</sup> [http://www.undp.org/governance/focus\\_parliamentary\\_dev.shtml](http://www.undp.org/governance/focus_parliamentary_dev.shtml).

<sup>(36)</sup> See 'UNDP and Parliamentary Development' (2004), available at <http://www.undp.org/governance/docs/Parl-Pub-FFparlEN.pdf>.

**Box 18 - UNDP best practice examples**

UNDP Benin supported the creation of a specialized financial analysis unit in parliament to support members in their review of the budget and to hold the executive accountable for its expenditure. In Algeria, UNDP supported a study and training on analysis and oversight of the national budget by parliament for members and staff of the finance, budget and economic affairs commissions of the two chambers. In Mozambique, UNDP carried out an assessment of the parliament's budget oversight capacity as part of its assistance to the Assembly of the Republic. Gender-responsive budgeting and other areas related to the budget, such as the PRSPs and the Millennium Development Goals, also form part of UNDP intervention, for which UNDP has developed some of the leading source books on parliamentary matters (e.g. *Parliament, the Budget and Gender; Strengthening Parliamentary Involvement in the Poverty Reduction Strategy Process* and the *Millennium Development Goals*).

WBI has been working with parliaments since 1993. In 2007 its portfolio covered 19 countries (42 per cent in Africa, 16 per cent in Latin America and the Caribbean, and 21 per cent in East Asia and the Pacific), with projects particularly aimed at supporting better parliamentary oversight of public finances. The WBI Parliamentary Strengthening Programme focuses on building the capacity of parliamentarians to fulfil their governance roles, among which is participation in the budget process from the formulation stage to the audit stage. This work stems from previous collaborations with parliaments on fighting corruption, which encouraged parliamentarians to track the use of public resources. However, WBI quickly identified limitations in the narrow focus of this approach and moved towards a comprehensive programme that seeks to strengthen the role of parliaments in public financial management. This has meant capacity-building to strengthen key parliamentary committees, such as the budget and finance committee and the PAC. A major challenge in this area has been the asymmetry between the executive and the legislature in the availability of information on the budget, which the programme seeks to help parliaments resolve by training staff or assisting in setting up an independent non-partisan parliamentary budget office (see Chapter 3).

In cooperation with IPU and UNDP, WBI has undertaken a series of regional workshops in Africa, Asia, the Pacific, the CIS states and the Middle East on parliament and the budget, including from a gender perspective, which led to publication of a *Handbook for Parliamentarians on the Budget and Gender* in 2004. In cooperation with the Commonwealth Parliamentary Association (CPA), WBI has supported research on the role of PACs in the budget process, which resulted in the publication of an international reference text on the subject in 2002, *The Overseers: Public Accounts Committees and Public Spending*.

**Box 19 - WBI best practice example: Ghana**

In Ghana, WBI has supported the enhancement of the capacity of the PAC and the finance committee by increasing parliamentarians' understanding of governance and budget issues, and by enhancing the interaction of parliament with both the executive and civil society. This capacity development effort has improved the functioning of both the PAC and the finance committee, and members of these committees have reportedly acknowledged that partisanship has decreased in favour of concerns over effectiveness in performing the committees' roles. Cross-partisan cooperation has also improved as a result of this capacity development effort.

### **EC support to parliaments in general budget support programmes**

Since 2002 the EC has supported financial management strengthening programmes with a parliamentary development component linked to budget support in six ACP countries (Republic of the Congo [‘Congo-Brazzaville’], Ethiopia, Haiti, Senegal and Zambia) with budgets ranging from EUR 10,000 to EUR 250,000. Four projects are ongoing, one is closed and one is still in formulation (Haiti).

In Congo-Brazzaville, the Programme for Strengthening Governance in Public Finance<sup>(37)</sup> has a strong concern with internal and external control functions. Interventions in this area focus on the revision of the legal framework of the budget oversight system (parliament, Cour des Comptes and Inspectorate), preparation of procedural manuals and the distribution of audit reports. This programme contains a detailed diagnosis of the process of parliamentary budget control.

In Ethiopia, the Poverty Reduction Budgetary Support Programme (PRBS I; 2002–2004)<sup>(38)</sup> acknowledged the weaknesses of internal and external audit functions, despite the existence of an adequate legal and institutional framework. The budget support programme benefited from a relatively long-term record of assessments of public financial management capacities carried out by the EC and the World Bank. Ethiopia has implemented many reforms in public financial management, including the creation of an Office of the Federal Auditor General (OFAG) in 1997, who is ultimately accountable to the parliament. A Country Financial Accountability Assessment (CFAA) carried out in 2002 acknowledged some improvements in public financial management, such as a good legal framework and good procedures. However, the assessment highlighted continuing weaknesses in the audit function, including insufficient qualified OFAG staff and a weak legislature. Parliament’s PAC was still weak, without a noticeable role in fostering accountability in public financial management. These issues were acknowledged in PRBS II, but not addressed with parliamentary development support.<sup>(39)</sup>

Senegal’s Budget Support to the Poverty Reduction Programme<sup>(40)</sup> highlights the need to strengthen the Cour des Comptes and its liaison with the Finance Committee of the National Assembly. Support to parliament and the SAI has been provided outside the budget support mechanism and is discussed in the case study on Senegal in Chapter 1.

Zambia’s Poverty Reduction Support Programme<sup>(41)</sup> acknowledges the weakness of the overall public financial management system, including its legal and institutional frameworks as well as the audit and procurement systems. Reforms to be supported through the programme include constitutional changes to improve parliamentary oversight and limitations on the discretionary power of the ministry of finance.

#### **2.2.9. Summary of EC parliamentary strengthening within GBS**

These examples of EC-funded parliamentary oversight strengthening programmes linked to budget support demonstrate an integrated vision of the budget process, with most

<sup>(37)</sup> Convention de Financement entre la Commission Européenne et la République du Congo. Convention N° CG/FED/2008(021-11). Projet de renforcement de la Gouvernance des finances publiques. (COB/004/08) Xème FED.

<sup>(38)</sup> Agreement Between the European Commission and the Federal Democratic Republic of Ethiopia (Agreement N° 6540/ET). Poverty Reduction Budgetary Support PRBS I (ET/7200/003). EDF VIII.

<sup>(39)</sup> Agreement between the European Commission and the Federal Democratic Republic of Ethiopia (Agreement N° 9171/ET). Poverty Reduction Budgetary Support PRBS II (ET/7200/005). EDF IX.

<sup>(40)</sup> Convention de Financement entre la Commission Européenne et la République du Sénégal. Convention N° SN/FED/2008/020-993. Appui Budgétaire à la Stratégie de Réduction de la Pauvreté (ABSRP) (SE/002/08). Xème FED.

<sup>(41)</sup> Agreement Between the European Commission and the Republic of Zambia (Agreement N° 9114/ZA). Poverty Reduction Budgetary Support PRBS I 2004-2006 (ZA/003/03). EDF IX.

interventions underlining the need to strengthen both parliament and the SAIs. However, interventions tend to be geared mainly to the SAI, without adequately addressing legislative weaknesses. Although the diagnoses underpinning these programmes are typically comprehensive and include all relevant variables, inadequate attention is given to both parliament and civil society. Furthermore, the resources allocated to strengthening national budget systems have to date been too small to have a substantial impact. In most budget support countries, no support has been provided for strengthening parliament.

GBS, with its strong focus on public financial management and accountability, is undoubtedly a good entry point for parliamentary development activities. However, because of the fiduciary risk involved, GBS generates a high demand for accountability from government to donors, because the latter have to be accountable to their home constituencies. This can occur at the expense of the normal functioning of beneficiary-country political institutions, resulting in the marginalization of the legislature.<sup>(42)</sup> To date, there has been a strong bias in GBS institutional strengthening to supporting executive bodies, overlooking other institutions and actors such as the Auditor General, the legislature and legislative committees, and civil society. This is in line with the GBS evaluation findings cited above (IDD et al., 2006), that GBS donors are insufficiently sensitive to beneficiary countries' institutional realities and political dynamics.

#### **2.2.10. Recommendations on the future role of the EC in supporting legislatures in the context of GBS**

GBS is more than an aid modality that promotes harmonization and alignment and reduces transaction costs. It is an opportunity to formulate a more comprehensive cooperation strategy with beneficiary countries. In this regard, supporting parliaments is crucial in three respects. First, it contributes to more accountability in public financial management, from government to parliament, and thus helps reduce the fiduciary risk faced by donors that is inherent to GBS because of the reduction in donors' direct control of funding. Second, greater accountability to parliament in turn strengthens democratic accountability to the population, which, as has been reiterated throughout this Guide, is a key development objective of both the EU and the ACP countries. The third aspect has developmental consequences consistent with a poverty reduction agenda. A stronger legislature in the budget process contributes to greater governance responsiveness and responsibility, improving policymaking, budgeting, sound management, outputs and accountability, and consequently contributes to more effective poverty reduction programmes.

Effective GBS requires effective national institutions. Beyond the executive branch, the judiciary, the legislature and civil society all play a crucial role and should be supported where possible. However, it is often not realistic for a single donor such as the EC to address all the various problems faced by these actors and institutions in a developing country at the same time. Moreover, attempts to intervene in all the recurrent challenges in the budget process would run counter to the current emphasis of the development agenda on national ownership and accountability.

Consequently, in its institutional strengthening interventions related to GBS, the EC should focus on areas of particular weakness. As is discussed above, *post-facto* oversight, and particularly parliamentary and SAI oversight and audit, are key areas of weakness in many countries. *Post-facto* oversight should be supported taking a holistic approach, including strengthening the legislature's internal structures, and supporting liaison between the legislature and other institutions and actors such as SAIs, civil society budget (and other relevant) groups and the media.

<sup>(42)</sup> See e.g. studies of Mozambique (Murphy et al, 2007; Davila et al, 2009).

Concerns about fiduciary risk mean that GBS-related reforms have until now tended to overemphasize the upstream aspects of public financial management, with a focus on improvement in financial management systems, procurement procedures, timeliness of reporting and so on. Reforms and capacity development in key downstream institutions, such as the legislature and legislative committees, internal audit bodies and SAIs, have tended to be overlooked. Since the budget process is a cycle, there is a high level of interdependence among its components. Disregarding some elements can be detrimental to the donor's interest in reducing fiduciary risk and ensuring accountability to its own constituencies. Therefore, strengthening legislatures to allow them perform more effectively in the budget process is crucial for the sustainability of GBS as a whole.

Specific recommendations on programme activities to strengthen parliament's role in the national budget process are included in section 2 of Chapter 3.

## 2.3. The role of parliaments in national political dialogue: The case of Poverty Reduction Strategy Papers

### 2.3.1. Section overview

This section discusses parliament's key role as the main national arena for public debate of national policy frameworks, such as PRSPs, MTEFs and government multi-year programmes. National policy frameworks are an important area for parliamentary involvement because they structure annual budgets and legislative agendas. ACP and other developing country parliaments are often marginalized in the development and approval of and debates on national policies.

This section focuses particularly on PRSPs. The main dialogue on PRSPs is often between executive and donor, and parliaments are often bypassed. One reason for this is that parliaments often lack the capacity and incentives to intervene effectively. The text explores strategies for parliaments enhancing citizen input into PRSPs. These include improving constituency work, legislative committees and civil society engagement. Finally, the section explores strategies for increasing parliament's policy effectiveness in PRSPs. These include capacity-building for policy diagnosis, input into PRSP development, oversight and evaluation.

Parliament provides the main forum for the public discussion of a country's major political issues. Members of parliament represent different perspectives and interests that need to be considered and reconciled in fundamental state policies, ranging from a government's multi-year programme<sup>(43)</sup> to MTEFs to poverty reduction strategies.

The involvement of parliament in these discussions of overall policy frameworks is crucial for two reasons. First, public consensus on major issues is necessary if overall national policy orientations are to be effectively implemented. It is important that citizens and interest groups can see that their needs and opinions have been taken into consideration. Second, these overall frameworks set multi-year priorities that are then implemented through annual national budgets, sectoral legislation and so on. If parliament has no say in determining the content of the multi-year policy frameworks, its day-to-day role is also diminished because the key orientations have already been decided. For example, if an MTEF calls for a multi-year reduction in public expenditures, parliament's scrutiny of annual budget proposals will be framed by the need to observe these MTEF guidelines.

In aid-dependent countries, the development of multi-year government programmes often involves extensive negotiations between donors and the executive. Governments are dependent on credits provided by international financial institutions (IFIs) and other donors, the funding conditionalities of which are incorporated into multi-year frameworks such as the MTEF and PRSPs.<sup>(44)</sup> Typically, parliaments are not involved in these discussions, and as is demonstrated below, although PRSPs are usually not approved by parliament, they normally set quite specific objectives across a range of economic and social indicators and programmes, which represent an engagement of the government both to the population and to donors whose development assistance, provided increasingly through GBS, is intended to support the fulfilment of these objectives.

This marginalization of parliaments in setting and overseeing the national development agenda tends to be unintentionally but systematically reproduced in multi-year donor funding

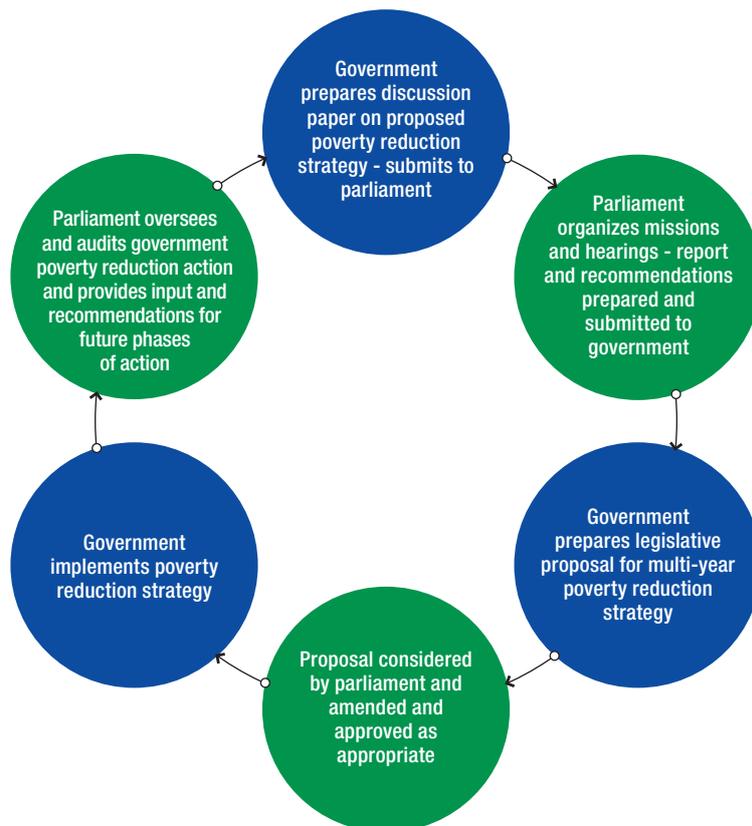
<sup>(43)</sup> Depending on the constitutional system, this might be presented in a 'speech from the throne' outlining government plans for that session of parliament, as in some Westminster-style parliaments, or as the presentation of a government's agenda and a vote of confidence, as occurs in many Napoleonic systems.

<sup>(44)</sup> PRSPs are a World Bank-inspired initiative that have been rolled out to most ACP countries, which sometimes have different titles in different countries.

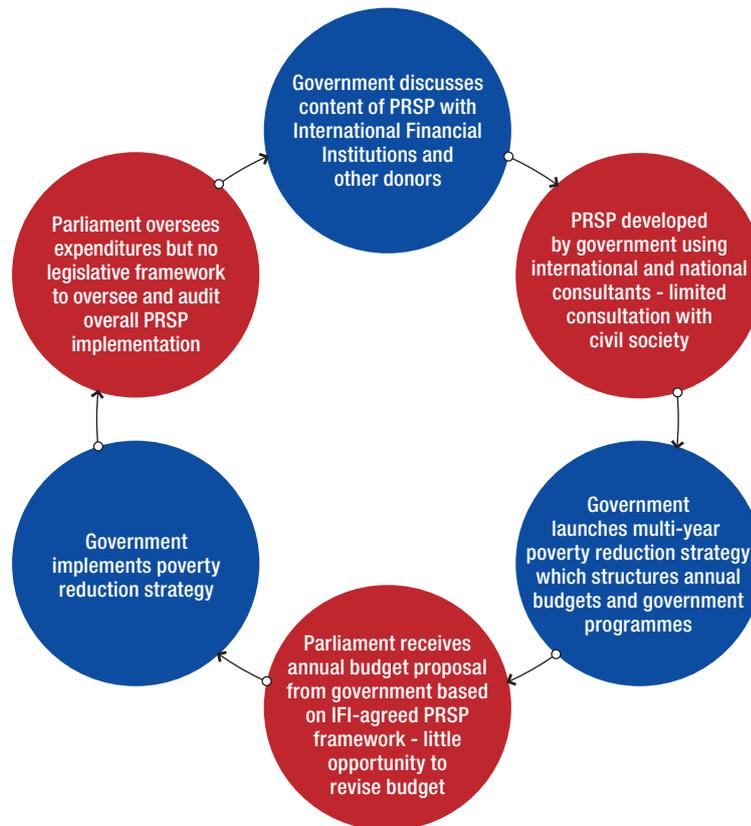
strategies, including in the EC's Country Strategy Papers (CSPs) and National Indicative Programmes (NIPs). These are properly tied in to multi-year development frameworks. However, although CSP implementation guidelines provide for parliaments to be consulted in the development of CSPs and NIPs, along with other institutions in civil society, these consultations are almost always secondary to the main donor-executive negotiations. A variety of factors may be in play, but at the core the problem is that ownership of the multi-year programmes typically rests with the executive and the donor. Where consultation with parliament takes place, this tends to be a courtesy rather than a genuine integration into the national development process. However, in the context of the recent Mid-Term Reviews it is possible to perceive a gradual change in approach and that steps in the right direction are being taken.

As is discussed throughout this Reference Document, effective democratic governance requires an effective and engaged parliament. The democratic policy process necessarily involves a cycle of parliamentary policy debate and approval — normally through legislation — followed by executive implementation and then parliamentary oversight and audit. Where this cycle is broken because parliament has not been involved in the debate on and approval of major national development strategies, parliament does not possess the tools to carry out effective oversight and audit.

**Figure 11: Example of a well-integrated role for parliament in a poverty reduction strategy**



**Figure 12: Example of parliament not appropriately involved in a poverty reduction strategy**



This is a common situation in ACP countries. Although poverty reduction expenditures, for example, are approved on an annual basis through the national budget process, their rationale and often their detailed content have been predetermined through the extra-parliamentary PRSP development process. As a result, parliament's oversight and audit role tend to be restricted to an assessment of technical compliance with expenditure allocations. Accountability regarding outcomes, for example improvements in poverty indicators, tends to be between the executive and donors, undermining the rationale behind and operationalization of GBS, which is predicated on national ownership.

In the case of the EU, this objective of national ownership is fundamental to the contract between the ACP countries and the EU, enshrined in the Cotonou Agreement. The thorough integration of parliaments into the national policy dialogue, and consequently in the determination of multi-year development assistance programmes, is therefore a requirement for both effective democratic governance and compliance with the fundamental principles underpinning EC development assistance. This is underlined in the 2010 second revision of the Cotonou Agreement. EC support to parliamentary strengthening should therefore include, as an important component, assessment of parliamentary involvement in national policy dialogues and, where appropriate, support to strengthen parliamentary involvement in development, and monitoring and audit of national development strategies.

Over the past decade, poverty reduction strategies have become the centrepiece of multi-year development strategies in most ACP countries as well as the focal point of donor assistance

strategies, including those of the EC. This section therefore focuses on PRSPs as a case study that highlights the issues and opportunities for parliamentary development in fostering inclusive national policy dialogue.

The PRSP approach to development with a poverty reduction focus is premised on the principles of partnership, inclusion, participation and country-ownership. PRSPs implemented by developing countries in partnership with IFIs should provide opportunities for parliamentary engagement. As the WBI has noted, ‘parliaments are uniquely positioned to understand and monitor the effects of poverty ... serve as a forum for multiparty consensus on poverty reduction priorities and thus for countrywide support and ownership’ (Kroon and Stapenhurst, 2008). In practice, however, the role of parliaments in many poverty reduction strategies has been marginal, if not invisible.

The reasons for this relate partly to the way in which donors have approached poverty reduction programmes, but also reveal shortcomings within parliaments themselves. This section explores these issues and makes recommendations for donor support to parliaments in this key area. It looks at the development of PRSPs and the reasons why the performance of parliaments has been limited up to now, specifically examining the role of donors, technical capacity in parliaments and the impact of domestic political dynamics. The section highlights the role of parliament in connecting with the people in this context, exploring the representative and constituency-based role of parliamentarians and the way in which parliamentary committees can engage with the public, and assessing new forms of collaboration with civil society. It also examines where parliaments could be most effective in poverty reduction — in understanding and diagnosing the causes of poverty, helping to formulate policy and monitoring the implementation of government priorities. The section concludes by setting out how donor support to parliaments can be used to enhance the role of parliaments in poverty reduction strategies and national development strategies more generally, and discussing which reforms and which types of parliamentary support are likely to have the most impact.

### **2.3.2. Parliaments and poverty reduction**

International efforts to reduce poverty are built around the United Nations Millennium Development Goals (MDGs). The MDGs include the eradication of extreme poverty and hunger, universal primary education, gender equality and women’s empowerment, a reduction in child mortality, improved maternal health, combating HIV/AIDS, malaria and other diseases, environmental stability and the development of a global partnership for development.

The specific strategies for achieving the MDGs have been implemented mainly through PRSPs, an approach launched by the World Bank in 1999 and currently operational in around 65 countries. PRSPs are drafted by national governments in conjunction with IFIs, provide a strategic, multi-year poverty reduction framework and include economic and social targets. They provide the basis for IFI debt relief and concessionary lending, but are also widely used by donors, including the EC, as an indicator of national commitment to pro-poor development and thus of eligibility for development aid. Countries eligible for debt relief identify specific objectives and targets reflecting their own economic and political circumstances, and the resulting PRSP provides a plan for the allocation of resources and measures for the reduction of poverty. The six core principles of PRSPs state that they should be country-driven, results-oriented, comprehensive, prioritized, partnership-oriented and long term.

PRSPs have made poverty reduction a priority in government planning, and integral to a country's medium-term economic framework and budget decisions. The ultimate success of a poverty reduction strategy, however, depends also on delivery, which itself relies on wide-ranging political support for the poverty reduction priorities. The national parliament should be a prominent actor in debating the content of the PRSP, engaging with civil society and building political agreement around objectives and strategy, but parliaments have been bypassed in the majority of PRSP processes. A major 2003 study of parliaments and PRSPs in sub-Saharan Africa concluded that parliamentary involvement was limited, unsystematic and largely ineffectual. Subsequent analyses have reinforced these impressions. Where parliaments have had a role it has tended to be one of ratification or approval of already fully-developed PRSPs, with little scope for parliament to influence priorities or spending allocations (Eberlei and Henn, 2003).

There are three main reasons for the limited impact of parliaments on PRSPs. First, the attitude of donors in developing PRSPs has tended to exclude parliamentary involvement. Second, capacity limitations within many parliaments have hampered the ability of parliamentarians to play a meaningful role. Third, political dynamics within a country, such as executive dominance, limited budgetary powers and clientelist politics, often preclude effective parliamentary engagement in poverty reduction strategies.

### ***Donor approaches to PRSP development***

There are two common issues with donor approaches to PRSPs and parliaments. First, their negotiations tend to be conducted solely with the executive arm of government and donors do not insist on parliamentary approval of the PRSP. There are many reasons why donors, including the EC, tend to work mainly with executives on PRSPs (and more generally). Like most legislation and policy, it is appropriate for the detail of PRSP proposals to be crafted by the executive. PRSPs are lengthy, detailed documents that can only be written by officials from government departments and expert consultants often drawn from and/or financed by donors. Donors are bureaucrats who seek efficient outcomes and are often unfamiliar with political processes. The parliamentary process generally moves at a different pace compared to the work of ministries, and is entirely independent of donor timelines (NDI/UNDP, 2004a: 4). While the additional time that is involved in parliamentary approval may frustrate donor agencies, parliamentary engagement and cross-party agreement on the content of PRSPs would increase their potential impact in the long term. Bypassing parliaments not only results in a lack of general political buy-in, but also limits broader civil society and public understanding of and interest in the strategy (Draman, 2007: 17).

The second key issue is that where donors seek 'participation' in the process, this is mainly focused on civil society rather than parliament. Working with parliaments and parties is often politically sensitive — and may be unpopular with the executive. However, civil society is an inadequate substitute for the formal institutions of representative democracy, especially in poor countries where civil society is weak and unlikely to be autonomous of government and/or donors. Various analyses highlight the tendency for governments to prefer working with a small set of CSOs on the PRSP to limit the amount of time for the consultation — but also the number and quality of responses — and to incorporate only certain opinions of civil society into the PRSP under pressure from donors (Horner and Power, 2009: 19). Civil society participation often results in a box-ticking exercise with little impact on the content of PRSPs. Parliamentary involvement, by contrast, is likely to mean that a greater range of interests is represented in the debate.

### ***Limited parliamentary resources and expertise***

Lack of parliamentary involvement in PRSPs is often a reflection of the weakness of the parliamentary institution, resulting in failure to make use of opportunities to participate in PRSP development and oversight. Parliamentarians in emerging parliaments often have limited experience and little technical support or expertise in analysing PRSPs (Power, 2009). In such circumstances, there is an obvious power imbalance between government and parliament, particularly in parliament's capacity to assess the relationship between financial strategies and provisions of PRSPs and the planned anti-poverty outcomes. A 2005 study of parliamentary involvement in PRSPs in four African countries suggested that parliamentarians tended to lack financial expertise, and that parliaments had few staff who could assist them in this area (Draman and Langdon, 2005: 21).

### ***Political dynamics and political incentives***

The relationship between parliament and government has a major impact on parliamentary effectiveness. To be effective, parliamentarians require formal powers to scrutinize the executive as well as political incentives to engage in oversight and pro-poor policy development.

Because PRSPs are usually not articulated in the form of legislation, parliaments do not have formal power to approve or reject them. Their participation in PRSP development is thus informal and voluntary on the part of the executive, and requires commitment and tenacity on the part of parliament. Governments have sometimes chosen to exclude parliamentarians from the PRSP process. For example, the Senegal government opted for civil society consultation in PRSP development rather than formally involving the National Assembly. Any communication or discussion of the PRSP was conducted between its Minister of Finance and the President of the National Assembly, thus excluding the vast majority of parliamentarians. Similar examples exist in other countries where a combination of a lack of formal powers of amendment and approval, and informal executive dominance has effectively precluded parliamentary influence on the PRSP.

In many PRSP countries, forms of patron-client politics exist where scrutiny of government is subdued or distracted by the prospects for self-advancement of individual politicians. To a certain extent this may be inevitable where resources are scarce and dominated by the executive. The careers of government party politicians will be dependent on positive relations with the executive (Nunes et al., 2005: 18), and overly enthusiastic questioning of government pro-poor programmes could be a career-limiting move. Although patron-client relationships are not necessarily the primary driver of political decision-making, they actively work against the development of a parliament-wide commitment to the PRSP. A study by the United Nations Economic Commission for Africa (UNECA) suggests that only one-third of parliaments in Africa are free from executive subordination (UNECA, 2005: 125).

### ***Conclusions***

Current analysis of parliamentary involvement in the PRSP process portrays a generally unsatisfactory picture characterized by a lack of donor concern for parliaments, executive dominance and severely limited parliamentary influence. However, there are positive signs. Donors, including in particular the EC, are becoming increasingly concerned about the quality of domestic accountability (Hudson, 2009). The second generation of PRSPs seems to be giving a greater role to parliaments. This is partly because parliaments have started to press

for more influence and to organize in such a way that it is difficult for governments to ignore them. Evidence suggests that greater parliamentary impact will depend on changes in two broad areas: first, the way in which parliaments engage with the public and incorporate public voices into their work (see 3.3 below); and, second, how parliaments can organize internally to maximize their influence at key points in the PRSP process (see 3.4 below).

### 2.3.3. Parliaments and political dialogue: Enhancing the voice of the people

Governments are directly accountable to the electorate at election time, but between elections it is parliament's job to hold the executive to account on the people's behalf. However, as is noted above, in pursuing this task there is asymmetry between parliament and government in resources, information and influence. Exercising detailed scrutiny over every aspect of something as large and complicated as modern government is almost impossible, especially with limited resources. However it is necessary for effective poverty reduction oversight, because the majority of an executive's resources will be devoted to different poverty reduction initiatives in fields such as education, health and sanitation. Parliamentarians' most valuable resource is direct access to the experience of citizens, but in many developing countries parliaments do not effectively draw on this resource. There are three main ways in which parliaments can engage more thoroughly with the public: through constituency work, committee work and specific forms of collaboration with civil society.

#### *Constituency work*

In constituency-based electoral systems, parliamentarians have access to a huge amount of information about how government initiatives work in practice.<sup>(45)</sup> Talking to constituents — whether individuals, businesses or CSOs — about the availability and delivery of government services, and trying to resolve problems, is probably the best way of understanding whether government policy is achieving poverty reduction objectives, and whether there are deficiencies that need to be addressed. Attentive local politicians often have a better understanding of such issues than any government ministry.

The constituency role is particularly valuable as part of the PRSP process. While poverty may be felt across an entire country, its form and impact vary from region to region. Local parliamentarians can diagnose community needs and lobby for local and regional poverty reduction initiatives. Parliamentarians can employ a range of different techniques to communicate with the public, such as having a local office, holding regular 'surgeries', informal meetings in marketplaces, town-hall public meetings or organizing public hearings about specific aspects of public policy, including the PRSP.

Some African states have introduced constituency development funds, where parliamentarians can distribute money for specific projects in their districts. The intention is to draw on local expertise and ensure that money gets to where it is needed most. However, these funds create opportunities for clientelism, confuse the role of the executive and the legislator, and are generally not recommended by parliamentary experts (House of Commons, 2008: 24; Johnson and Nakamura, 2006: 8; Draman, 2007: 17).

The challenge for parliamentary strengthening programmes with a pro-poor focus is thus to find ways to support constituency and citizen feedback without entrenching patron-client politics. Suggestions from parliamentarians have included funding a constituency office and staff for every parliamentarian from the parliamentary budget, specific periods during

<sup>(45)</sup> In proportional representation systems, constituencies may be large with several parliamentarians or there may be a national list with a single constituency, as in South Africa. However, even here, parliamentary parties always twin parliamentarians with specific regions so they can provide local constituency-type support.

which parliament does not meet that are allocated to constituency work, better training for parliamentarians in serving constituents' needs, and greater coordination between local parliamentarians and other levels of government to help them through the 'maze of modern governance' (WBI/Parliamentary Centre of Canada, 2000: 45–6).

Such changes might encourage politicians to be more attentive to local needs, but this must be combined with greater electoral incentives. In longstanding democracies, parliamentarians understand that their re-election depends, in part, on their local role, and they tend to spend a lot of time seeking to consult with, understand and represent the interests of their voters. Their role is as much about developing strategic solutions to local problems as helping individual voters. The incentives are less clear in many developing democracies, and they are sometimes distorted by patronage. Changing such patterns is unlikely to happen quickly, but provides a focus for efforts to enhance parliamentary responsiveness to poverty reduction.

### **Committee work**

Parliamentary committees are an important tool in parliamentary scrutiny and oversight. They allow parliamentarians to engage in a more detailed form of analysis and scrutiny than is possible in the plenary session. Parliamentarians who serve on them build up a degree of policy expertise, and they have a continuing role in developing policy, assessing legislation and holding government ministers to account. However, the strength of the reports published by these committees derives largely from the quality of the evidence on which their recommendations are based. In parliaments with limited staff and resources, committee consultation and evidence-taking is one of the most efficient ways of gathering information on the effectiveness of poverty reduction and other government programmes.

The most obvious means for committees to gather evidence on poverty reduction needs and programmes is through committee hearings specifically arranged, for example, on a proposed PRSP draft or to evaluate the implementation of PRSP components such as a universal basic education programme. Such hearings allow access to independent expertise drawn from academia and the policy community, and possibly officials and ministers from the relevant government department. They also enable committees to hear directly from members of the public, as well as CSOs, private sector companies and trade unions, all of which might be affected by legislation or changes to government services.

Even though PRSPs are often technical documents, public hearings — preferably carried out 'on the ground' as well as in the national capital — can highlight unanticipated problems, produce alternative policy approaches or suggest potential improvements to existing proposals. Building committee outreach on issues of poverty is likely to give the committee hearings a wider audience than on many other issues, and to establish the basis for continued interaction between the public and parliament (NDI/UNDP, 2004a: 17–20; NDI/UNDP, 2004c: 35).

Finally, committees should not overlook the value of simply distributing information, especially about PRSP-linked activity. By regularly and routinely sending information to interested individuals and organizations, the committee can build up a valuable network in four ways: (a) it provides those interested in the subject with a regular flow of information about what the government is doing; (b) it provides a picture of the ongoing work of the committee; (c) it connects the committee with the key people in the civil society policy community, providing a continuing source of expertise and advice on which the committee can draw; and (d) it emphasizes to the recipients how much the committee, and therefore parliament, values the opinions of citizens.

### **Collaboration with civil society**

Parliaments and CSOs have a number of common objectives when it comes to shaping the PRSP process. Parliaments can provide CSOs with access to government and the decision-making process, while CSOs potentially provide parliaments with additional capacity and resources, through their network of members and experts. In addition, parliamentarians may find that collaboration can help to build a broad political base among certain issue-based constituencies. The coordination of PRSP-related consultation between parliament and civil society may also help to overcome problems of executive domination over both, and make it difficult for them to be played off against each other.

In many countries, relations between parliament and organized civil society are strained, often because each sees itself as the 'authentic representative' of the population (WBI/Parliamentary Centre, 2000: 18). In reality, in most poor countries neither parliament nor civil society typically has extensive networks or authentically represents the poor, who are to a large extent truly 'voiceless' (Draman and Langdon, 2005: 21). Redressing this problem is a key challenge for both effective poverty reduction programmes and effective parliamentary development, and greater collaboration between parliaments and civil society provides a basis for more representative governance. Positive examples include Malawi's Budget and Finance Committee working closely with the Malawi Economic Justice Network, and Tanzanian CSOs working with key parliamentary committees on gender and HIV/AIDS issues.

Successful collaboration relies on parliament and civil society recognizing the advantages of working in unison to build long-term policy responses to the challenges of poverty. This does not mean permanent unanimity, but rather a constructive relationship built around common strategic interests and complementarities. The growing collaboration between parliaments and CSOs in the monitoring and oversight of PRSPs is discussed in more detail below.

### **Conclusions**

Greater consultation helps to build trust in parliament, and in democracy more widely. However, consultation must be for a purpose. It should be based around a clear policy objective, and seek to shape the formulation and delivery of policy. The PRSP process provides such a structure and consultations can enhance the capacity and effectiveness of parliaments. However, parliaments need to make proper use of public input as part of serious efforts to improve pro-poor governance.

#### **2.3.4. The role of parliament in diagnosing, formulating and monitoring policy**

Parliaments have thus far played a limited role in PRSPs, and the PRSP process has often highlighted the marginalization of parliament to the policy process in many countries, which is seen as the preserve of government in negotiation with international donors. However, PRSPs offer parliaments a golden opportunity to play a significant role in determining their country's priorities for addressing poverty, and ensuring that the government delivers on these priorities. There appears to be a latent desire among voters in many countries for parliaments to perform such a role. For example, the May 2009 Afrobarometer report on attitudes to democracy and political institutions across 19 African nations highlights the problems for parliaments in developing countries. The survey found that two-thirds of citizens believed that governments were failing to address the living standards of the poor. While 70 per cent believed that democracy was preferable to other forms of government, just 50 per cent were

satisfied with the way the system was working in their country. Although a majority of citizens was satisfied with their own parliamentarian, only one-fifth believed that parliament listened to voters when developing policy (Afrobarometer, 2009).

PRSPs offer parliaments the scope to enhance their authority and legitimacy in the poverty reduction sphere. This partly involves better communication with the public. Fundamentally, however, parliaments need to develop effective structures, processes and resources to influence PRSP processes. Voters are unlikely to concern themselves with technical details, but they do need to be convinced that parliament is having an effect.

Parliaments need to identify where their interventions in the PRSP cycle can be most effective. The cycle can be divided into three distinct phases: first, diagnosis of the problem, where parliamentarians and parliamentary committees can shape government analysis; second, influencing the formulation of the PRSP by shaping policy priorities, amending legislation, studying and approving the PRSP and analysing the budget; and, third, assuring the quality of government implementation of pro-poor policies by working with the public, CSOs and audit institutions to monitor and evaluate pro-poor projects and services.

### **Poverty diagnosis**

Diagnosing the problem is the first stage in doing something about it. Poverty reduction strategies need to be based on a thorough understanding of the causes and consequences of poverty. While government has access to numerous sources of information, poverty has many dimensions and can manifest itself in several ways. Parliamentary analysis can enrich the understanding of poverty. Parliamentarians, by their direct interaction with citizens and CSOs, bring a specific understanding of these factors that is unlikely to be fully captured by government's statistical analysis (Hubli and Mandaville, 2004: 6).

A WBI study shows how parliaments can strengthen national poverty reduction approaches. It contrasts Burkina Faso, which used household surveys to understand how poverty affects urban and rural areas differently but focused on calorie intake as a principal measure, with Uganda, which used similar surveys but sought to define poverty in wider social, political and economic terms, and Tanzania, which suffered from limited survey information and defined poverty as a mainly rural phenomenon with few regional variations. WBI notes that: 'Parliaments can point out dimensions that seem to have been ignored (because of data inadequacies) ... [and] assess whether definitions of poverty being used are truly multidimensional enough to capture the range of factors needed to come to a satisfactory diagnosis of poverty, given what parliamentarians hear from their own voters and in their own communities from the poor' (WBI/Parliamentary Centre, 2000: 18).

As is discussed above, parliaments can draw on a range of sources through their constituency work, committee work and collaboration with civil society. However, the challenge is to ensure that the expertise and insight they obtain are channelled effectively in the parliamentary process. Public hearings held by committees, for example, provide a useful way of both publicizing the development of the PRSP to the wider public and gathering evidence to feed in to the analysis — but the results of such exercises need to inform the government's policy development. It is here that the structure of parliament matters, and where the committee system could be used as a specific stage in the national diagnosis of poverty. This could be achieved by having specific PRSP committees within parliaments which seek to coordinate poverty reduction action and to instil a PRSP dimension into the work of every policy committee. Alternatively, where the PRSP is focused on action in particular areas, such as

education or health, the relevant committees can take particular responsibility for contributing to the PRSP analysis.

Two models offer best practice examples for other parliaments. The first is that used by Uganda and Ghana, where parliaments have found a role in approving the long-term vision of the government's poverty reduction strategy (see below). The second model is that of Malawi, where the parliament focused on mainstreaming action on HIV/AIDS across all ministries and government agencies, and called for action across government ministries, and the Health Committee worked with the minister of health to ensure that funds were properly allocated.

### ***Policy formulation, legislation and budget oversight***

The formulation of PRSPs is usually conducted by sectoral working groups, established by government specifically for the purpose. In many cases, parliaments play only a marginal role in such exercises. The case of Ghana is instructive. The PRSP was established in 2000 but parliament was not involved, even minimally, until a year later.

Parliaments are likely to be most influential at the earliest stages of policy development. For this reason, some analyses suggest the appointment of parliamentarians as members of PRSP working groups (Hubli and Mandaville, 2004: 9). In Malawi, the government has sought to include parliamentarians by inviting the principal parliamentary committees to send representatives to the working groups. This approach does not provide institutional input from parliament, and has been criticized by many parliamentarians as reducing parliament's role to that of just another civil society actor, and as being possibly inconsistent with parliament's constitutional roles. Furthermore such technical working groups do not really fit for parliamentarians' participation and inputs.

Other avenues provide possibly more appropriate opportunities for parliamentary involvement at the developmental stage of the PRSP. The first is for policy committees to request hearings and briefings by the working groups on their priorities, goals, targets and performance indicators. In effect, they shadow the work of the relevant working group, become a conduit for public evidence and opinion, and propose amendments to the working groups' planning. In Rwanda and Tanzania, for example, the legislative process enables civil society actors to meet with committees and attend public hearings before laws are passed. In Ghana, a special standing committee on poverty reduction has been established and reports to parliament on the content of the PRSP. The committee includes the chairs of key oversight committees and has sought to connect PRSP policy activities across the committee system.

Effective involvement in the poverty reduction process is built fundamentally on parliament's capacity to engage in the substantive development issues underpinning poverty reduction, such as health, education, agriculture, infrastructure, water and sanitation. Support to the relevant parliamentary committees dealing with these areas will improve parliamentary effectiveness in the overall PRSP process.

It is, however, in the area of financial oversight where committees have the potential to get to grips with the detail of the government's strategy. In this area it appears that committees which have oversight of a specific policy sector are most effective. Tanzania has made particular efforts to integrate the budget process with the work of the committees by ensuring that public expenditure reviews are undertaken for each poverty reduction strategy priority sector, and that reports on each sector are submitted to the relevant policy committees.

The gradual increase in parliamentary influence on PRSPs is largely due to the activities of parliaments themselves. Committees are often established by parliament that have no formal status in the PRSP process, and frequently these are not recognized by government. However, they have made themselves difficult to ignore by drawing on public evidence and providing a bridge between public concerns and the policy process.

Nonetheless, it remains the case that in most cases parliaments have no formal role in approving the PRSP. Donors, who after all pioneered the PRSP approach and effectively made it mandatory for the poorest countries in need of development assistance, have an important role in establishing expectations of parliamentary involvement at the development, approval, and monitoring and audit stages of the PRSP. This is consistent, as is noted in the introduction to this section, with international consensus and agreements on the need for democratic national ownership of the development process.

### ***Monitoring and evaluation***

Governments are responsible for implementing policy and delivering services, but parliament is responsible for overseeing this activity and holding the executive to account. Parliaments should play a key role in assessing how policy is enacted, whether it reflects PRSP priorities and the extent to which it is meeting its objectives. In practice, parliamentary oversight of PRSPs has developed in two main ways. The first is financial scrutiny, examining how PRSP funds are being spent and ensuring that they are being spent correctly; and the second is a more qualitative assessment of delivery on the ground, gathering evidence from intended beneficiaries, CSOs and others to track progress and impact.

Analysis of expenditure is a task that can fall to both policy-specific committees and finance committees that range across all policy areas. For example, policy-specific committees have an important role in examining the correlation between spending allocations and actual expenditure in their sector, and calling ministers and officials to account for discrepancies. This can be an important means of tackling corruption and patronage, such as in Uganda, where examination of rural health services found that 70 per cent of publicly financed medicine was being sold privately by health care personnel (WBI, 2000: 42).

However, this audit function needs to be combined with a wider, strategic oversight role in shaping the country's development spending. The MTEFs and PRSPs establish intended outcomes and sets of indicators against which economic progress can be judged. They have the potential to give parliamentary committees a greater role in contributing to wider economic policy, but in practice a lack of resources and capacity have meant that committees have tended to focus on specific lines of expenditure rather than broader macro-economic strategy. Although finance committees in countries such as Malawi and Tanzania are actively extending their influence, few parliaments appear to be effectively shaping the country's wider economic planning to ensure it has a pro-poor focus (Draman and Langdon, 2005: 18).

Detailed analysis of government activity has a significant effect by monitoring the delivery of services, and connecting the experience of citizens with the policy development process. Many policy committees have taken the opportunity to hold enquiries and public hearings on the effectiveness of PRSP projects in their sectors. Others routinely undertake field visits to different parts of the country to witness projects in action, and some work closely with government technical working committees to coordinate data collection.<sup>(46)</sup>

This active monitoring of local projects has also presented opportunities for parliament-civil society collaboration. Such activity has taken a number of forms, such as tracking spending on specific projects, identifying and monitoring local indicators of progress, and recording the number of people who have benefited from the projects. The relationship is mutually beneficial when CSOs provide committees with the resources and people in the local area to track progress, and committees provide CSOs with an opportunity to influence the PRSP policy process. This collaboration has also led to some innovative forms of monitoring, such as ‘community score cards’ and ‘citizen report cards’, which further widen the scope for parliamentary engagement with the public.

## **Conclusions**

The PRSP process has highlighted some of the weaknesses of parliaments and the dominance of the executive in many developing countries. However, PRSPs also present parliaments with opportunities to enhance their role, and to engage meaningfully with the public over policy priorities. The emphasis of donors on participation in PRSP development gives parliament the opportunity to realise its representative role by bridging the gap between government and the governed, and articulating the public’s concerns. This is likely to extend a parliament’s own legitimacy and authority, and may also improve public perceptions of the government and the PRSP itself. Ultimately, however, parliament and government will be judged by their ability to address the causes and consequences of poverty. Although there are signs of progress, parliaments still face numerous difficulties in terms of their powers, resources and capacity, which present immediate challenges for parliamentary support programmes.

### **2.3.5. Conclusions: Issues for parliamentary support programmes**

This section used an in-depth exploration of the PRSP process to highlight the importance of greater parliamentary engagement in national policy dialogue. The diagnosis and recommendations are specific to the PRSP, but the diagnostic process and tools for parliamentary strengthening are generally applicable to other forms of national policy dialogue on broad government development strategies.

The section identifies the points at which parliamentary influence can be greatest in the diagnosis of poverty, the formulation and approval of poverty reduction strategies, and the monitoring of government activity. Some parliaments are increasingly active in the monitoring and evaluation of programmes, but in many countries there is much more work to do before parliaments play their full role in strengthening national poverty reduction policies and programmes.

Parliamentary strengthening programmes must support greater parliamentary impact on PRSPs in four main ways. First, most parliaments in PRSP countries still lack the technical capacity to exercise proper oversight of the executive, either in the PRSP process or more generally (Eberlei and Henn, 2003: 26). Scrutiny and oversight, particularly in relation to finance, are complex processes that require high levels of expertise and ability. Support to facilitate the recruitment, training and retention of specialist staff is needed to enhance the reach and impact of parliamentary committee work. However, helping parliamentarians to understand their role in poverty reduction is equally important.

Second, parliaments need to mainstream poverty reduction priorities in all aspects of their work. In PRSP countries, poverty is likely to be a factor in almost every policy area, and

should be an element in the work of every committee. This may mean the creation of an overarching poverty reduction strategy committee, such as those in Ghana or Tanzania, which draws its membership from among key parliamentarians in different committees and seeks to coordinate poverty-related work. Alternatively, it may mean parliament as a whole defining poverty reduction strategy priorities, such as a focus on education or HIV/AIDS, which is then woven into the committee system. Or it may mean the budget or finance committee taking a leading role in identifying indicators, tracking progress and disseminating information throughout the parliament. Sometimes, a combination of these options is needed. Parliamentary support programmes can help parliaments to identify their policy priorities and the most effective structures for achieving them.

Third, parliaments should routinely be reaching out to the public through constituency work and committee work, and engagement with CSOs. The poverty reduction strategy process gives parliamentarians a pressing reason and incentive to do so. Genuine dialogue with the public over poverty reduction strategy priorities and projects has benefits for politicians, the public and the government. Active politicians or committees may derive some electoral benefit from publicly listening and responding to the concerns of voters. Parliaments ultimately derive their legitimacy from the public, and have access to sources of information and expertise that are often beyond the reach of government. They can therefore provide an important perspective on the dynamics and causes of poverty across the country and the best measures to address these, as well as providing a potential route for government to build wide-ranging public and political support for the poverty reduction strategy.

Parliamentary support programmes should seek to build a common understanding of these mutual benefits, and support constructive relations between parliament and the executive. However, parliamentary activity will ultimately be determined by the political environment in which it operates. Support programmes need to build from a realistic assessment of the position of parliament in relation to the executive.

Where parliament is entirely subordinate to government, support programmes need to identify discrete areas where parliamentary committees can enhance their influence, rather than aiming for a systemic overhaul. This might include working with one committee to improve its analytical or financial scrutiny skills, establishing parliament-wide procedures for poverty reduction strategy public hearings, or establishing ad hoc committees to look at specific aspects of poverty. Where parliamentary committees are thorough and focused in their work, they become increasingly difficult for government to ignore.

However, donors also need to consider how their approach to PRSPs is affecting domestic political accountability. Although PRSPs are premised on participation, there is no formal obligation for parliamentary consultation on or approval of the strategy. If donors made parliamentary approval a requirement for a PRSP to be considered genuinely inclusive and 'nationally owned', it would fundamentally alter the way in which parliamentarians view their role — not just in relation to poverty but across every policy area.

In sum, each parliament operates in its own unique national environment and there is no blueprint for developing parliament's role in poverty reduction strategies. Parliamentary programmes should therefore not be built around universal strategies. However, they should draw on the experiences of comparable parliaments, highlight innovative responses to difficulties and build links with parliamentary strengthening programmes in other PRSP countries.

## 2.4. Parliaments and conflict situations

### 2.4.1. Section overview

This section discusses the importance of supporting institutional development in post-conflict situations. It defines different types of post-conflict situations, and explores the key roles of parliaments in such situations as well as the ways in which parliaments can be supported to play a positive role. The section also discusses priorities for capacity-building. Previous experiences of parliamentary development programmes in post-conflict situations are examined and best practices are identified. The section makes recommendations for EC parliamentary development programmes in post-conflict situations.

The international community has paid increasing attention in recent years to the importance of supporting long-term democratic development in the aftermath of conflict. In the past, the main focus was often on simply ending a conflict. Often, insufficient consideration was given to ensuring that effective and responsive institutions were in place that would be capable of addressing social and economic challenges, and providing genuine opportunities for representation and peaceful debate. Too frequently, countries underwent a vicious circle of conflict followed by the establishment of weak, poorly representative and inefficient institutions which lacked public credibility and were unable to peacefully channel public debate, leading to another round of constitutional reversal and conflict, and the need to rebuild from scratch.

Too often international actors and donors, when planning to provide democracy support in post-conflict situations, have focused on the electoral event and provided significant electoral assistance but neglected the newly elected representative body, which has a central role in ensuring that the democratic dividend from a free and fair election is consolidated and not lost. The international community has often engaged in conflict mediation and peace-building but bypassed the local parliament and created parallel national dialogue mechanisms, further undermining the already weak position of parliament. Parliaments are also frequently part of the problem of fragile and post-conflict states, being weak and not fully functional, unrepresentative or corrupt, which can delegitimize the government and generate grievances that promote violence.

Even in such circumstances, there is now increasing recognition that conflicts can often be prevented, or their impact substantially reduced, where genuine opportunities exist for dialogue within the formal political process. Parliaments, the main arena for national social dialogue, are therefore crucially important institutions in processes of conflict prevention, reduction and recovery. This section focuses on the special challenges of parliamentary strengthening in post-conflict situations.

There are many different post-conflict situations, each with specific causes and particular types of aftermath. Countries may be recovering from authoritarian rule where human rights were abused. They may have undergone a civil war, or war with a neighbouring country. Ethnic violence might have destabilized state institutions, and sometimes more than one type of conflict might have been present. This section highlights the key factors to consider in supporting parliamentary development in post-conflict societies, but it cannot take the place of careful and comprehensive assessment of individual situations.

It is also important to acknowledge that disagreement is a natural part of life, and that the objective of parliamentary strengthening in conflict and post-conflict situations is not to eliminate disagreement and even 'peaceful conflict', but rather to help channel debate and disagreement in a peaceful manner through constitutional and representative forums, including parliaments.

#### 2.4.2. Understanding post-conflict situations

Institution-building is a key element of post-conflict situations, with the main objective of shifting conflict from a mutual-elimination approach to a situation in which the conflicting parties seek consensus, reconciliation and coexistence. Successful shifting of the arenas of debate to institutional mechanisms depends on a precise knowledge of the context and nature of the conflict itself, which will inform the adoption of appropriate solutions.

In post-war contexts, the following types of situation can be present:

**Self-enforcing peace building:** when there is a decisive victory of one of the contending parties. The defeated party often leaves the territory, resulting in consensus on the key issues of the post-war political order. The successor authority typically has strong claims to rule and institutes what it considers relevant democratic and legitimizing structures, which normally are not openly disputed, at least in the immediate post-conflict situation.

**Mediated peace building:** there is no winner; the conflict leads to a standstill and ends with a compromise. This compromise is reflected in the peace agreement, the modalities of the post-war transition, and can also be reflected in the institutions of the post-war political order. However, mutual mistrust often remains, and long-term stability is not assured.

**Conflictual peace building:** the war ends with the military victory of one side, but the peace settlement does not incorporate the defeated party and/or the populations associated with it, leaving many original causes of the conflict unresolved. Conflict is embedded in the post-war situation. Long-term stability depends on finding solutions to unresolved political conflicts.

In all post-conflict situations the new institutional framework must address the factors that led to violent conflicts, and find sound and sustainable ways to resolve or at least mitigate those issues in a new political order. Some of the key issues to be addressed are:

- What to do about the past: including questions such as whether and how past criminal or violent acts will be punished, victim compensation, and ensuring that justice is provided to all groups through the newly-adopted state institutions.
- What institutions to choose: the type of electoral system (proportional or majoritarian) and governance model (parliamentary or presidential) to be implemented in permanent constitutions is often decided by transitional legislatures. Decisions made at this stage will shape democratic development in the future. A balance often needs to be struck between efficient decision-making and the need for all interests to be and feel properly represented.
- What role should be reserved to the parties involved in previous conflict situations: depending on the type of transition to a post-conflict situation, the presence of the actors involved in the conflict can either be part of the problem or part of the solutions in the new system.

- How to define policy priorities: when enacting policies, decision-makers, including parliamentarians, face many dilemmas. For example, the implementation of sound policies can depend on public sector reforms, including reduction in the size of the public service. These measures can improve public sector efficiency, but increased unemployment can also cause social instability.

The viability of the choices made in post-conflict situations depends on the type of transition, the relative bargaining power of the actors involved, and the commitment, and willingness, of such actors to accepting the new political order. In these transitional contexts, parliaments play a central role in the process of making institutional and other types of choices.

### 2.4.3. The role of parliaments in post-conflict situations

Parliaments can play an important role in preventing conflict, negotiating its end and assisting in the transition from conflict to post-conflict situations. Parliaments should represent the diversity of the population, and need to take account of, analyse and articulate different opinions and solutions. Parliaments should provide space for minority voices that may not be represented in the executive.

How can parliaments be more effective in contributing to the prevention and management of conflicts in society? Some areas deserve particular attention:

**Oversight of the security sector:** post-conflict societies are traumatized by the aftermath of violence, and face the challenge of restoring confidence in peaceful and democratic interpersonal interactions. Security forces in post-conflict societies often have a record of human rights abuses. It is crucial that they are subject to democratic scrutiny by parliament (see section 5 of Annex 2).

**Protecting human rights:** legislatures have a key role in demonstrating that human rights will be respected. This is balanced with the need to ensure that political actors remain part of the democratic debate despite a history of abuses. Finding the right balance is extremely difficult.

**Building trust in the system of justice:** parliaments play a key role in building confidence in the impartial operation of the justice system. Transitional justice often plays a key role in post-war and conflict situations, for example, in transparently balancing reconciliation against punishment for past atrocities. Pluralist legislatures, representing different opinions and interests, are the best forum to debate and decide these difficult issues. This can be particularly difficult in contexts of negotiated transitions, in which formerly warring parties can still be in power and may try to block attempts to deliver justice in cases involving their supporters.

**Building trust:** it is essential to build trust in governance institutions, including the legislature and the executive branch, as legitimate and central actors in conflict management and prevention, as well as to build trust in the new institutional order. Parliaments are open institutions and must set an example of a good governance environment through transparent internal practices, effectiveness and accountability to their constituents.

**Adopting appropriate legislation:** Legislation suitable for peace-building and the stable functioning of the new political order must be adopted. It is parliament's role to provide the

justice system with laws conducive to an impartial court system and an effective judiciary. It is also, when necessary, the role of the legislature to craft new constitutions defining accountability mechanisms, including constructive relations between the judiciary, the executive and the legislature. These tasks require strong skills among members and staff, and typically require capacity-building support, as is discussed below.

#### 2.4.4. Key capacities for parliaments in post-conflict situations

To be effective in conflict management, parliaments should be **transformative** in nature, meaning that they *possess the independent capacity to mould and transform proposals from different sources into credible laws*. Transformative legislatures need to develop the capacity to produce solutions supported by a wide variety of societal actors. To be effective actors in conflict prevention and management, post-conflict parliaments need to develop or improve capacities to perform their key roles of representation, legislation and oversight.

**Improving the representative capacity of the parliament:** representative capacities are needed to help build trust between actors with a history of conflict. These capacities can be improved through the establishment of effective structures such as legislative committees and cross-party caucuses. Legislative committees bring together legislators from different parties and social interests to work together on controversial issues. Negotiation and compromise through these processes help to build mutual trust between formerly adversarial actors. Improving capacities for communication with constituents and with civil society is also important, demonstrating that there is a real channel for dialogue between citizen and state.

**Legislative development capacity:** parliaments need to enact legislation that facilitates conflict prevention and management. Legislation guaranteeing basic rights and freedoms, such as a free press, freedom of opinion and association, limitations on state actions, and so on, contributes to reducing social tensions and preventing a re-emergence of conflict.

**Oversight capacity:** enhanced political and budget oversight capacities allow parliaments to act as guarantors of core democratic values, including the rule of law and the representation in government of different societal interests. Legislatures should ensure that basic rights are protected, including respect for minority groups. Poverty is a major contributor to social tension and conflict in many developing countries, and parliamentary oversight of poverty reduction activities helps to ensure that programmes meet targets and their benefits are distributed equitably.

#### 2.4.5. Lessons from previous experience in parliamentary development in post-conflict situations

Some important lessons have been learned from EC and other donors' experience in supporting parliaments in post-conflict situations:

##### ***Developing capacity and reconciliation skills in parliament is key to the success of the transitional process***

In Zimbabwe the UNDP-managed Conflict Transformation Project in Parliament (CTP) focused on building the skills and capacities of parliament and parliamentarians to manage and resolve conflict. CTP training of parliamentarians reached more than two-thirds of parliamentarians

from both the main contending political parties. Bringing together parliamentarians from the two contending parties in a context of tense relations and polarization was a notable achievement. Participants acknowledged that the project helped make them aware of conflict and its consequences, as well as equipping them with skills and competencies that enabled them to better manage conflict.

In South Sudan, the implementation of the 2005 Comprehensive Peace Agreement depended on legislation being passed by the South Sudan Legislative Assembly, but the assembly lacked basic capacities. The EC Legislative Capacity Building Programme in South Sudan, delivered by AWEPA, includes capacity-building for parliamentarians and staff, supporting vibrant and viable links between members and the constituencies they represent and enabling members to play a positive role in resolving ongoing disputes and preventing future disputes.

***Provide support to ensure smooth transition and proper constitutional review processes***

In Somalia, one aspect of an EC-supported programme involved support to the Transitional Federal Parliament (TFP) and the regional legislatures of Somaliland and Puntland, to ensure different interests were represented in the transition towards an effective federal system. Capacity-building of the regional legislatures was important to ensure the effectiveness of their representation in the constitutional review process, as well as in the future federal legislature.

A similar process is under way in South Sudan as referred above, where the assembly and the state legislatures are key actors in implementing the Comprehensive Peace Agreement. Support to the assembly and the state legislatures was necessary to help ensure their effective operation and representation of the various interest groups in the transition process.

***Post-conflict situations may require building capacities from scratch***

In many post-conflict countries, legislatures lack even basic capacities, such as infrastructure, legislative rules and qualified personnel. Capacity development must address these gaps and can take time to yield results.

In Rwanda, for instance, the National Assembly buildings were severely damaged in the 1994 genocide, and the EC supported physical reconstruction of the facilities. Other partners supported capacity-development of both parliamentarians and parliamentary staff to help enable them to fulfil effectively the Rwandan Parliament's legislative and oversight roles.

***Flexibility in defining areas of intervention and in approach***

Post-conflict situations are often highly unstable, and both needs assessments and support projects must be flexible and iterative. This was the case in the 2007 post-electoral crisis in Kenya. Earlier support to the Kenya National Assembly under the Kenyan Democratic Governance Support Programme had helped to improve the legislature's institutional capacity. However, in the volatile political landscape after the post-electoral violence, it was difficult to predict what priority would be given to political reforms. The EC therefore decided to create a Kenya National Dialogue and Reconciliation Flexible Fund to support the executive, legislature, judiciary and semi-autonomous government institutions responsible for the implementation of the Kenya National Dialogue and Reconciliation Accord.

### ***Involvement of stakeholders in defining priorities and designing programmes***

Generally, all EC parliamentary support programmes in post-conflict countries are designed following needs assessments carried out with extensive stakeholder participation. It is taken for granted that stakeholder participation is very important, but this can be a challenge in contexts where previous parliamentary experience is virtually non-existent (e.g. as in South Sudan) or where civil society is weak and perhaps largely donor-driven. Even in such circumstances, however, it remains crucial to engage with parliamentarians from different parties, parliamentary staff and civil society stakeholders.

### ***Understanding and acknowledging the specificity of the environment and the need to engage actors outside the legislature, including the executive***

It is important, where at all possible, to avoid conflict with other state institutions that might perceive parliamentary reform as a threat. At the same time, a careful calculation needs to be made of whether limitations on parliamentary development activities imposed by the requirement to secure executive agreement mean that the programme cannot meet strengthening objectives and should not be pursued.

For example, in Zimbabwe, where the executive had dominated the decision-making process and the political system for many years, an effective UNDP programme of support to parliamentary reform was made possible by ensuring that the objectives of the reform process were clear, and by involving the executive at some stages of the process.

A multiplicity of factors beyond parliament can severely hamper or preclude effective intervention in parliamentary development and wider democratic development. These might include: (a) the presence of spoilers, factions or leaders who oppose the peace agreement and use violence and intimidation to undermine it; (b) neighbouring states that oppose the peace agreement and assist the spoilers; and (c) the presence of easily marketable valuable commodities such as timber and gems, which motivate the actions of spoilers.

In these cases, Sørnbø (2004), writing about Sudan, suggests *strategic coordination* among international actors and local implementers because if they lack unity, spoilers can take advantage to attack the peace process. Taking account of the regional context is often also an important factor, particularly where there is generalized instability. Addressing the 'resource curse' through initiatives such as the Extractive Industries Transparency Initiative (EITI) can also reduce incentives for spoilers to derail democratic development.

### ***An on-site presence is essential***

In countries emerging from conflict, seasoned, highly experienced professionals are needed to provide advice and guidance to ensure that parliamentary development projects move forward. There are often issues over recruiting such professionals to difficult postings, and there is a temptation to fly in experts for short missions. As has been noted in the evaluations of several EC-supported parliamentary development projects, this is typically not effective, achieving little long-term impact.

Typically, project staff members should combine resident expatriate and national expert contingents. While national staff members may not initially have specific parliamentary expertise, knowledge transfer will allow them to eventually assume project leadership roles, thus

institutionalizing national ownership. Furthermore, if the security situation deteriorates, expatriate staff members may be evacuated, leaving the national staff to ensure programme continuity.

### ***Paying attention to factors that can undermine the credibility of the process***

In reconciliation processes, parliaments should be assisted to avoid credibility and legitimacy problems which can cast doubt on the core values, principles and practices of democratic governance and undermine the democratization process.

State institutions in post-conflict countries often lack the capacity to deliver even basic services and public goods. There may be a tendency for the international community to respond by channelling support through NGOs. This may be the only option in the short term, but in the longer term it is crucial to empower national institutions, including parliaments.

### ***A rights-based approach***

Post-conflict transitional arrangements need to incorporate representation of disadvantaged groups, but this does not always happen, sometimes with longstanding consequences. For example, women were under-represented in transitional legislatures in Sudan, Somalia and Ethiopia. This can lead to inadequate rights and safeguards being included in the constitutions developed by these transitional legislatures. Parliamentary development strategies in post-conflict situations should include support to civil society and rights groups to ensure that the interests of women, minorities and disadvantaged groups are taken into account. Support to parliaments in enacting international rights legislation, for example enshrining the rights of women and children, can help focus debate on a human rights approach.

### ***Evaluation methods suited to their context***

Evaluation of programmes in post-conflict situations requires specific approaches. External evaluations need to take account of the country context, and programme results should not be assessed using the same criteria that would be applied in stable environments. A combination of internal evaluation and external facilitation has been found effective in some post-conflict environments, combining local knowledge and an impartial external eye. It is crucial in evaluation processes for all stakeholders, including parliamentarians and staff, to have the opportunity to discuss progress and impact (European Commission, 2006 and 2008).

#### **2.4.6. Broad recommendations for EC support to parliaments in post-conflict situations**

- After conflict, parliamentary institutions often remain weak in relation to the executive, armed groups and other non-state actors. Building effective democratic governance means correcting this imbalance. External actors have a role to play in assisting in the timely strengthening of parliaments.<sup>(47)</sup>
- Parliaments in immediate post-conflict situations have important legislative responsibilities which, although critical to the recovery process, are often insufficiently supported or considered by international actors. These include constitution-making and legislation on issues such as transitional justice (e.g. special courts, truth commissions and amnesty laws), electoral law, legal frameworks for resettling internally displaced persons and refugees, and

<sup>(47)</sup> See Guidelines for the International Community on parliaments, crises prevention and recovery, adopted in 2006 at UNDP conference in Belgium. See <http://www.arabparliaments.org/publications/legislature/2005/conflict/guidelines-e.pdf>.

re-establishing civilian and democratic control over the security sector (see section 5 of Annex 2). Specific support on legislative research, analysis and drafting as well as on relevant procedures to accompany the legislative process is most appropriate in such contexts.

- In order to function independently and effectively, parliaments need to be political spaces where the people's representatives can speak and act without fear of prosecution and persecution. The basic tenets of participatory democracy require that parliamentarians carry out their core functions without fear of reprisal for their words or deeds. Support for establishing a system of immunity is useful in this regard. However, needless to say, immunity protections should never be confused with impunity for corrupt or illegal behaviour.
- Issues that can pose legitimacy and credibility problems and undermine the transition process must be addressed. Paying special attention to fighting corruption and supporting legislators' representativeness (fostering direct contact with the electorate) can help to build and maintain credibility.
- Support parliamentary oversight committees: Parliamentary committees allow the people's representatives to air constituents' concerns with a view to affecting governmental decision-making processes and arriving at a compromise or consensus position. EC parliamentary support should strive to bolster the capacity of committees so they may operate as effective peace-building models. Committees should be balanced in their composition and provide sufficient space for opposition.
- Strengthen parliamentary outreach: Parliaments' capacity to communicate with constituents, including CSOs and the media, should be strengthened. Such outreach is critical to peace-building as parliament's representative nature gives it unique legitimacy to explain government policy and recovery efforts. In situations where the reputation of parliament may have been spoiled as a result of the conflict, outreach programmes help to restore confidence in parliamentary bodies.
- Engage and support sub-national assemblies: Vertical linkages between national parliaments and sub-national deliberative bodies (whether state/provincial or municipal/local) help parliamentarians to better identify critical issues or concerns in specific regions or those affecting minority and marginal communities. Supporting such linkages (and sub-national assemblies) contributes to early warning of simmering tensions and permits parliaments to react accordingly.
- Pay attention to dangers in the political environment (e.g. potential spoilers); identify strategies to mitigate or suppress negative influences.
- Keep the executive informed and engaged but ensure that support activities foster parliament's institutional autonomy.
- Pay particular attention to conflict dynamics stemming from poverty and ensure that parliament is involved in the development and oversight of poverty reduction strategies.
- Take into account the need for capacity-building for parliament to perform its traditional constitutional roles while at the same time paying attention to its key role in promoting reconciliation. It is important in this context to address the rules needed to provide opposition voices with proper space and a role in the work of parliament.
- Avoid complete disengagement (closing down a project) even in situations of insecurity.

## 2.5. Parliaments and oversight of the security sector

### 2.5.1. Section overview

This section underlines that assuring security for citizens is a key function of the modern democratic state. Conceptions of security have broadened in recent years, and there is increasing use of the concept of 'human security'.

In emerging democracies, democratic oversight of the security sector is often weak, which sometimes undermines constitutional stability. Effective oversight of the security sector protects both citizens and members of the security forces from abuse. Comprehensive democratic oversight of the security sector includes parliamentary, civil society and media oversight. The delineation of legitimate and illegitimate conduct in the security sector is an essential precondition for oversight.

The section discusses the capacities required for effective parliamentary oversight. It makes recommendations for effective parliamentary capacity-building programmes on oversight of the security sector.

### 2.5.2. Democracy and oversight of the security sector

Providing security for citizens is among the most important functions of the modern state. Security is a precondition for promoting and achieving longer-term economic and social development goals. Consequently, an effective and accountable security sector is a key element of democracy and development.

The security sector includes those institutions entrusted with the direct or indirect protection of the state and its citizens. These include the military, paramilitary forces, the intelligence services, the civil authorities responsible for managing and controlling these agencies, and justice and law enforcement institutions. A professional security sector is one that understands its military, law enforcement or intelligence duties and its proper relationship with and responsibilities to society at large. An effective security sector in a democracy is one that operates with professionalism within a democratic system of civilian oversight that ensures accountability and transparency.

In countries with authoritarian governments, security forces are typically used as tools for harassment and intimidation of opposition groups, as well as protecting the government from political competition and democratic accountability. Therefore, security issues are sensitive in post-authoritarian countries as democratizing societies seek to introduce institutional checks on government action, in particular bringing accountability to security sector agencies. This often involves dramatically reducing the scope of the sector, for example, by redefining the military mission as to deal only with the military sphere, and introducing civilian control over such forces. The intervention of civilians in an arena normally reserved for 'men in uniform' is often contested, using the argument that the security sector is a realm of specialist expertise and necessary secrecy. It is also often argued that attempts to reduce the unchecked power of the security forces will hamper the sector's effectiveness.

However, in a context of increasing democratization in many spheres of life, broader concepts of human security are becoming more prominent. Security is being redefined from a focus

on state security to a rights-based approach in which all citizens have a basic right to live in a condition of peace and dignity, which includes freedom from arbitrary state action. Pressure is mounting to rebalance the axis of security issues from being the exclusive responsibility of the executive branch to being a shared responsibility with important oversight roles for other institutions, including parliament. Civil society is increasingly expressing its dissatisfaction with democratic deficits manifested in lack of transparency and accountability, and with corruption, manifested in everyday life through problems such as corrupt police officers and public insecurity. A new wave of security sector reform has therefore spawned initiatives all over the world. The growing intervention of donors in this area is a clear signal that the vision of effective civilian oversight of the security sector is shared by many actors in the development aid community.

### **2.5.3. The European Union and security sector reform**

Security sector reform is an important aspect of EU development policy.<sup>(48)</sup> The EU shares the broader concept of human security noted above. In order to assure citizens of peace and security, the security sector needs to be integrated into the norms of democratic governance, including submission to effective oversight. The EU has supported security sector reform activities in over 70 countries, including at least 36 in the ACP region. Support has been provided in a wide range of areas from security sector civil management to justice reform, law enforcement reform, training and integration of the armed forces, demobilization and reintegration of former combatants, small arms control and regional capacity-building, as well as strengthened oversight by parliaments and other institutions such as SAIs and civil society. EC support to strengthening oversight in general, of which there have been a number of projects in the ACP region (see Chapter 1), also results in improved accountability in the security sector.

Nonetheless, the EU has identified support to strengthened oversight of the security sector as a particular priority. The 2006 EC Communication on Community Support for Security Sector Reform calls for the EU ‘to focus more clearly on the governance aspects of security sector reform, including the strengthening of parliamentary oversight, judicial independence, and media freedom’.

### **2.5.4. The security sector and parliamentary oversight**

Parliaments in democratic societies have a mandate and an obligation to legislate, oversee executive action and represent the public interest in all public policy issues, including security. While it is commonly agreed that legislatures have the role of overseeing the executive, when it comes to the security sector there is often resistance from the sector, and the executive more generally, to the effective exercise of this function. The most common arguments against effective parliamentary oversight are those of state security and the need for secrecy. These arguments are used in developing and developed countries alike, and have gained prominence since the events of 11 September 2001 and the subsequent ‘war on terror’. While safeguards against the release of information that could be misused by terrorists are legitimate, the absence of transparency in the operation of the security forces undermines democracy.

Parliamentary oversight of the security sector is essential to democratic rule. However, parliamentary oversight is only part of the overall democratic governance of the security sector, which also includes transparent, accountable and participatory processes, policies

<sup>(48)</sup> See e.g. *Communication from the Commission to The Council and the European Parliament: A Concept for European Community Support for Security Sector Reform* SEC(2006) 658], available at [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0253en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0253en01.pdf).

and administration of the sector. Democratic governance of the security sector involves other institutions such as the judiciary, civil society and the media, even where these actors and institutions are acting independently of their dealings with the legislature. Hence, constant interaction with the various actors and institutions is key to effective parliamentary oversight of the security sector as well as overall democratic governance of the sector.

Parliamentary oversight of the security sector protects the wider public, but legislatures must also ensure that governments are good employers in the security sector, in terms of salaries, working conditions, respect for human rights, and so on. Human rights abuses in the security forces damage morale and self-esteem, and this has deleterious effects on the functioning of the security forces. Therefore, maintaining a focus on what is happening inside the security forces, and protecting the rights of security professionals, is also a way of strengthening the sector's capacities.

Corruption in security sector procurement is a highly sensitive area which an effective legislature must closely monitor. The security sector, along with the oil and large infrastructure sectors, are the parts of government most prone to corruption.

According to the US Department of Commerce, about 50 per cent of bribes in world contracts are related to the defence sector.

Legislative involvement in security issues is not always benign. There are cases where legislatures have acted to limit the human rights of minorities and effectively required security forces to discriminate against them. Legislatures may bow to executive pressure and create weak human rights protection or anti-corruption agencies. It is important that legislative strengthening in security sector oversight takes its principles from a human rights approach, including adoption of international conventions and norms on human rights, anti-corruption efforts and the protection of minorities.

### **Box 20 - Prerequisites for effective parliamentary oversight of the security sector**

1. Clear definition of the security system, of the institutional components of national security and the security sector's objectives;
2. Security and intelligence agencies must be established by law, and the specific powers that these agencies exercise should be also grounded in law;
3. The mandates of security forces, intelligence agencies and law enforcement bodies must be defined and differentiated from each other;
4. There must be clear rules and underpinning legislation for authorization and control of the use of special powers, that is, those which affect civil liberties such as telephone tapping, monitoring of private communications, and so on;
5. Limits on gathering personal information: there must be ministerial oversight of the functioning of the agencies as well as reporting to parliament;
6. Safeguards should be put in place against military abuse and the politicization of the intelligence services;
7. Restrictions should be placed on investigation by the security services of acts that are part of the legitimate democratic process;
8. Oversight committee(s) must report to parliament, and ministers should not participate as members; chairmanship of the committee(s) should be held by the opposition or rotated between opposition and government representatives.

*Source: Born and Leigh (2005)*

As in other areas of its work, parliament requires certain attributes in order to exercise effective control over the security sector. These can be described as the ‘trinity of As’ (Ebo, 2008):

- Authority: legal status and competencies as provided in the constitution;
- Ability: parliament’s capacity to perform its constitutional functions depends on capacities and resources, including research, documentation, information analysis, parliamentary administration, constructive relations with civil society, and so on;
- Attitude: independence, integrity, courage and vision are crucial attributes of an effective parliament, especially important in exercising proper oversight of the security sector.

Budget oversight is a key element of the civilian control of the security sector. Overseeing the security sector budget can be challenging. In some countries, the executive provides detailed information about plans and priorities for the security sector, whereas in others only general information is presented (again often justified on security grounds). Off-budget revenues and expenditures can be a particular problem for the democratic oversight of the security sector. Some expenditures, such as military construction, arms procurement and military pensions, may be located in the budgets of other ministries. Security sector agencies may have revenues from non-security sector sources; for example, they may run businesses or lease land. In some countries these revenues can be very large and virtually or completely non-transparent, making corruption a major risk. In addition, there may be secret expenditure ‘black holes’ that are constitutionally excluded from parliamentary scrutiny, and frequently there are unplanned expenditures due to unexpected crises, emergency aid or peacekeeping operations that are only approved after the event.

There are various mechanisms other than budgetary control and committee scrutiny that parliaments may employ to exercise oversight of the security sector. These vary enormously from country to country. Some parliaments have the power to approve peace support operations, while others can use their ‘power of the purse’ to exert pressure on or restrict the decisions that governments take in this area. Some parliaments have the constitutional power to approve key appointments such as ministers of justice or the interior, senior military commanders, and the directors of intelligence and other security sector organizations.

As is noted above, a balance needs to be struck between democratic transparency and confidentiality, due to the sensitivity of some of the information held by the security sector. Procedures for the protection of confidential information should be determined by cross-party agreement in parliament rather than unilaterally imposed by the executive. Codes of conduct can be established, governing how parliamentarians may use the sensitive information they obtain through their security sector oversight work. Careful attention needs to be paid to potential conflicts of interest, especially involving procurement, and mandatory financial declarations and of personal interests are useful safeguards in this as in other areas.

The capacity of the legislature to oversee the security sector is affected in many parliaments by the limited expertise of parliamentarians and support personnel in this area, as well as difficulties in gathering information from security sector sources. Legislative committees carry out most of the in-depth oversight work on the security sector, as in other sectors. Some parliaments’ security sector committees cover the entire security sector, while others only cover specific areas (the police, military, etc.), as is the case in Nigeria (Ebo, 2008). Legislative committees should only be composed of parliamentarians, but experts can be contracted to give advice. Obviously, security sector oversight committees need to reflect the composition of parliament and to include opposition members.

### **Box 21 - Parliamentary oversight of the security sector: Arab region case study**

Parliaments in the Arab region operate in a context where executives have traditionally been powerful and the security sector is seen as extremely sensitive. Often, MPs feel too isolated in national contexts to directly raise concerns about democratic oversight of the security sector.

The UNDP-managed Parliamentary Development in the Arab Region (PDIAR) programme has tackled these problems by employing a regional working group approach. After a regional conference of parliamentarians in 2006 identified these issues as a priority, parliamentarians from across the region were invited to participate in a working group. PDIAR, in conjunction with the Geneva Centre for the Democratic Control of Armed Forces (DCAF) analysed different practices in security sector oversight across the region, and best practices globally, providing extensive background information to support parliamentarians' discussion of ways to improve security sector oversight.

Working Group members felt empowered to propose improved oversight mechanisms in their national parliaments. For example, members of the Kuwaiti Parliament's Interior and Defence Committee used the Working Group discussions and information as a basis for a renewed focus on procurement issues.

The Working Group identified four specific mechanisms for strengthened oversight:

- The necessity for developing democracies to develop national security frameworks that shape and regulate defence and security decisions.
- The need to increase the level of detail of the defence budget and treat it as any other line of the general budget, subjected to all the requirements for the protection of public funds.
- The need to develop internal competence and resort to external expertise when and where necessary.
- The need for parliament to use its diplomatic channels to help reduce the pressure of foreign contractors through inter-parliamentary cooperation.

Source: <http://www.arabparliaments.org/oversight/>.

Finally, as is discussed above, civil society and media involvement is crucial to assuring overall democratic governance of the sector. Parliament can often work with civil society to support oversight efforts, for example, through commissioning studies and hearing civil society experts on security and human rights, without precluding the ability of civil society to carry out its own independent monitoring.

### **2.5.5. Supporting parliaments to oversee the security sector**

As is discussed above, security sector oversight is a key facet of the work of effective parliaments. In principle, support can be provided to strengthen the various tasks and responsibilities of parliaments in security sector oversight as part of broader parliamentary development activities or as part of wider initiatives to strengthen the security sector. The basic principles for good parliamentary strengthening work are the same as in other domains. However, the sensitive nature of the security sector means that external donors, including the EU, need to tread cautiously and on the basis of national ownership, transparency and consensus.

Parliamentary development activities aimed at strengthening capacities for the security sector oversight have to address some critical questions, including the resistance of the sector to interaction with external actors and/or to being scrutinized, and the technical nature of the area, which can limit the possibilities for the effective involvement of parliamentarians. It is also important to assess how willing or ready the parliament and parliamentarians are to exercise

their security sector oversight role. Without the political will to use their powers to hold the government accountable, such parliamentary constitutional or legal powers are of little use.

In many instances, however, parliamentarians are willing but not entirely able to oversee the government and its agencies, due to a lack of human and budgetary resources. Resources, such as parliamentary staff, provide parliaments' essential capability to perform oversight functions. EC support in this field should aim to build capacity in parliament and to help establish effective procedures that facilitate oversight, such as access to information, questioning of relevant high-level security sector personnel in committees, and so on.

Donor countries need to consider the appropriateness of their intervention in this area based on factors such as their own practices in the democratic oversight of their security sectors, as well as historical ties — both negative and positive — in terms of their potential impact and geopolitical sensitivities. At the same time, the sensitivity of the security field should not lead donors to exclude this domain from parliamentary strengthening, as inadequate democratic oversight of the security sector is often a key factor in reversals of the constitutional order. Security sector oversight strengthening needs to be approached holistically, and capacity-building should extend beyond parliamentarians and parliamentary staff. It is also necessary to train executive and security personnel so that they too understand their roles and responsibilities in parliamentary oversight and governance of the sector.

As is underlined above, the development and adoption of a national security strategy and plan require the involvement of parliament and should be supported. For instance, in South Africa the active involvement of the parliament in the process and adoption of a national security strategy warranted an active role for the parliament in the oversight of the security sector, including procurement.

Implementing modalities and organizations need to be carefully considered. There are specialist independent organizations with a mandate to work on democratic oversight of the security sector. These include, for example, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the South Africa-based Institute for Security Studies (ISS). In addition, some of the major parliamentary development organizations such as UNDP and IPU have facilitated projects in this area. Another modality is parliament-to-parliament twinning, where security sector oversight committees can learn from each other in developing and implementing effective oversight mechanisms.

A particularly promising approach is regional collaboration by parliamentarians, either formally or informally. Regional parliaments exist in most regions of the world. A major role of these parliaments is to permit dialogue on sensitive issues between elected representatives from the different states in the region. This can prove an effective mechanism for reducing tensions in specific contexts, as occurred, for example, in the regional parliament of the Economic Community of West African States (ECOWAS). Regional parliaments could be supported in fostering harmonized approaches to democratic oversight of the security sector (Hettman and Mohammed, 2008).

Exchange of best practices can often be carried out at the regional level through facilitated informal regional groupings of parliamentarians. The Parliamentary Development in the Arab Region (PDIAR) programme operated by UNDP<sup>(49)</sup> (see Box 21) and the Global Programme for Parliamentary Strengthening (GPPS) have demonstrated good practice using this modality (Murphy and Alhada, 2007).

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<sup>(49)</sup> See <http://www.arabparliaments.org/groups/security.asp> for more information on UNDP's work on parliamentary oversight of the security sector in the Arab region.

Donors should ensure that there is adequate home country parliamentary oversight of their own security sector personnel, especially where donor peacekeeping forces and other security personnel are present on the ground in post-conflict environments. There have been a number of cases of human rights abuses by peace-keeping forces in recent years.

### ***Broad recommendations for EC support to parliamentary oversight of the security sector***

- ***Parliamentary oversight of the security sector should be included in the policy and programming dialogue between the EC and partner countries***

The framework for EC support to strengthening parliamentary oversight of the security sector is established through dialogue on CSPs and NIPs. Agreement on inclusion in the CSP and the NIP of strategies and actions to strengthen parliamentary oversight of the security sector provides an entry point for specific support activities.

- ***Support to strengthening parliamentary oversight in general will provide a basis for improving oversight of the security sector***

In many developing countries, parliament may not be skilled in carrying out general oversight. It may be premature to begin a project on strengthening the security sector until parliament is enabled to effectively exercise oversight over budgets and government programmes.

- ***Security sector expenditures need to be included in the national budget in order for effective oversight to be possible***

In many countries, significant security sector expenditures may occur off-budget, or minimal detail may be provided to parliament on national security grounds. In some countries, security sector agencies have considerable income from business activities that may remain off-budget and are thus unaccountable. Strengthening security sector oversight requires the incorporation of all security sector expenditures and revenues into the national budget approved by parliament, and is in addition a requirement for overall fiscal accountability.

- ***Support to strengthening parliamentary oversight of the security sector needs to be integrated with other EC activities in support of security sector reform***

The EU may support security sector reform through a number of different activities in a particular country. For example, security sector reform may be addressed through justice sector reform, law enforcement sector reform, support to the professionalization of the armed forces, support to demobilization processes in post-conflict situations and broader public financial management reform. It is crucial that activities to support parliamentary oversight are coordinated with these other support areas to ensure synergy and complementarity.

- ***Effective oversight of the security sector depends on general respect for human rights, including freedom of speech and association***

Parliament is only likely to be able to be effective in ensuring democratic accountability of the security sector where there is a general context of governance transparency, freedom of speech and respect for human rights. Instruments such as the European Instrument for Democracy and Human Rights play an important role in supporting civil society and an independent media, enabling them to speak and write freely about sensitive issues including the security sector.

- ***Support from different international development partners to enhanced security sector oversight should be coordinated***

A consistent approach by key actors in the international community is crucial to securing agreement to enhanced oversight by national actors, including the security sector itself. The lead role in supporting security sector oversight enhancement should be played by the most appropriate international partner. This may be the EU with its supranational nature and diverse experience, but it may also be a UN agency or another multilateral agency.

- ***A regional approach may be the most appropriate entry point***

As is noted in the discussion of support to security sector oversight in the Arab region, an initial regional entry point may permit initial discussion of issues in a less politicized environment than at the national level. A regional approach through a RIP/RSP can also help to foster South-South learning and encourage development of best practices.

### ***Further reading***

DCAF and IPU have produced a handbook on parliamentary oversight of the security sector, which is a useful and detailed introduction to providing assistance to parliaments in this area (Born, 2003). In addition, DCAF has published an edited volume on parliamentary oversight of the security sector in West Africa, which contains analysis and recommendations of particular relevance to many ACP countries (Ebo and N'Diaye, 2008).

# ANNEX 3. INTERNATIONAL BENCHMARKS FOR DEMOCRATIC LEGISLATURES

## Introduction

In a diverse world it is normal that the functioning of state institutions such as parliaments varies substantially between countries and between constitutional systems. At the same time, however, there is growing international consensus that there is a need to differentiate between what is legitimate variance taking into account differences between cultures and systems, and practices that hamper or negate the possibilities for democratic governance. International consensus has emerged over time on a standards-based approach in the areas of human rights and elections, but initiatives examining benchmarks,<sup>(50)</sup> norms or best practices for democratic parliaments have only been launched in recent years. This Annex reviews the different initiatives, and what they have in common, and explores how they might be incorporated into the activities of the European Commission (EC) as it expands its support to parliamentary development.

### 3.1. Why strong and democratic parliaments are necessary for democracy

Parliaments are pivotal democratic institutions. They represent social diversity, the legitimization of the rule of law and the accountability of the executive to the people. A significant body of research over many years consistently shows that democracies tend to be more durable where parliaments are most effective. However, in many countries parliaments have not acted as genuinely autonomous institutions, but remain under the shadow of the executive. Unlike executive branches of government, which can in most cases count on some history of institutional continuity, many parliaments have suffered substantial gaps in their institutional lives. Those that do have a continuous record of existence have often operated under single-party regimes and therefore have little experience of autonomy. The absence of a tradition of legislative autonomy means that many law-making bodies lack a clear conception of their institutional prerogatives. The lack of strong democratic representative parliaments erodes popular support for democratic systems and breeds public cynicism. Ensuring the democratic quality of elections is not enough: the representative institutions that emerge from such elections must be internally democratic and exercise genuine political power in order to meet citizens' expectations.

This situation of a power imbalance between the executive and the legislature combined with limited awareness of the constitutional rights of legislatures and legislators creates a weakness at the heart of many emerging democracies. As support for democratic development has become an increasingly high priority of the EC and other donors, it is natural that a central thrust of these efforts should be to strengthen parliaments. However, in order to do so, it is important to have a common understanding of what should be the minimum powers of and conditions for democratic parliaments.

Until recently, there has been no real consensus about the range of powers that should be available to a democratic parliament, or the types of relationship that parliaments should have with other state institutions, including the executive and judiciary. Nor is there clarity about the prerequisites for parliament to exercise its roles effectively and democratically, or the rights and obligations of parliamentarians of either the majority party or the opposition. In the light of these issues, a number of projects have been launched in recent years by

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<sup>(50)</sup> For more information on the benchmarks initiatives see <http://www.agora-Parl.org/node/2706/node/2node/2706>.

different parliamentary associations and parliamentary development organizations aimed at building an international consensus on the basic principles for the operation of democratic legislatures. One major objective of these projects is to help parliamentarians around the world understand the range of powers that should be available to them so that parliaments can act as a real counterbalancing power to the executive. This is a complex task for several reasons. The practices and powers of parliaments vary considerably even between consolidated democracies. Parliaments play different, although not necessarily greater or lesser, roles in different constitutional systems. There is reticence in some places about codifying political systems that many believe should develop organically according to the needs of particular jurisdictions at particular times in their history. At the same time, some form of common understanding of the fundamental responsibilities of a parliament is needed in order to assess whether particular parliaments are meeting basic, minimum democratic requirements.

### 3.2. What are the fundamental responsibilities of a parliament?

These are codified differently in different constitutions but are found, to a greater or lesser extent, in every country parliament:

**Approves legislation:** The responsibility for approving legislation derives from the belief that laws that introduce rights and impose responsibilities on the population should be approved by the people's representatives. In many countries today, the executive drafts most of the proposed legislation. However, the principle that parliaments have the right of legislative initiative and the duty to approve all legislation before it comes into force remains a core feature of democratic systems.

#### Box 22 - The Magna Carta

The Magna Carta is the document outlining the limits to the monarch's authority which English noblemen forced King John of England to sign in 1215. It is one of the earliest examples of a constitutional law. King John, who had been involved in an expensive and unsuccessful war in France, desperately needed more revenues to pay for the cost of waging war and replace the revenues from his lost territories in France. He unilaterally imposed various taxes, including the first income tax. Eventually, resistance reached the point of rebellion.

The Magna Carta established the principle that executive authority could only be exercised within the law, and that subjects had rights that could not be taken away at the whim of the King. One of its clauses empowered a committee of Barons to overrule the King where they found his actions unreasonable. This committee, called the Great Council, was drawn from a small group of feudal lords, and was far from today's parliament elected by universal suffrage. There were numerous conflicts between the monarch and the Great Council over exactly when and how the King could be overruled. Nevertheless, the Magna Carta created the forerunner of today's parliaments, and the Great Council's power of oversight remains a key power of modern legislatures.

The Magna Carta was an important inspiration for many later constitutions, including the Constitution of the United States of America, which provides the US Congress with greater powers than almost any other parliament in the world. The Magna Carta also established the principle of habeas corpus, which forbids prisoners from being held for extended periods without being charged for an offence. Habeas corpus remains an important principle that is regularly referred to in debates about the rights of prisoners.

**Approves the budget:** the budget is, in one sense, just a piece of legislation. However, in many constitutions, voting on the budget and approving taxation is specifically enumerated as one of the fundamental duties of a parliament. This is because, just as democratic theory argues that laws should not be imposed on the people without their consent, so taxes should not be arbitrarily imposed by the executive. The budget being approved and overseen by parliament ensures that the way in which taxes are raised and resources spent is both transparent and approved by the people's representatives.

**Oversees the actions of the executive:** When parliament passes legislation and approves the budget, it is authorizing the executive to carry out programmes and implement rules and regulations. This authorization is not absolute — parliaments need to scrutinize the actions of executive authority to ensure that they are carried out efficiently and effectively, and within the mandate granted by parliament. If parliament is unwilling or unable to properly oversee executive action, the governance system is weakened, increasing the risk of executive corruption and programme inefficiency.

**Represents the population:** Some national constitutions explicitly mention parliament's role of representation of the population, while others do not. In practice, in most countries elected legislative members pay a great deal of attention to the opinions and needs of their constituents, although this is often balanced constitutionally with a reminder that the parliamentarian is a representative of the whole nation.

### **Box 23 - No taxation without representation: The Boston Tea Party**

'No taxation without representation' is a slogan that is still regularly used by campaigners against what they perceive to be unfair government taxation. Its origins date back to the struggle of the American colonies against British rule in the period 1763–1776. Although the colonists did not have the right to elect representatives to the British Parliament in London, they were still forced to pay various taxes to the British Crown. The colonists argued that this was an illegal denial of their rights as British subjects.

The most famous incident in the campaign for no taxation without representation was the so-called Boston Tea Party of 16 December 1773. This was the culmination of a campaign by the American colonists against the 1773 Tea Act, passed by the British House of Commons, which imposed a tax on tea. The colonists felt that only their elected representatives should be allowed to levy taxes. When the British governor of Boston insisted on unloading shiploads of taxed tea, the campaigners boarded the ships and dumped the tea in Boston Harbour. The British government tried to punish the colonies by cutting off commerce with Boston, leading to a deterioration of relations between the colonies and Britain and resulting in the American War of Independence, which began in 1775.

The principle that the executive cannot arbitrarily impose taxes, and that parliament must pass legislation permitting taxation of the population, has become an important feature of democratic governance around the world that is still specifically reflected in numerous national constitutions. (Labaree, 1979; Slaughter, 1984).

### 3.3. The benchmarks projects

In recent years, several international parliamentary and democratic development bodies have sponsored projects to develop benchmarks, either for their parliamentarians or for the wider democratic development community. The divergence between the content and style of these benchmarks is largely a result of the different constituencies of and the different roles played by these sponsoring organizations. The terminology used to describe the benchmarks projects varies. The appropriate terminology depends to some extent on the perspectives of the organizations developing benchmarks, norms, criteria, standards and examples of good practices. All the benchmarking efforts aim to balance the wish to strengthen the legislative sector internationally by creating a baseline with the importance for parliaments, and countries, of having the autonomy to organize themselves according to their specific needs. At the least directive, 'good practices', which are used particularly by the Inter-Parliamentary Union (IPU), raise issues that parliaments must face and give examples of the ways in which some parliaments have effectively dealt with such issues. At the most directive, 'standards' suggest quasi-compulsory norms, and that countries that fail to meet these would be seen as falling below an acceptable democratic level. Each of the terms has advantages and disadvantages. The term benchmarks is used here without suggesting that it is a better choice than the others.

This section sets out the specificities of the different benchmarking initiatives. Box 24 briefly describes the areas of consensus between them. These illustrate what is meant by benchmarks, describe those issues which are useful to consider in the context of assessing parliaments and identify possible areas where parliamentary development can be useful. This consensus was identified at the International Conference on Benchmarking and Self-Assessment for Democratic Parliaments, which took place in Paris in March 2010.

#### Box 24 - Areas of consensus

While acknowledging diverging models of democracy, the following issues have been identified as common and are benchmarks for the different initiatives and groups working on them:

- **Institutional independence**

Examples include parliamentary immunity, budgetary autonomy, control over staff, recourse to own expertise, sufficient resources to perform constitutional functions, adequate physical infrastructure, control over own internal rules and the power to call itself into extraordinary session.

- **Procedural fairness**

Examples include written procedural rules, plenary sittings in public, order of precedence of motions and points of order, meaningful opportunity for debate, use of official languages, the right of all members to express their views freely, and arrangements to ensure that opposition and minority parties can contribute effectively to the work of parliament.

- **Democratic legitimacy and representation**

Examples include democratic elections, a lower house elected by universal suffrage, regular periodic elections, and no restrictions on candidacy by race and gender, language or religion.

- **Parliamentary organization**

Examples include the right of legislatures to form committees, a presumption that legislation is referred to committees, the election of committee chairs and leadership according to procedures, the right to form parliamentary party groups, the right to permanent, professional nonpartisan staff, and protection of the head of the nonpartisan service from undue political pressure.

- **Core legislative and oversight functions**

Examples include the ability of the lower house to initiate legislation, rights to propose amendments and to amend legislation, the right to consult experts and staff on legislation, the ability to hold public hearings or receive testimony from experts, the right to subpoena or obtain documents and methods for protecting witnesses.

The benchmarks discussed below provide guidance to parliaments on the principles, procedures and structures that will help to ensure they can fulfil their key roles. However, it should be remembered that the mere presence of rules and regulations does not guarantee that they will be respected, or that they will be implemented effectively.

### 3.3.1. The Inter-Parliamentary Union good practice guide

The IPU is the longest-standing and broadest organization of parliaments. It has 153 parliaments as full members. The IPU was one of the first organizations to embark on a good practices project. *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice* was developed by the IPU in collaboration with representatives of a number of different organizations involved in parliamentary development (the United Nations Development Programme, UNDP, the Organization of American States, OAS, and the National Democratic Institute for International Affairs, NDI).<sup>(51)</sup> The guide emphasizes that it is not ‘a manual of instruction or prescription; but a living compilation of ideas and practices organized around key democratic values as these are realized in, and promoted by, the activities of parliaments themselves’.

The Guide sets out a comprehensive list of qualities that parliaments should strive for. These are:

**Representative:** that it is socially and politically representative of the diversity of the people, and ensures equal opportunities and protections for all its members;

**Transparent:** that it is open to the nation through different media, and transparent in the conduct of its business;

**Accessible,** which means involving the public, including the associations and movements of civil society, in the work of parliament;

**Accountable,** which involves members of parliament being accountable to the electorate for their performance in office and integrity of conduct;

**Effective,** which means the effective organization of business in accordance with these democratic values, and the performance of parliament’s legislative and oversight functions in a manner that serves the needs of the whole population.

Building from the Good Practice Guide, IPU published *Evaluating Parliaments: A Self-Assessment Toolkit for Parliaments* (IPU, 2008), which includes a framework of questions for parliaments to complete when developing strategic plans or strengthening strategies. See <http://www.ipu.org> for more information.

### 3.3.2. The NDI international standards

NDI is a non-profit organization based in Washington, DC, that works to support democracy in about 80 countries around the world.<sup>(52)</sup> The NDI standards project is intertwined with those of the IPU and the Commonwealth Parliamentary Association (CPA), which is discussed below, and NDI and UNDP have also collaborated both on the ground and in strategic thinking about parliamentary development.

<sup>(51)</sup> For full details of IPU activities and resources available online see <http://www.ipu.org>.

<sup>(52)</sup> For full details of NDI’s activities see <http://www.ndi.org>.

NDI's international standards project is complementary to that of the IPU. NDI's *Toward the Development of International Standards for Democratic Legislatures* (2006) proposes specific norms that parliaments ought to follow in order to legitimately qualify as democratic legislatures. Although the document acknowledges that there is no single 'right' set of principles that determine whether a legislature is democratic, it is asserted that a comprehensive set of democratic principles needs to be followed in order for a parliament to qualify as democratic:

*[T]o be considered democratic, a legislature must demonstrably adhere to standards across the entire spectrum of legislative life, specifically with respect to the organization, procedures, functions and values of the legislature as enumerated herein. Selective adherence to or 'cherry picking' standards does not assure the emergence of a democratic legislature, and may in fact serve as a facade or cover for non-democratic practice.*

The specific proposals for standards are organized into four sections: election and status of legislators, organization of the legislature, functions of the legislature and values of the legislature.

Building from its benchmarks work, NDI produced a *Minimum Standards Assessment Survey*. The survey is a questionnaire that uses the standards of the 2006 paper as the basis for 35 questions under three headings: structure and organization of the legislature; balance of power; and public access, transparency and accountability. The survey is designed to be completed independently by parliamentarians, parliamentary staff and civil society, and the results compared.

### **3.3.3. Commonwealth Parliamentary Association benchmarks for democratic legislatures**

CPA, unlike many parliamentary associations, allows both national and sub-national legislative bodies to become members. CPA, like the IPU, is an organization of and for parliaments, and has branches in over 170 national, state, provincial and territorial parliaments. As well as its annual conference and meetings in its nine regions, CPA offers a wide range of benefits for its members, including training sessions and technical assistance programmes.<sup>(53)</sup>

There are numerous similarities between the CPA benchmarks document and the NDI document discussed above. The major differences are two-fold: the CPA benchmarks document is geared specifically to parliaments in the Westminster parliamentary tradition, and the CPA document is somewhat less comprehensive. CPA has produced a number of reports with recommendations on specific areas of parliamentary functioning, which can be found on the CPA website at

[http://www.cpahq.org/cpahq/Mem/Document\\_Library/](http://www.cpahq.org/cpahq/Mem/Document_Library/)

A notable recommendation is that public accounts committees, which audit government expenditures in Westminster-style parliaments, should normally be led by a member of the political opposition. This recommendation derives from discussions within CPA that have continued over a number of years (CPA, 2001). It is not followed in a number of Commonwealth countries.

### 3.3.4. Assemblée parlementaire de la Francophonie: The democratic reality of parliaments – evaluation criteria

The Assemblée parlementaire de la Francophonie (APF) has a similar mandate to that of the CPA, but focuses on the francophone countries.<sup>(54)</sup> The organization has 77 members from parliaments and inter-parliamentary associations on five continents. Its members include several sub-national parliaments representing francophone regions of federal states. Like CPA, APF organizes regular members' conferences, provides training to members, encourages exchanges and has a programme of technical support to member parliaments.

The APF Democratic Criteria were adopted in 2009. The criteria have many similarities with those of CPA and NDI, although naturally they are geared to the constitutional arrangements that are common in francophone countries. In the majority, these are presidential or semi-presidential in nature, but there are important exceptions. The document covers elections and the status of parliamentarians, the prerogatives of parliament, the organization of parliament and parliamentary communications.

While in general the APF, CPA, and NDI documents are very similar, there are some differences. One important difference between the NDI and CPA documents is that the power of parliament to censure and/or impeach ministers and the power of parliament to pass a vote on no confidence in the government are not present in the APF document.

### 3.3.5. Other benchmarking initiatives

*The Southern Africa Development Community Parliamentary Forum (SADC-PF)* resolved in its 2006–2010 strategic plan to work on parliamentary standards and best practices in order to: 'Build regional consensus to support regional norms, standards and practices and assist national legislatures to develop agendas to identify national issues requiring corrective action'. It is developing a set of standards and practices with a view to adoption at the end of 2010.

At the Paris International Conference on Benchmarks, regional parliamentary organizations such as the Council of Europe and its Parliamentary Assembly, and Latin American parliamentary organizations such as Parlatino and COPA, expressed an interest in pursuing the subject of benchmarks within their own contexts.

## 3.4. Conclusions

The parliamentary benchmark projects that have been developed in the past few years demonstrate that this is an area of considerable interest and importance in parliamentary development. There is clear agreement among parliaments and in the parliamentary development community that *there is a need to codify the core features of democratic parliaments*. This is a useful exercise for parliaments that wish to upgrade their role to meet international standards, for parliamentary development organizations wishing to identify priority areas for parliamentary support programmes in specific countries and for donors such as the EC that wish to measure the effectiveness of national institutions against global norms.

The different approaches used by the different benchmarks projects are complementary. The IPU good practices provide numerous examples that legislatures and parliamentary development organizations can use in designing their own development projects. The benchmarks initiatives have strong potential in the implementation of parliamentary support

<sup>(54)</sup> See <http://www.apf.francophonie.org/> for full information regarding APF and its benchmarking project.

projects. As is noted above, the IPU good practices guide is particularly useful as a generator of ideas for parliamentary development activities, and the NDI, CPA and APF initiatives form a solid base for conducting assessments of parliaments' strengths and weaknesses, the latter two in their relevant constitutional contexts. The approaches were taken into account in the development of the model Assessment Framework presented in Chapter 2 of this Reference Document and are a good starting point for parliamentary development support.

At the same time, however, the benchmarks are fairly cautious, and to a large extent codify practices that are already statutory in most national constitutions or in the internal regulations of most legislatures. It should therefore not be assumed that if each parliament implemented the recommended benchmarks, it would immediately become an effective institution. Parliaments operate as part of an overall political economy, where authority is often de facto concentrated in the hands of the executive or even in the figure of the president. For example, most parliaments already have the tools to conduct oversight, such as the right to ask questions, summon ministers and pass votes of censure, but even where these actions might be called for, they are not necessarily carried out effectively. It is important not to create a presumption that if a country's parliament adopts these benchmarks, it is necessarily functioning appropriately.

Finally, the benchmarks projects pose some challenges to donors. In order for parliaments to play their constitutional roles and meet the various international benchmarks, they need to design and implement development assistance programmes in ways that respect parliament's roles in approving key development strategies and in exercising oversight of the executive, which is still too rarely the case. Concrete suggestions on how to engage parliaments in such processes are presented in section 3 of Annex 2.

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