A COMPREHENDIUM OF REFERENCE PAPERS ON LEGISLATIVE STRENGTHENING

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This publication was produced for review by the United States Agency for International Development. Management Systems International prepared the formatting and compilation under Contract Number AID-OOA-1-10-00002, Task Order AID-OOA-TO-00052, DCHA/DG Training and Information Management (Outreach) support. Various implementing and academic partners prepared all content included in the Annex under different contracts. Each implementing and academic partner is acknowledged at the start of each paper.
INTRODUCTION

Independent, capable and representative legislatures are the foundation of democracy and effective government. Over the past 30 years, USAID programs have worked with parliaments, national assemblies, congresses and other deliberative bodies in at least 70 different countries around the world to — among other objectives — oversee their government and hold it accountable, promote democratic reforms, engage with citizens and civil society, address critical policy issues, build a better legal environment for economic growth and empower women.

The documents in this volume were produced as part of a USAID project to learn the lessons from that experience and apply them to USAID’s future efforts to strengthen and engage developing country legislatures. This effort was motivated in part by a recognition of significant changes in the context in which legislative programs are implemented, which point to the need for a reassessment of our approach and the guidance we provide to missions and implementers.

The most consequential change is the higher level of institutional capacity and experience across all developing country legislatures. The early “Third Wave” democratizers had few models for establishing or re-establishing a functional legislature. Developing country legislatures were, with few exceptions, passive rubber stamps for dominant presidential powers or (if not and) chaotic breeding grounds for coups and revolutions. Similarly, early efforts at legislative strengthening (LS) had few examples from developing or democratizing countries, so drew heavily on the practices in the U.S. Congress or the U.K. Parliament, even when those were not appropriate. The early democratizers now have two or three decades of experiences with legislative institutions and procedures, and across a very diverse set of regional, historical, political and security contexts. That body of successes and failures informs more recent efforts, and the exchange of experiences between the members, staff and partners in those legislatures is proving to be one of the most valuable drivers of improvements in legislative capacity.

Accompanying this increase in the capacity of legislative institutions has been a broader push across development for greater local ownership of development practices. Where early legislative assistance programs were just that — assistance from one country to another — more recent programs are structured as partnerships in which two or more countries play equal roles. Legislative programs have also been affected by political pressures on donor agencies to be more rigorous in demonstrating the effectiveness of their program, together with pressure to reduce overall assistance spending. This has proven to be challenging for legislative and other governance programs where impact is much less tangible and quantifiable than it is in socioeconomic sectors like health, though that downward trend may have reached its nadir and may be rebounding now.

At the same time, legislative implementers are developing a better understanding of the political context in which legislatures operate through increased use of political economy analysis and approaches. This will enable legislative implementers to design assistance programs that address not only technical and institutional deficits but also some of the deep-seated political challenges that constrain the legislature from exercising its full legal and political powers. In addition, legislative strengthening activities are being conducted not just as stand-alone programs, but in some cases as part of larger governance projects focused on strengthening country systems and processes such as public accountability systems or policymaking processes. By focusing on the legislature’s role in a larger governance system that involves other governmental and non-governmental actors, implementers are better positioned to help strengthen
the linkages and working relationships between the legislature and other governance institutions and non-governmental organizations.

A final broad trend that is shaping legislative programs is the greater emphasis on cross-sectoral integration of government initiatives, and pressure on governance programs to demonstrate concrete ways that improvements in capacity of governance institutions contributes to outcomes in development sectors like health, economic growth and environmental protection. In February 2015, USAID officially adopted an action plan for cross-sectoral integration that elevated this objective within the Agency.

To draw out a body of experiences and lessons learned from legislative implementers, USAID asked the five organizations that currently hold the Deliberative Bodies (Legislative Strengthening) IQC to prepare papers on specific topics in the field of legislative strengthening. Each implementer was asked to write on four different topics, to draw on two substantial case studies within each of those topics, and to provide practical lessons learned and recommendations.

Among the noteworthy findings in these papers are:

- The State University of New York’s Center for International Development (SUNY/CID) drew on its extensive experience to highlight the importance of “energizing the political ecology” within a legislature to motivate change.

- A central emphasis in DAI’s contribution is the extent to which political will and political interests determine whether a project succeeds or fails. “Technocratic assistance is necessary but insufficient in transforming a parliament; political economy analysis, and more politically considered programming in general with room for experimentation, should be embedded in program design for potentially transformational results.” Understanding political dynamics is even — or perhaps especially — important for activities like human resources reform that may appear to be relatively apolitical. For example, the paper says that work to improve the quality of an organization's human resource functions can be “the ‘third rail’ of institutional assistance, as it threatens with entrenched interests and sometimes powerful bureaucracies; its success is directly linked to political will.”

- Chemonics provides a valuable overview of its experience in Indonesia with an innovative approach to “policy clusters,” which consist of civil society organizations (CSOs), policy experts, and decision-makers who convene to discuss and work toward change in specific areas of policy or implementation. The policy areas were articulated in USAID’s new Country Development Cooperation Strategy (CDCS), and specific policies were selected in collaboration with the DRG, health, education and environment offices.

- TetraTech/ARD explains how a legislative component was built into an anti-corruption and reform project in Guatemala.

- USAID requested that Social Impact conduct a meta-analysis of 30 LS program evaluations, in which they coded and evaluated the impact of 14 program components that appeared in a significant number of programs. Among other things, the results emphasized the importance of committee strengthening to other objectives.

This volume also includes papers from the National Democratic Institute (NDI) and the International Republican Institute (IRI), two of USAID’s main partners in the Consortium for Elections and Political Processes. IRI’s contribution emphasizes the organization’s work with inter-party caucuses, bringing
them together with CSOs in Somaliland and elsewhere, while NDI addresses broader themes of the role of legislatures and legislative assistance in furthering political reform, and the potential impact of new technologies on transparency and accountability in legislative institutions.

Finally, to draw from academic insights, NORC at the University of Chicago undertook a research project under the Learning, Evaluation and Research (LER) MOBIS task order that brought together a trio of academics who each wrote a paper on a specific legislative strengthening topic based on field research and desk studies. Barry Ames, the Andrew Mellon Professor of Comparative Politics at the University of Pittsburgh, provided valuable overall academic direction and guidance to the NORC team’s work. An essay by NORC’s project leader, Audra Grant, provides an introduction to these studies. Here too are interesting results.

These papers and the forthcoming handbook are part of an ongoing effort to improve the quality of legislative strengthening programs. This project would not have been successful without support from Neil Levine, Director of the USAID Center of Excellence on Democracy, Human Rights and Governance, and Bruce Kay, Division Head of the Center’s Governance and Rule of Law Team. Thanks also goes to the numerous individuals from USAID’s partner organizations and our academic colleagues who contributed their time and expertise to prepare the studies that appear in this volume.

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January 2016
STRENGTHENING DELIBERATIVE BODIES

REFERENCE PAPER

Contract No. AID-0AA-I-12-00002/AID-OAA-TO-15-00026

John K. Johnson, Ph.D., and Elizabeth C. Hudler

Cover Photo: A community member from Garut, West Java, Indonesia signs an agreement to collaborate with the community and National Parliament Member Hon. Yahya Sacawiria at the inauguration of a Riung Warga, while Hon. Yahya looks on. A Riung Warga is a community forum in which community members convey their concerns to policy makers. Hon. Yahya participated in the USAID/ProRep managed JABAT program, designed to facilitate closer relations between communities and their MPs.

Cover photo by: Josh Estey/USAID Program Representasi

The authors would like to thank the following former and current Chemonics International project employees for their contributions to the case studies: David Anderson, Fernando Bertoli, John Bosley, Brian Giacometti John K. Johnson, Pat Noonan, Margarita Seminario, Terence Slywka, Reginald Todd, and Mai Tran.

The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
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INTRODUCTION AND OVERVIEW

This paper was drafted in response to USAID Task Order AID-OAA-TO-00026 under the Deliberative Bodies IQC. It presents eight case studies addressing the following topics under the Task Order: (1) Cross-Sectoral Strengthening Programs (multi-sector projects which include a parliamentary focus); (2) Cross-Sectoral Programs: Economic Growth (economic growth programs which worked with parliaments); (3) Accountability and Transparency (programs with a focus on parliament, and accountability); and (4) Implementation and Evaluation (implementation of programs with a major, or exclusive parliamentary focus). Case studies cover programs in Indonesia, Vietnam, Mongolia, Kosovo, and Rwanda.

This introduction and overview briefly addresses questions raised in the Task Order, providing a quick review of some of the developments in legislative programming since the late 1980s, identifying some of the distinctive features of USAID legislative programs, and selectively commenting on possible impacts of USAID Forward and the 2013 USAID DRG Strategy on legislative programming (for a thorough review of legislative program over the past 15 years, please see Democracy Reporting International, Global Mapping and Analysis of Parliamentary Strengthening Programs, 2015). The major portion of the paper comprises the case studies, and is followed by a brief conclusion covering some key observations and recommendations.

EARLY PROGRAMMING YEARS

The field of legislative strengthening and approaches to legislative programs has evolved considerably over the past three decades. USAID’s Handbook on Legislative Strengthening captured and recorded the state of the art 15 years ago, and many of the handbook’s objectives, strategies, and recommendations remain relevant (Center for Democracy and Governance 2000). But developments in the field since then, especially USAID’s new approaches to democracy, rights, and governance (DRG) programming, make USAID’s decision to publish an up-to-date handbook timely.

USAID legislative programming began in earnest in the late 1980s and early 1990s. The focus in those early years was building the technical capacities of legislatures – introducing computers and computer information systems, and training staff in skills like legislative research and bill drafting. First generation USAID programs worked through universities like the State University of New York and Florida International University, as well as through the non-governmental organization (NGO) Center for Democracy. In the years between the opening of the Berlin Wall and the collapse of the Soviet Union (1989 – 1991) USAID programs were under way or developing in Central America (e.g., Costa Rica, Guatemala) and South America (e.g., Chile). Simultaneously, the Frost Task Force, working with the US Congressional Research Service (CRS), began a technical assistance program for several Central and Eastern European parliaments. As in Latin America, programs provided technical assistance designed to help the parliaments function as modern legislatures. USAID parliamentary assistance, similar to other public sector assistance, attempted to steer clear of “politics.” The hope and assumption was that improved information management systems, better equipment, and enhanced skills in budgeting, bill

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1 The Frost-Solomon Task Force partnered with the parliaments of Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Albania, Bulgaria and Romania. The program lasted from 1990 through 1996.
drafting, research, etc., would lead to legislatures and legislators making better policies more responsive to peoples’ needs.

BUILDING LINKS TO CIVIL SOCIETY

Some of those early programs were quite effective (e.g., Frost Task Force support to Poland), others less so, and from the mid-1990s onward USAID put a growing emphasis on linking legislatures with society – especially civil society. Building a legislature’s technical competence would not necessarily make it more open and responsive to societal needs, and USAID increasingly emphasized legislative openness, responsiveness, and accountability. Programs helped civil society organizations to better understand and interact with legislatures and their Members. The geographic scope of USAID programming also expanded to Africa and elsewhere. Beginning around 2000, USAID initiated a growing number of programs in conflict, post-conflict, and challenging states, including in the Middle East, the Balkans, Afghanistan, Pakistan, and Iraq, and in countries of the former Soviet Union.

USAID LEADS IN BEGINNING LEGISLATIVE STRENGTHENING

USAID was the first development agency to make major investments in legislative strengthening. Several other bi-lateral, and some multi-lateral donors followed, but not all remain active. The UK Department for International Development (DFID) has on its own, and in partnership with USAID, provided institutional strengthening support to parliaments (e.g., Kenya, Tanzania). Canada’s CIDA supported parliaments in Ethiopia and Cambodia, AusAID has assisted parliaments in its Asia/South Pacific region (e.g., Indonesia and Papua New Guinea), and Scandinavian countries have aided parliaments in Africa. The UNDP (currently the world’s largest implementer of parliamentary strengthening programs) has funded several long-term parliamentary institutional strengthening programs (e.g., Timor Leste, Indonesia, and Vietnam), and both UNDP and the World Bank Institute (WBI) have published and made available training materials, such as orientation handbooks for Members. The WBI has provided technical support to international parliamentary associations, such as the Commonwealth Parliamentary Association and SADC Parliamentary Forum. And the International Republican Institute (IRI) and the National Democratic Institute (NDI) conducted several parliamentary programs, large and small, worldwide – many with USAID funds.

A number of factors have distinguished USAID legislative strengthening programs. Rather than implementing projects itself, USAID generally subcontracts its legislative projects to both for-profit and not-for-profit implementing partners, and these are overseen closely by expert mission staff to ensure effective implementation. USAID also incorporates legislative strengthening programming as components of larger, multi-sector projects (ProRep and GIG, in this report, e.g.). Finally, USAID’s approach to legislative strengthening, as in other DRG fields, continues to evolve. The recent USAID Forward initiative and the 2013 DRG Strategy showcase its interest in responding to our changing world with new and more effective strategies.

IMPACT OF USAID DEVELOPMENT POLICIES:
USAID FORWARD AND 2013 USAID DRG STRATEGY
USAID Forward is USAID’s reform agenda for achieving President Obama’s vision of an empowered and robust U.S. Agency for International Development that could lead the world in solving the greatest development challenges and, ultimately, meet the goal of ending extreme poverty in the next generation. (See USAID Forward reform areas below.)

2 To achieve these goals, USAID missions develop and then implement coherent, integrated, collaboratively (with the host country) developed five-year Country Development Cooperation Strategies (CDCS). USAID’s 2013 DRG Strategy is integral to achieving the development objectives (DOs) of the CDCSs.

USAID Forward and the USAID DRG Strategy impact the design and implementation of USAID legislative programs and activities in several ways. Their focus on results requires that program designers be clear on objectives and targets. Programs are to be partnerships with host institutions, and results should be sustainable. Strengthening legislative institutions is not a sufficient end in itself, but program documents should make clear how a stronger legislature contributes toward achieving other higher level objectives. (What benefits to public health, environment, etc., will result from a more effective legislative research or budget office, for example?) Programs should emphasize participation and inclusion by supporting bottom-up strategies giving civil society and marginalized groups a voice in policymaking and oversight, in addition to improving technical capacity in the legislature. They would support activities integrating the work of citizens and experts in priority mission areas (such as health, education, economic development, etc.) with legislative committees and members; and they would support citizen-legislative interactions that will help secure the human rights of marginalized groups.

2 USAID Forward main areas of reform are (1) Deliver results on a meaningful scale through a strengthened USAID (through a focused, results-oriented approach, which includes enacting a world-class evaluation policy; (2) Promoting sustainable development through high-impact partnerships and local solutions. This includes supporting the institutions, private sector partners, and civil society organizations that serve as engines of growth and progress for their own nations. USAID Forward embraces new models for public-private partnerships and increased investment directly to partner governments and local organizations; and (3) Identify and scale up innovative, breakthrough solutions to intractable development challenges, including strengthening work with scientists, researchers and universities, investing in new technologies to source and scale game-changing solutions, and supporting mobile solutions to dramatically expand opportunity. https://www.usaid.gov/usaidforward

3 Strategies are based on a sound development hypothesis, explain how the proposed investments from USAID and others will collectively lead to achieving the development objectives, emphasize sustainability and local capacity development, and focus resources to ensure meaningful results and long-term impact. https://www.usaid.gov/sites/default/files/documents/1870/201.pdf

4 The goal of USAID’s Strategy on Democracy, Human Rights and Governance is to “Support the establishment and consolidation of inclusive and accountable democracies to advance freedom, dignity and development.” Key points: (1) The strategy replaces a 20-year-old set of categories that says what we are accomplishing, not what we are doing. [Earlier strategic approaches emphasized core institutional components of democracy (including legislatures). The new strategy focuses on higher-level objectives]. (2) The framework refocuses traditional DRG activities into objectives on participation, inclusion, and accountability. [Earlier programs focused on governance, civil society, etc. The new strategy seeks to empower reformers and citizens from the bottom up, while shifting the incentives of the ruling elite by enhancing accountability systems]. (3) The strategy establishes Agency objectives for integration and human rights. [Democratic governance is important to achieve USAID’s broader development goals - prioritizes the integration of DRG into sectors such as health, economic growth, etc.]. (4) The strategy captures a country-based approach with guidance on transitioning away from DRG assistance. [Strategic approaches will vary depending on the kind of state (authoritarian, hybrid, etc.), what it is experiencing (conflict, transition, etc.). USAID will need to define the point at which DRG assistance is no longer needed].

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<th>CASE STUDIES AT A GLANCE</th>
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<td>• Vietnam Legislative Research Program (LRP)</td>
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This paper comprises eight short case studies of USAID-Chemonics legislative strengthening projects, or projects which involved some aspects of legislative strengthening. They range from “pure” or “traditional” legislative programs focused exclusively on the legislature, such as Vietnam LRP, to projects which had a substantial program focus on the legislature (e.g., Indonesia ProRep, Rwanda JSP) to those in which the legislature was key to enacting USAID-supported policy changes and where the project invested a good deal of time and focus (e.g., Mongolia EPRC). Each case study concludes with observations and recommendations which should be useful for USAID personnel and development practitioners who will be designing interventions, responding to proposals, and implementing programs that seek to strengthen or engage legislatures.

**TOPIC 1: CROSS-SECTOR STRENGTHENING PROGRAMS**

**IA. USAID/INDONESIA PROGRAM REPRESENTASI (PROREP) 2011 - 2016**

**Background/Purpose of ProRep Project**

Indonesia is the world’s fourth largest country, the largest economy in Southeast Asia, and home to the world’s largest Muslim population. Having emerged from a long period of authoritarian rule in the late 1990s, Indonesia has a burgeoning economy and is a stable, independent democracy. Yet USAID’s 2009 RFP for Program Representasi (ProRep) noted that “weak rule of law, relatively low levels of transparency and accountability, inadequate representation, often dysfunctional intergovernmental relations, and a political system heavily influenced by money politics” threaten to upset the country’s progress. ProRep was thus tasked with contributing “to the consolidation of democratic governance by improving representation, [and] legislative and policymaking processes,” a central tenet under USAID Indonesia’s 2009-2014 Country Strategy.

Supporting representation by working with CSOs, think tanks, and representative bodies, the program was designed to support groups working to aggregate and articulate citizen demands, and to assist institutions responsible for legislation and policymaking. It aimed to strengthen both demand and supply, working upward from the citizen level, and downward through and with Parliament. It was intended to align with other USAID/Indonesia Assistance Objectives and to support CSOs representing constituencies with concerns about health, education, and environment, advancing legislative and policy agendas in U.S. government (USG) priority areas.

**Implementation and Laying the Foundation for Cross-Sectoral Programming**

During its first phase (2011-2014), ProRep implemented activities along four components:

1. Strengthened the representational capacity of membership and constituency-based CSOs
2. Built the capacity of selected universities, think tanks, and CSOs to conduct and disseminate policy-relevant research and analysis on key policy and governance issues
3. Supported more effective, responsive, and transparent legislative processes in the DPR
4. Provided timely assistance for special initiatives needed to protect or advance democratic governance.

ProRep helped selected CSOs and CSO networks to develop larger and more defined constituencies, expand memberships and stakeholders, and become more informed and constructive advocates. ProRep also assisted them in finding positive ways to work with parliaments, as well as other local- and national-level policymakers and implementers. Second, ProRep worked with research organizations to improve the quality of policy research and research on legislation, and to enhance its dissemination to both national- and local-level policymakers, allowing civil society, parliament, and others to develop better-informed approaches to formulating and implementing new laws, to overseeing how laws are actually implemented and their impact on people, and for parliament members to better respond to their constituents. Third, the project worked to meet a number of needs of the DPR (Indonesia’s Lower House) and DPD (Indonesia’s Upper House) by helping members represent their constituents more effectively, transparently, and in a better-informed manner. The Special Initiatives component was designed to enable USAID to respond flexibly and rapidly to address other unanticipated needs and opportunities pertaining to the protection and advancement of democratic governance in Indonesia.

ProRep’s structure, supporting CSOs, think tanks, and parliaments in one project, became the foundation for building a distinctive cross-sectoral “policy cluster” approach. The initial institution-building focus targeted each sector individually. But in its second year, ProRep began bringing components together for programs and events, laying the foundation for future collaboration as follows:

- Organized by ProRep, staff from partner CSOs, think tanks, and the DPR attended a presentation by former US Congressional Research Service staff. The presentation was followed by a discussion on how the three sectors could collaborate on legislation. Some of the discussion – especially by CSO leaders critical of Parliament – was heated. But most was constructive as they exchanged ideas on strategies for influencing legislation.

- ProRep supported Parliament’s Public Accounts Committee to conduct a public meeting on the use of teacher certification funds. Budget oversight CSO partners had a “place at the table” making a presentation and interacting with the committee, the Inspector General in the Education Ministry, and officials of Indonesia’s Supreme Audit Agency.

- ProRep convened partner CSOs, think tanks, MPs, and staff on several occasions to collaborate on improving the process for developing the joint parliament-executive legislative agenda. Several CSO recommendations, many supporting USAID health, education, and environment policy positions, became recommendations of the DPR legislation committee.

The friend of my friend is my friend: Trust developed through relationships within each project component enabled ProRep to facilitate trust-building between each component, building a foundation for cross-sectoral work. These sectors had not collaborated well in the years immediately prior to the project, and attitudes toward the Parliament had ranged from indifferent to hostile. ProRep became a platform for relationship building, providing venues, events, and projects to encourage collaboration on policy change.
The Transition to Policy Clusters or Policy Communities

Rachel Kleinfeld quotes management thinker Henry Mintzberg as saying, “You don’t plan a strategy, you learn a strategy.” She calls the process for planning and implementing projects in the political arena an “iterative” process (Kleinfeld, R. (2015), p. 33). This was ProRep’s experience in developing policy clusters.

The development of policy clusters. A new USAID Indonesia Country Development Cooperation Strategy (CDCS) required the project to adjust its strategy toward the end of its third year (i.e., early 2014). Indonesia’s 2014 – 2018 CDCS ended support to Indonesia parliaments, while support to civil society and think tanks continued. Building on its initial three-year foundation, ProRep is spending its last two years building multi-sector policy communities or “policy clusters” (see text box below). Policy clusters consist of CSOs, policy experts, and decision-makers who convene to discuss and work toward change in specific areas of policy or implementation. The policy areas were articulated in USAID’s new CDCS, and specific policies were selected in collaboration with the DRG, health, education, and environment offices.

In its iterative process, Pro-Rep and the DRG Office first collaborated in designing the policy cluster concept. ProRep then worked with Indonesian counterparts in several policy areas, gathering information to use in determining which policies to focus on, and later conducted detailed discussions with USAID’s offices of health, education, and environment. The specific steps included the following:

- January- March 2014: ProRep conducted assessments and focus groups with USAID, other projects, and stakeholders to discuss seven potential policy areas for program focus.
- March: Met with USAID’s DRG office and reduced policy areas to four: maternal and child health, environment, education, and border issues.
- April: Issued a request for concept papers for grant proposals in each area. Subsequently reduced these to three areas – health, environment, and education – corresponding to USAID Indonesia offices.
- June- August: Issued 11 policy-related grants. ProRep shared preliminary grant proposals with USAID education, health, and environmental offices, received their direction and feedback, and adjusted the grants to better target USAID priorities.
- Ongoing: Coordinated with the DRG office to involve staff from the education, health, and environment offices in policy cluster events.

Policy clusters were unlike the more sector-specific approaches usually taken by sector offices, and it was important that these offices understood their purpose and how they supported Mission objectives. DRG’s close collaboration with the sector offices was critical to their understanding and supporting this cross-

“POLICY CLUSTERS”

Policy clusters are groups of CSOs, policy experts, and decision-makers in legislative and executive branches of government with interests in specific policy areas. ProRep will combine grants to CSOs and research organizations; short-term technical assistance; support for focus group discussions, meetings, and parliamentary hearings; etc. These will bring together stakeholders and policymakers to assist them in making decisions and conducting activities to improve policy, or policy implementation, in selected policy-focus areas. Policy clusters are designed to (1) be inclusive, involving multiple stakeholders, (2) be evidence based, using the results of research, and, (3) involve the media, so that clusters positions have an impact on the opinions of decision-makers and the public.
sectoral approach. ProRep used “The Case for Policy Clusters,” an appendix to this report, to explain the clusters.

Initial Policy Clusters and Communities — Activities and Results

ProRep issued 11 policy cluster grants in project Year 4, and 24 in Year 5. The environment office awarded ProRep additional funds to expand its environmental policy work in Year 5. Grants focus on changing policies, mostly at the national level, and local work is designed to have national-level policy impact. Most grantees from Year 4 received follow-on grants in Year 5, building on their programs and strengthening existing policy communities. As a member of the “policy community” each grantee participates in policy community meetings and events designed to (1) help policy grantees better understand how to bring about policy change, (2) bring them together with MPs, ministry staff, and professional staff of the DPR (through ATAP, the Association of Expert Staff of the Parliament), (3) provide venues and events to help partners better collaborate among themselves and their wider policy communities to ensure greater policy impact, and (4) provide partners with targeted communications support, including assistance with media engagement and developing communications strategies. Each policy community works somewhat differently.

Environment. Most CSO and research policy organizations comprising the environment cluster (whose cluster goals are to promote policies for forest conservation and sustainable environmental protection and management) are made up of young professionals who collaborate on environmental programs. Their community collaboration events are quite informal. A community member organization played the lead role in structuring Indonesia’s newly combined Environment and Forestry Ministry. The restructured ministry combines the resources of the former ministries, making possible more effective collective actions against environmental degradation. Other grantees are working on effective transfer mechanisms of environmental funds to local areas, providing incentives for local communities to protect their forests.

Education. Members of the education cluster or community (whose aim is to improve the quality of education through enhancing citizen/expert/CSO participation in teacher deployment, school management, and budgeting) have formed themselves into a formal policy/lobbying association - the Civil Society Coalition on Education Transformation. This coalition is led by ProRep grantees, but includes dozens of additional organizations focused on education reform. It now has an established relationship with the Education Minister and his leading staff, and collaborates on several USAID-supported reforms, including fairer distribution of teachers nationwide (better-qualified teachers are concentrated in urban areas) and improved, more transparent budget allocations among schools.

Health. The health cluster seeks to improve health policies and their implementation through enhanced public participation, monitoring, and feedback to health policy decision-makers. It is made up of CSOs specializing in public participation and a health research group. The cluster collaborates on increasing citizen input and impact on local health facilities and policies.

Accountability. Members of the Democratic Rights and Governance Cluster, formed earlier this year (2015), have together selected a lead organization to coordinate cluster activities. Details are provided in this paper’s section on Accountability and Transparency.
Observations and Recommendations

Observations

- In cross-sectoral projects, building relationships of trust within component areas, can facilitate trust and collaboration across component areas, increasingly the likelihood of policy reform.
- Policy cluster grants commit partners to collaborate and advocate for specific, agreed upon policy goals. They strengthen policy alliances, increasing the likelihood of impacting policy.

Recommendations

- **Start with institutional support.** ProRep started with support to the DPR. As MPs and staff saw that ProRep supported their institutional objectives, they were willing to allow other ProRep partners including CSOs and think tanks, to collaborate with them on policy reform. As a result, Parliament developed long-term relationships with outside partners who continue to collaborate with policymakers on specific reforms.
- **Train non-government stakeholders in advocacy techniques specific to their political context.** ProRep programs brought together MPs, former MPs, civil society, and think tank representatives to discuss how policies are made and the how, when, and where so that CSOs and think tanks can impact the process. In developed countries, advocates learn their advocacy techniques and how to work within the systems they are trying to impact. This training process should be replicated when projects work with CSOs, think tanks, and other interested parties on legislative programs in the developing world.

IB. USAID/VIETNAM GOVERNANCE FOR INCLUSIVE GROWTH (GIG) 2013 – 2018

The GIG Program (GIG) is USAID’s primary activity for cooperation with the public and private sectors in Vietnam to enhance areas of governance expected to facilitate broader-based growth, with an emphasis on the legal framework and systems for accountability. The development hypothesis underlying this project is that enhanced governance will facilitate broad-based, sustainable growth. Achieving such growth requires establishing a clear legal and regulatory framework which provides citizens and the private sector with a predictable, transparent set of rules by which they may make their own contributions to growth and development. More important than particular rules is the evolution toward a transparent, inclusive policy process capable of creating high quality laws and regulations and capable of evolving over time so that all members of society can benefit.

GIG is intended to be a catalyst in enhancing the capacity of the government of Vietnam (GVN) to advance its policymaking processes through improved information for decision making, greater citizen participation, increased transparency, and more effective accountability mechanisms. The project approach is both horizontal and vertical, working with the National Assembly and other parts of the government to improve policy-making and accountability mechanisms, and working with civil society

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<th>GIG PROJECT OBJECTIVES</th>
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<td>(1) Increased Trade and Investment</td>
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<td>(2) Enhanced Private Sector Competitiveness</td>
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<td>(3) Strengthened Rule of Law and Judicial Effectiveness</td>
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<td>(4) More Effective Public Administration and Financial Management</td>
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<td>(5) Greater Social Inclusion and Equality of Opportunity for All Citizens</td>
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and the private sector to help incorporate their voices and perspectives into the policymaking and accountability processes.

A major project focus is on strengthening capacity of the National Assembly (NA) and government institutions, including enhancing their research capacity, supporting consultations between citizens and the NA and government in the law making process, oversight/accountability assistance through training and technical assistance to the NA and the State Audit Office of Vietnam (SAV). The NA plays a critical in attaining GIG’s five objectives.

USAID’s earlier Legislative Research Program (LRP) opened doors for GIG. The groundwork and relationships established under that earlier assistance to the NA facilitated a relatively rapid and smooth start to the new work.  

Vietnam, of course, is not a representative democracy, but that does not mean that government decisions and policies are made without discussion or competition among different actors. USAID’s 2007 DG assessment, quoted in the GIG RFP, acknowledges that while government decision-making systems are distinct from those in the West, competition exists within the Party, among party organs, among and within ministries, and within the NA. The Assembly, despite its limited capacities, representativeness, and roles, is beginning to draft legislation and conduct limited oversight over government, and its role is evolving in a positive direction. According to the RFP, “Work with the NA . . . continues to represent a beacon of hope in the governance area.”

The GVN’s commitment to achieve aggressive economic growth rates, and to implement a comprehensive program of governance reform, has made possible the rapid legal and bureaucratic changes under way in Vietnam. GIG partners are under pressure to quickly reform several laws, regulations, practices, and systems, and they have allowed the program to play a major facilitating role.

This section reports on GIG’s Component 1 (improving legal and regulatory frameworks) and Component 3 (improving inclusion and equality for marginalized groups). Component 2 (improving accountability for public institutions) is covered under Topic 3: Accountability and Transparency (p. 15).

Implementation of Cross-Sectoral Activities

GIG Component 1 activities are designed to help improve the quality of Vietnam’s laws and regulations by addressing deficiencies in the flow of new regulations and the stock of existing regulations. GIG supports Vietnam’s efforts to reform its laws and law making, and to expand meaningful participation of stakeholders in the process. Just completing its second year, GIG seeks to build a transparent and participatory law-making and regulatory process; enhance competitiveness and the business environment; and improve trade facilitation and implement the Trans-Pacific Partnership (TPP).

Component 1 activities include support to the General Department of Vietnam Customs that resulted in the first comprehensive blueprint for customs reform, the framework Customs is using to comply with WTO’s Trade Facilitation Agreement (TFA) requirements. GIG advises the GVN on specialized inspections of goods for import and export, and cooperates with the Ministry of Planning and Investment (MPI) on holistic assessments of Resolution 19 implementation (the resolution setting Vietnam’s targets
for World Bank Doing Business indicators) for the Prime Minister. The project facilitates several major reforms underway and provides technical assistance, including workshops; policy guidance; legal review recommendations on laws such as the Law on Laws, new Civil Code and State Budget and Procurement Law; and assistance to meet the requirements of the TPP and the TFA (trade).

Through Component 3 (improving inclusion and equality for marginalized groups), GIG helps identify and reduce legal and regulatory barriers to growth and welfare for women, ethnic minorities, the poor, and other vulnerable groups. Component 3 activities, including a grants program, help to influence the policy making and governance arenas. Specific objectives are to mainstream inclusion into law making and governance processes; address policy and legal barriers to equal development for marginalized groups; increase the exercise of citizen rights through awareness and accountability; and pursue inclusive business approaches among government, business, and civil society.

GIG promoted dialogue between the GVN and traditionally disadvantaged groups in public discussions on the Civil Code – incorporating the concerns of transgender individuals, CSOs, academia, ministries, and private sector in the deliberation of the law. The requirement for such participation has been codified in law: the newly enacted Law on Laws requires inclusion of social organizations and individuals in discussions of draft laws. Gender budgeting provisions, recommended by GIG, are included in the new State Budget Law. The new Civil Code, enacted by the NA in November 2015, opened the law making process to include social groups. This more-participatory model of law-making benefits a broader cross section of society, vulnerable groups in particular

Implementation. Ministries are open to international cooperation, and this is even more the case in the NA. The new constitution and broader political trends allow the NA to play a larger role in legislation and in overseeing government performance. NA Deputies and staff are eager to be exposed to different perspectives and to incorporate new ideas into policy development and oversight practices. Growing numbers of NA staff have studied abroad and are more open to international cooperation and institutional change.

There are, of course, implementation challenges. Typical to legislative programs, some relate to the high turnover of NA Deputies. NA staff remain much longer, but without a tradition of strong professional staff many play more administrative or support roles, and do not engage in policy analysis or constituent engagement. A stronger NA will require a greater investment in staff development.

GIG supports several institutions within the NA. These include the Deputies Affairs Commission (which is designing a training plan for new Deputies), the Petitions and Complaints Commission (which facilitates the processing of citizen ideas and grievances), the Oversight Department (which supports NA oversight activities), and the Public Information Department (charged with establishing protocol for relations with the media), among others. In addition, individual committees seek to play a more assertive law-making role, and conduct more aggressive government oversight. GIG works with individual committees on staff capacity development.
Traditionally, the NA has been closed to all but a few outside groups, and some members and staff – not accustomed to working with NGOs and CSOs – raised concerns about their “aggressiveness”. Attitudes vary among different units. Both the NA Library and the Institute for Legislative Studies (ILS) have been open to working with CSOs; GIG created a directory of CSOs useful for library research, and has invited CSOs to ILS events. GIG repeatedly reminds NA partners that the information well-informed CSOs provide can be useful in conducting oversight and making policies, and that some can serve as sounding boards for member and staff ideas, providing diverse perspectives. Receptivity to CSOs varies widely, but is growing. At a recent legislative forum, GIG invited a CSO to provide comments on a law to demonstrate its usefulness to the Law Committee. With the Budget Committee, GIG is making the case for CSO-developed tools which could be used to validate public support for the state budget. These efforts have been helped by clauses in the new Constitution and the newly-passed Law on Laws which endorse public consultation.

Providing legislative support in Vietnam’s unique one-party system impacts project implementation in some interesting ways. For one, there are clearly topics to avoid, such as elections and voting, macro organizational structure issues, religion, or the system itself. Another is that, with only one party, there is no danger GIG will be seen as “captured” by a particular party. And there is some assurance of continuity in partners from election to election. There are also challenges. For example, the institutionalized process for promotion tends to limit, though not eliminate, the potential for advancement for those who challenge authority (which can also be an issue in multi-party legislatures). Another challenge relates to delays in approvals of program activities or changes. Final decision authority rests with high-level leaders, and approvals may be long in coming.

Finally, GIG’s comprehensive cross-sectoral scope and the wide array of government and non-governmental actors with which it works facilitates inclusion of marginalized groups and understanding of proposed reforms in the NA. Legal reforms that GIG works on with government, business, civil society, and marginalized groups eventually arrive at the NA as proposed legislation. Deputies are therefore able to benefit from the expertise, contacts, and range of views GIG’s earlier work provides. The diversity of sources, recommendations and views – from CSOs, ministries, marginalized groups, and the business community – exposes NA Deputies to ideas and views they may not have been exposed to previously.

**Observations and Recommendations**

**Observations**

- *Don’t make assumptions about the political system based solely on its structure.* Ten years ago, a USAID legislative project in Vietnam would not have been possible. Assistance requested by the NA’s ILS in 2009 indicated that change was taking place in the NA and Vietnam. Though still a one-party state, Vietnam’s recent legal reforms and openness to outside involvement in its reforms – particularly in the NA – indicate that the political system is opening.

- *Small focused programs in legislative strengthening can lay the foundation for future, larger investments.* USAID’s early investment in institutional strengthening through Vietnam LRP facilitated GIG’s introduction into parliament.
**Recommendations**

- *Develop DRG projects with the goal of serving as a facilitator of change among stakeholders.* GIG and ProRep play similar roles in very different political systems and contexts. Indonesia is a competitive, multi-party democracy; Vietnam is a one party state that is opening. Both projects use the relationships they establish *within* each component area to facilitate dialogue *across* component areas. Both facilitate civil society participation with parliament and government. Because GIG supports institutional and legal reforms in government, parliament, and society, it can help move reform and include actors across the entire process.

**TOPIC 2: CROSS-SECTOR PROGRAMS: ECONOMIC GROWTH**

2A. USAID/MONGOLIA ECONOMIC POLICY REFORM AND COMPETITIVENESS PROJECT (EPRC) 2003 - 2011

**Background and Purpose of EPRC**

The dissolution of the Soviet Union in 1991 and the termination of Soviet assistance shortly thereafter pushed Mongolia toward rapid economic and political reforms to survive the shock of independence. For 70 years, the centrally-planned Soviet economy supported Mongolia in trade and aid, managed by the Mongolian People’s Revolutionary Party (MPRP) as a one-party state. In the wake of the USSR’s collapse, public demonstrations for political pluralism pushed the MPRP to resign and declare the end of one-party rule. Surrounded by two powerful communist neighbors, Mongolia aligned itself with the US early in its transition to a market economy and democratic society, calling the U.S. its “third neighbor.”

The first decade of multi-party politics included nine elections, three each at the local, parliamentary, and presidential levels. Peaceful turnover of government promised entrenchment of democratic processes; indeed, Parliament passed laws quickly, advancing democratic reforms and incorporating transparency and accountability into policymaking. Yet the parliamentary structure was weak; the policy process rarely invited public debate or research to support reforms, and there was minimal enforcement of laws and regulations. This trend constrained the growth of the economic sector, burdening regulatory frameworks with a multitude of often contradictory policies emerged as government implemented privatization programs through the late 1990s and early 2000s.

The USAID/Mongolia country development strategy released in 2003, designed Mongolia EPRC to advance the CDCS’s Strategic Objective 1: To accelerate and broaden sustainable, private sector-led economic growth. EPRC would do this by “improving the enabling environment for private sector growth, increasing competitiveness of industries and sectors, and expanding economic opportunity for marginalized Mongolians.” (See project objectives in box.) By 2003, 75 percent of Mongolia’s economy was in private hands, up from less than 1 percent in 1990. With EPRC, USAID sought to continue the trend of privatization and reduce policy constraints to competitiveness. The project sought to meet these goals through four project components: economic and trade support, energy sector reform support, improving financial markets, and building consensus among political elites and citizens through public education and a national dialogue.

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<td>(1) To accelerate and deepen the policy liberalization process</td>
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<td>(2) To promote increased competitiveness in the Mongolian economy</td>
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From the start, EPRC emphasized creating working relationships with all major parties, betting against any party or coalition remaining in power for the long term.Forging ties and developing relations with representatives from the ruling party was a fundamental of EPRC’s implementation strategy.

Though not a parliamentary strengthening project per se, EPRC’s work to support the improvement of the business enabling environment led to working closely with MPs and the Parliament Secretariat to help support and develop targeted legislation to implement reforms.

Implementation – Cross-Sectoral Programming

At the start of the project, Mongolia was two years into its transition from a centrally-planned economy and had enacted several laws to support a market economy and democratic society. Mongolia had macroeconomic stability, with low inflation, a steady exchange rate, and slow but positive growth. Nevertheless, high corporate taxes and interest rates, and licensing, inspection, customs, and tax policies stymied growth, discouraging entrepreneurs and foreign and domestic investors.

Mongolia’s unstable, anti-business environment can be attributed, in part, to its shaky political transition process. Shifting from a centrally-planned economy to a market economy is rarely a smooth, linear process, and the experience of this former Soviet state was no exception. After enacting the new constitution in 1991, the MPRP continued to control Mongolia’s transition, paying lip service to economic reform. In 1996, the MPRP faced its first real challenge with the formation of the Democratic Union, a coalition of parties that managed to wrest control of Parliament from the MPRP for the first time. Though the Democratic Union won on a platform of economic reform, at implementation the proposed policies were both painful and unsuccessful, and the country experienced a steep uptick in crime, unemployment, and taxes. The public responded by voting an MPRP candidate into the office of president, dividing the executive and Parliament along party lines. Between 1998 and 2000, political control shifted back and forth, as presidents and prime ministers rotated through office, enacting contradictory reforms as they went. The project kicked off in 2003, after the public had returned the MPRP to power in 2000.

USAID’s workshop report “Taking Forward the Integration of Governance into Development Aid”, notes that “governance has a role in every sector of development programming, and lasting progress often requires institutional changes.” EPRC’s twin goals of promoting increased competitiveness and accelerating the policy liberalization process reflect this idea of integrating programming objectives. The project’s tax reform intervention showcases practical application of this idea.

Why Tax Reform?

EPRC prioritized tax reform because the tax system’s inefficiencies prevented Mongolia from leveraging its comparative advantages in the world market. Exports of raw materials such as metals and minerals supported the economy, but the value of other exports was minimal. The government of Mongolia (GOM) recognized that a reformed tax system was needed to promote private sector-led economic growth and to make Mongolia’s economy more competitive.

Prior to reform, Mongolia’s tax system discouraged investment and growth by burdening tax payers and small businesses with inconsistent and often contradictory regulations and provisions developed piecemeal by successive post-Soviet governments since 1991. Discouraging economic development, the system encouraged a shadow economy, acted against job creation, and discriminated against domestic
businesses. The GOM was determined to enact and implement a ‘competitiveness-based’ tax reform package, with the following six interrelated objectives:

1. Increase country competitiveness by lowering the tax burden on businesses, enabling job creation
2. Expand the Mongolian economy by reducing the tax burden and labor costs on wage earners
3. Simplify tax administration procedures to reduce compliance costs and arbitrariness, reducing the size of the shadow economy and expanding the tax base
4. Support domestic investors by removing discriminatory tax provisions and adjusting taxes to favor domestic production
5. Shift the tax burden from investment/production toward consumption/ownership
6. Preserve a sound fiscal environment

In its first year, EPRC led a review and analysis of the tax system, identifying the reforms needed to improve country competitiveness. Through a series of interviews with public and private sector stakeholders, including ministry staff, policy advisors, representatives of international NGOs, and the heads of large private corporations, the project gathered information on potential challenges to a tax reform process. These challenges included political dynamics that might not have been noted in reports and papers on the subject. For example, in one interview, the economic policy advisor to the Prime Minister stated, “It is not easy to carry out economic and political reforms together because they compromise the election manifestos of both parties. However, both parties have made a commitment to reduce taxes.” Former EPRC chief of party Fernando Bertoli attested to this as well. According to Bertoli, the Ministry of Finance, headed by a member of the Democratic coalition, was responsible for writing tax legislation, but the MPRP-controlled Parliament received it for passage, amendment, or rejection. Given the competing political priorities between government and parliament leaders, EPRC’s main challenge was to facilitate moving tax reform through both government and parliament.

The project created a matrix and work plan at the end of project Year 2, prioritizing the proposed reforms based on their impact on job creation, formalization of employment, and competitiveness. Over the course of several months, EPRC engaged the GOM in considering the review in its economic policy reform agenda. Throughout this process, Bertoli emphasized that it was crucial for EPRC to empower the counterparts in government and the legislature to take ownership of the reform process through communication. In spring 2005, EPRC helped the Office of the Prime Minister develop a “Communications Strategy to Support Tax Relief” for the GOM to engage the public in the reform process. This plan identified the lack of political unity between and within the government and legislature as a hurdle to implementing tax reform. Besides providing technical support, EPRC would need to act as a facilitator to help develop political and public consensus on the reforms.

With an expanded role of facilitator in addition to technical assistance provider, EPRC worked closely with Parliament and arranged in early 2006 the first of five weekend retreats to review and discuss objectives of the reforms. The project helped prepare alternative revenue scenarios and potential fiscal and economic impact of diverse tax measures for discussion and consideration during these retreats. Using a general equilibrium model of the Mongolian tax system developed with EPRC assistance, MPs were able to examine the potential fiscal and economic impact of specific tax reform proposals. EPRC supported Parliament ownership of the process by submitting a draft agenda of issues ahead of each
weekend retreat to the Chair of the PTWG. After internal discussions within Parliament, the agenda was approved, modified as needed and MPs nominated as chairs or presenters of the technical topics for each retreat.

To help make the process of drafting tax legislation more transparent and inclusive, EPRC proposed and facilitated participation of representative private sector and business leaders in the Parliamentary Tax Working Group. Sustained work with Parliament and participation of private sector and civil society led to enactment of new tax laws for personal income, corporate income, and substantive amendments of the value-added and administrative tax legislation.

**Successful Implementation**

The project’s successful tax reform intervention hinged on its focus in helping Parliament take the lead in the reform process and facilitating the inclusion the executive branch, private sector and civil society.

In the project’s midterm review, the review team commented on EPRC’s success in continuing to facilitate the tax reform process throughout Mongolia’s shifts in political power. According to the midterm report, EPRC’s strategic decision to engage with Parliament helped facilitate communication – and the reaching of agreements – among the institutions and individuals who had to agree if tax reforms were to be enacted. Based on an analysis of stakeholders in the process of tax reform, EPRC built relationships with representative business and private sector organizations to help develop public consensus and support for new tax legislation. As noted in the USAID’s integrated programs workshop, a political economy analysis that identifies stakeholders in a reform process and facilitates public dialogue are key requirements for program success. The USAID-supported 2005-2006 tax reform process of Mongolia provides a successful case study of how Parliament, with proper program support, can take a leading role in fostering public dialogue and consensus to help enact deep systemic reforms.

The impact analysis of the first three years of implementation, included in EPRC’s final report, showed that the reforms uniformly and measurably met their objectives. The tax reform code simplified laws and regulations, improved access to a legible tax code, expanded the tax base, and increased tax revenue over and above underlying economic growth. Broad political consensus and close collaboration among all parties brought the Mongolian tax code in line with best practices and delivered measurable and distinct benefits to the economy. From a legislative strengthening perspective, the tax reform intervention was continually referenced throughout project reports as an example of successful parliamentary engagement.

**Observations and Recommendations**

**Observations**

- *In democracies, successful economic reforms are built on successful political processes.* Without the facilitation role played by Mongolia EPRC, Mongolia’s tax reform might not have occurred, or might have been partially complete and less successful.

**Recommendations**

- *Consider trust and relationship incentives.* EPRC analyzed the political power dynamics, both of those in government and in opposition, and developed relationships with multiple actors (government, legislature, majority parties, and opposition parties). It drew on these relationships of trust to continue pushing economic reform forward despite changes of parties in power.
In cross-sectoral programs, focus on engaging with the legislature and defining its role from the start. Encourage engagement by creating opportunities for parliament’s involvement and delivering on promises to train and facilitate parliament’s role in a reform process.

2B. USAID/KOSOVO BUSINESS ENABLING ENVIRONMENT PROJECT (BEEP) 2010 – 2013

Background and Purpose of Kosovo BEEP

In recent years, Kosovo has demonstrated strong commitment to and progress in maintaining overall macroeconomic stability while transitioning to a market-based economy. Yet advances made are threatened by two realities: underemployment, and a governance and legal environment for economic activity maintaining vestiges of the socialist era. In 2009, the U.N. reported that nearly half of Kosovars derived all income from informal trading, with limited access to formal employment at a small, medium or large enterprise. Kosovo’s economy is dominated by these small and micro-enterprises, including sole proprietors, and has few medium and large enterprises. These enterprises are both state-owned and privately held. Kosovo’s economy is micro, and struggles with economic policy and practices structured for economies that are larger and more dynamic, creating a system of miss-sized government intervention and constraints on growth. USAID/Kosovo determined that improved policy and governance focused on wealth and job creation, appropriate to the reality of the environment, was critical for the country’s development. Accordingly, it made private sector growth a priority with the Business Enabling Environment Program (BEEP), launched in July 2010, leading the effort. BEEP’s overall objective was to create an economic policy and governance environment in Kosovo with reduced barriers to economic growth, more efficient and effective government, and overall market liberalization.

Implementation and Project Objectives and Accomplishments

Kosovo BEEP was an economic growth project, aimed at stabilizing and improving the enabling environment for business development. Working both at the national and local (municipal) levels, the three-year program included three project components:

1. Improved rules and regulations
2. Lower trade barriers
3. A more efficient financial sector

The Project worked closely with key executive branch government bodies, and also partnered closely with representatives in Parliament. As the Project addressed policy, which included acute attention to the entire policy-implementation process, work incorporated executive branch drafters and implementers of policies, laws and regulations, and the deputies in Parliament who received laws initiated by the Government, but who also reviewed and decided on laws in partnership with Government representatives. As such, although an economic growth Project, USAID BEEP straddled issues and policies normally addressed through both economic growth and democracy and governance programs, providing a comprehensive and deep approach to economic growth and the government systems, operations, and actions, that either support it or constrain it.

Working to improve the transparency of the regulatory environment, BEEP supported reforms and institutional mechanisms to support inclusive policy-making and transparency. In addition, as the project
Initiated not long after Kosovar independence in 2008, BEEP was designed to swiftly improve Kosovo’s system of economic governance and thus catalyze the new nation’s economic growth and sustain it over time.

At the start of the project, Kosovo was ranked at 113/183 countries in the World Bank’s Doing Business (WBDB) survey, highlighting the legal and regulatory framework challenges to economic growth. At the outset of the project, the GOK had used the WBDB survey as a ready-made needs assessment, and set a goal of achieving a “top 40” ranking by 2014, one year after BEEP would end. Setting this goal helped BEEP establish a foundation for project assistance in coordination with the government. In our interview with BEEP senior staff, they noted that the project did not simply respond to the WBDB recommendations; it used them to illuminate the underlying legal framework and institutional practices that gave rise to similar problems not captured by the WBDB indicators. The project used this analysis to identify specific issues to be addressed by the GOK and parliament, and to identify targeted, comprehensive reforms that must be addressed to resolve the issues underlying Kosovo’s economic problems. Successfully responding to these recommendations would improve Kosovo’s WBDB ranking, and was intended to focus international attention on Kosovo’s reform process, and thus incentivize further reform. WBDB became a reference point for the GOK and BEEP in their discussion of reforms, and BEEP leveraged the empirical evidence of other countries who had responded to WBDB recommendations as support for reform.

Reforming the Official Gazette The government was anxious to move swiftly forward with its plan, and BEEP responded by producing an analysis of the Doing Business recommendations and beginning an inventory and analysis of laws and regulations for amendment. While conducting its analysis, BEEP realized that parliamentarians, government staff and private sector stakeholders were unable to identify all normative acts restricting the business environment. The only resource for government and parliamentarians was a disorganized and out-of-date periodical called the Official Gazette. The Official Gazette did not present laws in an organized and systematic format, was not current, and was not user-friendly for either parliamentarians or the public. As a result, businesses and interested parties had to go to extraordinary lengths to search for information on any and all legal requirements including how to legally register and operate, and to know their legal rights and obligations. Without a system and framework for knowing the parameters of already-enacted laws, policymakers could not develop cohesive legal regulatory frameworks, build on existing frameworks, or conduct necessary research on policy.

Collaborating with the Legal Office, the Ministry of Public Administration, and the Office of the Official Gazette of the Office of the Prime Minister, BEEP assisted the government in determining that an organized database would stimulate reform and growth. Use of this database was codified through the introduction of legislation that mandated that all future regulations adopted by the government be published and cross-referenced within the database. BEEP then co-sponsored a working group to review the regulations and make recommendations for establishing and maintaining the searchable legal database. BEEP served as a facilitator for the process, sponsoring the working session that reviewed all existing Administrative Instructions (AI), and eliminated all outdated, excess and illegal regulations, finally identifying 1,500 AIs to be uploaded into the legal database.
Further complicating the plan were concerns that ministry heads would react strongly as BEEP and the committee reviewing legislation slashed excess regulations, sub-normative acts, legal permissions, inspections, and permitting and licensing processes. The incumbent system allowed corruption and special interests to flourish, leading to concerns that the project’s proposed reforms would be seen as disrupting the status quo. Additionally, many executive bodies relied on permits and licenses to raise revenue, thus reform that reduced and simplified permitting and licensing was not necessarily welcome. To counter the entrenched system, BEEP would rely on the steadily growing political will from beneficiaries and counterparts.

Because the Official Gazette (OG) was a legal service under the Office of the Official Gazette (OOG), BEEP relied on administrative support and partnership from the OOG and from the Office of Legal Support Services (OLSS), the Office of the Prime Minister’s supervisory branch for all legislation. Since the new database would be building on and incorporating some existing features of the old system, OOG and OLSS support was a necessity. Even though the head of the OOG had expressed great satisfaction with the cooperation between BEEP and the OOG, implementation moved slowly at first due to the OOG’s limited administrative capacity. Further, the OOG and OLSS were peer bodies within the Office of the Prime Minister, making their equal commitment and coordination all the more important to success.

Another challenge cited early on was the possibility that the new OG might still be inaccessible to the public and might not be updated regularly. This had happened in the past with the Official Gazette, and was primarily due to its glitches and the inefficiencies of the system which did not make it a good resource. To counter this, the project proposed accompanying legislation in the form of the Law on Normative Acts, which mandated that all legal acts be uploaded to the OG and cross-referenced for ease of use. This law included guidance on the legal drafting process, as well as a mandate for all legal acts to undergo a period of public notice and comment. Simultaneously, the project leveraged their good working relationships to pursue a successful approach of advocating for mutual trust and acknowledgement of the benefits of a fully stocked database among parliamentarians and policy-makers.

**Supporting inclusive governance.** Kosovo’s politics were enveloped in a larger international dynamic; Kosovo’s transition to independence and increased ownership aligned with the progressive withdrawal of the United States from supervised independence, and coincidentally with project implementation. This complicated BEEP’s goals and the functions of the GOK. According to project staff, politicians in all branches of government were sensitive to remaining independent in their policymaking. As a USAID project, BEEP worked delicately to implement on behalf of the United States, building relationships with individual counterparts in Government and Parliament. Securing those relationships helped position the project to encourage reform from within, building ownership and self-dependency for support. As BEEP built trust, the project was able to assist in building stronger links between Government and Parliament, and to encourage Parliament to be more inclusive in policy-making.

One such example is the project’s support of the Ministry of Environment and Spatial Planning (MESP) reforms. With USAID/BEEP’s assistance, MESP adopted an approach of soliciting and giving due deference to public comment, a new practice for the ministry. As the first Ministry to do so, MESP became a champion of reform for inclusive policy-making. In the areas of construction and spatial planning, the Ministry undertook wide-ranging outreach efforts to promote public participation in the development of the Laws on Construction and Spatial planning as well as other related reforms. With BEEP support and guidance, MESP held 5 regional training workshops, two public outreach sessions on
the code, and ran media campaigns and broadcasted reform messages through television, newspaper, brochures and online advertising. Participatory governance is an emerging practice in post-socialist transitioning countries like Kosovo.

**Accomplishments.** By building relationships between counterparts and the project, and committing strongly to the role of technical advisor and neutral facilitator, BEEP managed to build inclusivity into governance, strengthening the links between Government and parliament, as well as between parliament and the public. Further, BEEP’s facilitative approach resulted in the successful launch of the new OG. The process, which lasted over the three years of project implementation, finally came to fruition in the last month of the project, leaving the follow-on project to report on results. USAID’s Partnerships for Development (PFD) continues to work with Ministry staff and parliamentarians to upload and use the resource. Arben Krasniqi, Legal Officer in the Ministry of Public Administration reports, “I am directly and positively affected by these reforms, incorporation of sub-legal acts in the Legal Information Database will help all interested actors, civil servants [at] central and local [levels], citizens and businesses [have] easier, faster, and accurate access in legal information.” The OG currently reports 3,000 unique hits per day from a variety of devices and from individuals in both public and private sectors. Finally, project assistance supported the government to advance some of its goals including the WBDB status. In the WBDB 2014, Kosovo was recognized as a top performer. Kosovo’s moved from number 113 in 2010, to 86 in 2014.

**Observations and Recommendations**

**Observations**

- The analysis of a country’s economic environment for an economic project can identify governance shortcomings to be addressed through cross-cutting DRG programming. Assessing the economic environment revealed fundamental gaps in the regulatory and legal frameworks that the project could address. One example was the Official Gazette, the legal information database, a necessary tool for any functioning parliament and government. As many enabling environment projects do, the project became a parliamentary strengthening project as well as an economic growth project due to the inherent interaction of governance and economics. Parliamentary engagement is necessary for economic growth policies, and the project acknowledged that by working as a facilitator between the Executive and Parliament to develop an essential resource for evaluating laws and regulations and propose alternatives.

**Recommendations**

- **When appropriate, use international standards and incorporate economic growth analysis as tools to leverage political will.** The WBDB indicators helped motivate economic governance and Parliament reforms in Kosovo, Mongolia, and Vietnam. Leveraging the WBDB tool, Kosovo BEEP created a shared plan for development with its counterpart. This created an accountability system between the counterpart and the project that was not only project specific, but was also important for the country’s global standing.

- **When possible, use follow-on projects to ensure continued adherence to institutional changes.** USAID/PFD successfully incorporated the OG into programming and into program strategy. The project continues to upload policy and record policy processes in the OG, and stakeholders and parliamentary members report regularly using the OG.
Background and Purpose of Vietnam GIG

This is the second of a two-part case-study on the five-year USAID/Vietnam Governance for Inclusive Growth (GIG) Program. Part 1 described the background and purpose of the project and focused on GIG Component 1, improving legal and regulatory frameworks and Component 3, improving inclusion and equality for marginalized groups. (See GIG Cross-Sectoral Case Study.) This case study examines GIG’s Component 2, improving accountability of public institutions.

Recognizing that effective policy implementation requires effective oversight, GIG seeks to help improve the accountability of public institutions on policy implementation through improved oversight, citizen participation, and increased transparency. GIG’s accountability charge is to increase access to information by the public about government programs, activities, and performance; and to improve public outreach to the media, citizens, and the business community to report on accountability and inclusiveness of public institutions.

Implementation — Project Challenges and Accomplishments

Under its Component 2, GIG supports the National Assembly (NA), some departments within the Ministry of Finance, the State Audit Office of Vietnam (SAV), and citizen groups to: (1) strengthen government oversight processes; (2) strengthen citizen participation in monitoring and evaluating policy implementation; (3) increase the effectiveness of transparency on policy implementation; (4) improve the quality of information and analysis for evaluating policy implementation; and (5) improve the quality of the media’s reporting on policy implementation. GIG activities supporting the accountability component have included the following:

*Strengthen government oversight processes.* GIG supports the NA and its Standing Committee, the Law Committee, the Oversight Department, and the SAV to help strengthen their oversight processes. Recent changes in law have expanded and clarified the oversight roles of these institutions, and GIG support has been especially timely, as it is designed to assist with regulatory changes, development of new systems and processes, and training for Deputies and staff on fulfilling their expanded mandates. GIG support has included, among other activities:

- Developing regulations and details of oversight activities of the NA and its Standing Committee
- Providing the Standing Committee with resources and cooperating on development of procedures for managing information requests, complaints, and petitions
- Assisting the NA Law Committee to conduct Q&A sessions (deliberative consultations)
- Coordinating with the Oversight Department on developing oversight procedures and rules
- Conducting an oversight training needs assessment for NA deputies and staff
- Supporting the development of public procurement mechanisms
- Supporting SAV to implement the new State Audit Law
- Developing a model of operational divisions in units performing audit operations
- Providing organizational support on SAV’s structure and roles of departments
- Conducting a needs assessment and providing training for staff of the new NA Oversight Department
- Analysis of laws on state audit institutions, harmonization on the State Budget Law, and improving transparency in the state budgeting process
- Developing regulations on the order, sequence, and details of oversight activities of the NA and its Standing Committee – this includes introducing gender mainstreaming

To strengthen citizen participation in monitoring and evaluating policy implementation, GIG is initiating a constituent engagement pilot program to inform Deputies on how to process constituent requests under current laws and regulations. GIG activities to increase transparency on policy implementation include: (1) supporting law implementation and tool development to enable citizens to provide feedback on how effectively laws are being implemented; (2) working with the Public Procurement Agency (PPA) to improve public procurement mechanisms; (3) assessing e-procurement practices in Vietnam and developing a roadmap for possible improvements; (4) organizing budget review training for Committee staff; (5) convening regular law forums for stakeholder, citizens groups, and GVN representatives to discuss and provide recommendations on foundational draft laws; and (6) supporting implementation of the State Budget Law.

GIG works to improve the quality of information and analysis for evaluating policy implementation effectiveness by, for example, reviewing and enhancing the NA Library’s capacity to support legislative forums and dialogues. GIG is supporting the improvement of the quality of the media’s reporting on policy implementation by conducting a needs assessment and drafting and implementing an action plan to improve NA media relations, build staff capacity, develop tools (such as a website), and train spokespersons.

**Implementation issues.** Not surprisingly, there are challenges associated with facilitating the implementation of so many profound changes. Both the NA and SAV were given expanded oversight powers in the revisions to the 2013 Constitution. Some leaders are hesitant to fully exercise their authorities and act independently. The SAV is highly centralized, which can lead to delays.

The NA comprises full-time, and part-time Deputies – in some ways similar to the system of ministers, deputy ministers, and back-benchers sitting in many Commonwealth models. Part-time Deputies actually work for government, and therefore have limited incentive to oversee the government they serve. GIG has been able to identify key NA committees, led by full-time Deputies, who are interested in pursuing an oversight agenda. GIG has also started working with NA staff to improve the quality of oversight actions. By identifying key actors with the proper authority and political will to oversee the government, GIG has helped the NA begin to improve its oversight of government.

The approval system for GIG’s work plan and activities is an annual process. The Ministry of Justice (MOJ) is the government agency responsible for approving GIG work plans and activities, including with the NA.
Vietnam has a few influential CSOs with access to key decision-makers, but these tend to be conservative when it comes to making recommendations to decision-makers\(^6\). To encourage greater CSO impact, GIG, in its role to support the review of laws and policies, has been able to engage a number of additional citizen groups and provide their recommendations to the drafters of laws and regulations.

As for public participation, GIG is working with citizen groups to align their work with the objectives of the government. This is not to diminish the value of civil society, or to suggest that civil society only exists to serve government objectives. Instead, by demonstrating the value of civil society ideas and contributions, GIG hopes to encourage the government to solicit greater input from citizens during the process of developing and overseeing the implementation of laws.

**Observations and Recommendations**

**Observations**

*Institutional understanding fosters accountability.* One of the chief obstacles to effective accountability practices is a lack of a full appreciation (on the part of both the government and the NA) of the role of the other. Working with both, GIG is able to bridge that gap in understanding. Working with several government counterparts allows the project to connect programs with government and with accountability institutions. Partnering with four ministries, in addition to the NA and SAV, allows GIG to connect its programs with government and with accountability institutions through shared fora, training programs, and consultations.

**Recommendations**

*Direct technical assistance should be favored over budget sharing or direct payments.* In providing direct technical assistance, rather than budget sharing or direct payments to the government or government officials, the GIG Program has had greater leverage in facilitating change than would occur through budget support. The USAID approach has focused project partners on the specific consultations and technical assistance provided, rather than on money transferred or the size of the program’s budget. As a result, GIG has been able to substantively engage directly with the government and NA on key reforms.

**3B. USAID/INDONESIA PROGRAM REPRESENTASI (PROREP) 2011 – 2016**

**Background and Purpose of ProRep**

ProRep is a five-year DRG project that has existed under two USAID/Indonesia CDSCs. During ProRep’s three-year base funding period, the project provided institutional support to – and strengthened links and working relationships among – Indonesian CSOs, research institutions, and the Parliament. Toward the end of its base period and into the project’s fourth year, ProRep built on the base year program and developed and then implemented a policy cluster, or policy community, approach. (See USAID/Indonesia Program Representasi (ProRep) 2011 – 2016 under Topic 1: Cross Sector Strengthening Programs (p.4) for details on the country context, why ProRep was established, and how it developed its policy cluster approach.) Briefly, ProRep developed its policy cluster approach in 2014, bringing together CSOs, policy experts, and policymakers to pursue policy reforms in education, health,

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\(^6\) The Vietnam Fatherland Front (VFF), for example, has special status in the Constitution and key legislation to serve as a conduit between citizens and government.
Anti-corruption activists in the focus group appreciated ProRep’s policy cluster approach that dedicated resources and would assign responsibilities (based on the agreement of the activists) for overall coordination of the new effort.

and environment. ProRep’s objective is to connect people, experts, and policymakers to improve public policy and representation. Early in 2015, USAID requested that ProRep use its Strategic Activities Fund (SAF) to develop a new anti-corruption focus to its program.

Developing the Democratic Rights and Governance Cluster

Indonesia is known both for its high levels of corruption and for the effectiveness of its anti-corruption agency, the Corruption Eradication Commission (Komisi Pemberantasan Korupsi or KPK). Established in 2003, the KPK is among the most aggressive anti-corruption agencies in the world. It has a 100 percent conviction rate in bribery and graft cases related to government procurement and budgets, and these convictions have resulted in several high-level government officials spending years behind bars. Not surprisingly, this has led to pushback by political elites who benefit from this corruption. Indonesia’s National Police have, in the past, arrested KPK deputy chairmen on charges of bribery and extortion, but have stepped up their attacks on the KPK – even against anti-corruption civil society actors – since the election of President Jokowi in 2014. In January 2015, they arrested Deputy Chairman of the KPK Bambang Widjojanto after Bambang named the chief candidate selected to lead the National Police a corruption suspect. Activists argue that the anti-corruption pushback intensified as KPK commissioners started collecting evidence of corruption within the lucrative mining, oil and gas, and forests sectors, and that a more resolute opposition - including police, military, politicians, and businessmen - developed.

Given increased opposition, USAID/Indonesia’s desire to provide the KPK and the anti-corruption movement with additional support, ProRep’s success with its policy cluster program in 2014 and early 2015, and the availability of a flexible SAF to support anti-corruption activities, USAID DRG requested that ProRep quickly develop a Democratic Rights and Governance Cluster. The cluster would protect the civil society movement from pushback by the National Police and other organizations in the government, and bolster their anti-corruption program.

Program response. A robust and well-established civil society anti-corruption movement already existed in Indonesia, so the week after receiving the request from USAID, ProRep invited several organizations involved in anti-corruption efforts to a focus group discussion to learn about the challenges they were facing, and to discuss program approaches and activities they would find most effective. The focus group was facilitated by the Director of Transparency International Indonesia (TII) and attended by staff of the KPK, USAID, and several CSOs involved in anti-corruption activities. Participants made several recommendations and suggestions for bolstering public opinion in support of the KPK and the

7 According to Carothers and Brechenmacher, some governments, while they “have rhetorically embraced the value of accountability, transparency, participation and inclusion,” they “remain fiercely opposed to incorporating” them. (Carothers and Brechenmacher, Accountability, Transparency, Participation, and Inclusion: A New Development Consensus? Washington, D.C., 2014, Carnegie Endowment for International Peace, p.2.) In Indonesia, it is more accurate to say some parts of government are fiercely opposed to incorporating these principles, and chief among them has been the National Police.

8 Rachel Kleinfeld notes in Improving Development AID Design and Evaluation that political reform programs are different than other forms of development programming, and one aspect of that difference is that there is an opposition fighting back. It is important for donors to have plans for dealing with counter-reform (pp.12-13).

9 Component 4: Providing timely assistance for special initiatives needed to protect or advance democratic governance. ProRep will enable USAID to respond flexibly and rapidly to address other unanticipated needs and opportunities pertaining to the protection and advancement of democratic governance in Indonesia. ProRep Contract, p. 38
ongoing anti-corruption fight, and specifically for countering the recent “criminalization” efforts of police who were attempting to weaken and discredit anti-corruption officials and activists. Based on the findings of this focus group discussion, and a subsequent coordination workshop with a wider group of stakeholders, ProRep designed its program. The project began implementing some program activities during the next several weeks, while the bulk of the program began with grant awards.

The Democratic Rights and Accountability Cluster Rights and Accountability Cluster is, primarily, a horizontal program – based in civil society, but with a vertical reach – dealing with policy and national-level policymakers as well. The first of the two areas comprises grants and activities to strengthen and enlarge the anti-corruption network, and funds (1) consolidation workshops for the network, (2) parallel workshops to develop implementation plans, (3) management and coordination of the anti-corruption coalition (for daily operation of the coalition, coordination meetings, publishing a book and/or documentary films regarding the anti-corruption movement), and (4) targeted public education and campaigns to help extend the anti-corruption campaign. This includes support for activities exposing engineered “criminalization” cases (i.e., where police falsely arrest, charge, or harass anti-corruption officials or activists) in 10 cities around the country. The project also supports public information campaigns in religious boarding schools as a means of changing public attitudes toward corruption.

Advocacy and policy efforts relate to the selection of new KPK Commissioners (current commissioners’ terms conclude in December) and policy research and advocacy with government and Parliament. It is difficult to overstate the importance of selecting honest, courageous KPK commissioners to Indonesia’s anti-corruption fight, and their appointment is hotly contested. It is critical that the anti-corruption coalition has a voice and some influence in the process. Support here is facilitating the Indonesia Corruption Watch (ICW)-led coalition of CSOs who are assisting selection panel members by “tracking” candidates (i.e., conducting extensive research on their backgrounds), monitoring the “fit and proper” test in Parliament, and supporting the public education campaign related to the process.

On the policy front, ProRep is providing grant support to the Institute for Criminal Justice Reform (ICJR), and the alliance of CSOs it leads to ensure that their positions are factored into the debate on the Bill of Criminal Code in 2016. This sweeping legislation will, among many other provisions, define crimes, determine in which courts they will be prosecuted, and amend human rights provisions. Under current law, corruption crimes are prosecuted in the Corruption Court. Experts fear that prosecuting these crimes in other courts – as proposed in draft legislation – would likely reduce convictions. ProRep will facilitate CSO interaction with expert staff of DPR (parliament) Commission 3, helping CSO experts package and time the delivery of their policy papers for greatest impact, and ensure the greatest possible hearing for their proposals. The project is doing the same in preparation for other anti-corruption related legislation in the upcoming 2016 Prolegnas – the joint executive-legislative legislative agenda. ProRep links into the DPR and relations with the professional staff – developed during the program’s first phase – enables ProRep to better assist CSO partners in their interactions with the DPR, especially through ATAP.10

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10 ProRep helped to establish ATAP, the association of professional staff of the Indonesia Parliament, during project phase one.
Recommendations

- **Build financial flexibility into project design to counter political pushback.** Responding to the political realities, USAID asked ProRep to add a new governance and accountability policy cluster to support civil society groups, expose pushback, and ensure that legislation didn’t weaken anti-corruption provisions. This was financed through the SAF, a mechanism which gives USAID the flexibility and resources to counter likely pushback against political reforms and reformers.

- Leverage existing societal associations or movements to ensure an appropriate response to the political context and sustainability. With reform movements already in place, working with them is much more efficient than making something new. Getting in step and working with Indonesia’s anti-corruption movement allowed for quick start up and, likely, greater sustainability. The policy community approach requires that all grantees in the community collaborate, work together in making decisions, and support one another’s advocacy work. Giving partners a voice in the shape, direction, and even resource allocations can also strengthen collaboration. ProRep’s experience has been to trust senior local staff, rather than expatriates, as interlocutors and main drivers of that processes.

**TOPIC 4: IMPLEMENTATION AND EVALUATION**

4A. USAID/VIETNAM LEGISLATIVE RESEARCH PROGRAM (LRP) 2011 – 2013

**Background and Purpose of LRP**

In May 2009, Dr. Dinh Xuan Thao, a Member of the National Assembly and President of the Institute for Legislative Studies (ILS), contacted USAID and requested its assistance to strengthen the ILS. U.S. – Vietnam relations were warming. For Vietnam, better relations with the United States would mean the U.S. serving as a counterweight to a rapidly growing China, and American support in Vietnamese economic expansion and trade. But because of U.S. pressure on human rights, and a suspicion that the U.S. wanted Vietnam to end Vietnamese Communist Party (VCP) rule, Vietnam remained cautious. For the United States, Vietnam plays a key role in the rebalance of the current administration toward the Asia Pacific region. Vietnam had enjoyed one of the world’s fastest economic growth rates, and the U.S. wished to deepen and expand its ties to Vietnam and support Vietnam’s economic growth. To do so would mean helping Vietnam deal with challenges in rule of law, regulatory frameworks, human rights, corruption, low accountability, and limited human and institutional capacity.

A one-party state ruled by the VCP allows most forms of personal and religious expression, selectively cracking down on dissent. While the role of the VCP is dominant in

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11 See Kleinfeld, p. 32. "... funders must engage locals who are more passionately dedicated to the cause than the outsiders are, and who have local support.”
politics and society – setting general directions for policies – the details of their implementation are generally left to the state bureaucracy and the NA. The Assembly has slowly increased its influence over the past several years and is no longer just a rubber stamp (see box). Vietnam’s leadership is trying to counter the VCP’s declining influence, a key problem being rampant official corruption. Given the U.S. interest in establishing ties with GOV, improved relations with the NA could play a useful role.

How the project came to be. In his May 9, 2009, letter to USAID, Dr. Thao said, “We propose a project of capacity-building activities . . . focusing on improving the capacity of staff, both in research skills and practices, study visits, exchange of research materials, support to build a comprehensive database for members of the National Assembly, skills to collect, analyze and provide information to the NA members. . .We would like to inform you that as of this meeting session of the National Assembly on May 20, 2009, we will take over the functions and tasks of the ONA (Center for Information, Library and Research Service) in delivering all information services to members of the National Assembly.” 12 USAID responded and contracted MSI to field a team of experts, led by former CRS staff person William Robinson, to conduct an assessment of ILS needs and appropriate program activities to strengthen ILS. The team was fielded in January 2010, delivered their report the following month, USAID released the RFP in March 2011, and Chemonics signed the contract in September.

Implementation – Project Objectives and Accomplishments

LRP was a tightly defined and focused parliamentary project. Over the 18 month period, the four program components intended to:

1. Assist the ILS in creating a five year strategic development plan
2. Improve the relevance of the information, research, and analytical services provided by the ILS
3. Build the skills, capacity, and expertise of ILS staff to provide high quality legislative research and policy analysis
4. Improve the organization and management of the ILS

The project’s overall goal was to assist the ILS to become the Vietnamese National Assembly’s leading center of information, legislative research, and policy analysis – and it did. LRP organized 14 institutional strengthening seminars, seven legislative skills workshops, six national policy symposia (and separate, but related, staff workshops), and an ILS study tour of the Polish Sejm’s Bureau of Legislative Research. These activities drew more than 1,200 participants, almost all of whom were ILS and NA legislative staff and Members of the NA. A survey conducted by LRP at the conclusion of the project showed that 74 percent of the NA Members participated in at least one of the project’s events and 99 percent rated the activities as “worthwhile” or “very worthwhile.” According to chief of party Reginald Todd, these events were successful because they were jointly designed and conducted by LRP and the ILS (and thus had “buy-in” and the full support of the ILS), and because the activities were based on the needs of the ILS as identified in a human and institutional capacity development (HICD) assessment conducted by LRP early in the project’s development.

LRP assistance helped the ILS improve its services to NA Members. In a February 2012 LRP survey, NA Members indicated that they were very pleased with the quality and relevance of ILS’ work, but that not

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12 Letter from Dinh Xuan Thao, President of ILS, to Mr. Frank Donovan, USAID Vietnam Representative, May 9, 2009.
all of their requests had been answered in a timely manner, and that almost one in four of their requests (23 percent) had received no answer at all. To address these concerns, LRP and ILS staff analyzed the critical path of Member requests from the time they were received to the time they were answered and made a number of adjustments in the process to improve the response rates. In 2013, LRP’s Member survey showed that the ILS had responded in a timely manner to 95 percent of all document requests (up from 84 percent in 2012); 100 percent of all requests for quick-information (up from 86 percent); and 91 percent of all in-depth legislative research requests (up from 63 percent the previous year). The ILS had also responded to 100 percent of all Member requests for policy analysis (up from 73 percent in 2012).

The project procured 20 computers, three laser printers, and three high-speed photocopiers for the ILS. A survey of ILS computer and office equipment undertaken as part of the project’s HICD assessment found that only 32 (62 percent) of 52 ILS full-time professionals had direct access to a computer. Even more surprising was that most of those without computer access were ILS information specialists and legislative researchers. The new equipment gave 20 ILS staffers direct access to the Internet – and to each other. They no longer have to lease computers.

A former LRP staff member, now working with the NA on the USAID Governance for Inclusive Growth (GIG) Project, says that MPs now routinely go to the ILS for research assistance. ILS staff can recount the specifics about what they learned in LRP training, understand the importance of keeping their briefings short, and know how to focus on the key issues. GIG continues to support policy analysis training for ILS.

**Project Challenges**

*Securing formal commitment from the National Assembly.* Given the NA’s specific, formal request for assistance with the ILS, a lack of buy-in from the broader institution may seem odd. In fact, Dr. Thao’s request to USAID for development assistance with the ILS was his request, not the wider National Assembly’s. Prior to USAID agreeing to fund this project, Dr. Thao had promised that the Prime Minister’s office would officially approve it, but at the end of the project’s life the approval had still not come. After the contract was awarded, the beneficiary had little incentive — and neither the Mission nor the contractor have the leverage — to aggressively pursue official project approval or substantive commitments to the project. Although the lack of government approval or a letter of understanding did not prevent implementation of any work plan activity, it did prevent a proper launch of the project and delayed start-up because the ILS, USAID, and the project team were all hesitant to begin work without an official blessing. Lack of formal government approval can also be problematic on administrative issues, such as reimbursement of value-added taxes. A letter of understanding details the commitments and clearly establishes the roles and responsibilities of the host-country government, USAID, and the contractor. It also allows the contractor to be decisive in implementing work plan activities because activities have been pre-approved by the two principal parties.

On the other hand, it is revealing to see how much latitude an individual member of the NA had in developing and implementing this program without formal approval from the Prime Minister’s office, particularly in a one-party state. Greg Power reminds us that, “…parliaments are rarely monolithic or coherent institutions, but are frequently in a state of flux as competing and shifting sets of interests seek to shape how the institution is run, and how it takes (or avoids taking) decisions.” (Power, G. 2011, p. 15). A number of parliamentary projects have been initiated without initial agreements with host parliaments.¹³

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¹³ USAID’s legislative programs in Mexico in 1998, and in Kenya in 2000, for example.
and it is often the case that MPs other than Speakers are the leaders in building the powers of parliaments (Power 2011, p. 15).

**ILS not receiving funding directly.** Another challenge, quite intense when it arose, had to do with ILS disappointment that USAID funds were not provided to them directly (as it was with the UNDP parliamentary project). After ILS managers realized that this was standard USAID operating procedure and would not be changed, they participated wholeheartedly in the project’s development and were very pleased with its results. At the close-out ceremony in March 2013, ILS director Dr. Thao, reviewed the program’s accomplishments, and complimented ILS and LRP staff on their unusually “smooth and successful collaboration.” He said jokingly that the two teams had worked so closely, in fact, that it was hard for him to know who worked for ILS, and who for LRP!

**Observations and Recommendations**

**Observations**

- **Small institution-building projects can provide important leverage for building larger, comprehensive projects.** The 2012-2013 USAID Legislative Research Program (LRP) built trust in the NA, and GIG was able to build on that to quickly build relations and trust needed for a larger NA program.

- **USAID implementation methodology helped ensure project accountability and deliver results.** USAID’s unilateral approach in contracting a US-based firm specializing in legislative strengthening for project implementation with strict requirements and Mission supervision increases the chances of project success and also reduces the opportunity for patronage and corruption. In contrast, the approach used by international development organizations such as the World Bank and UNDP, in which the recipients of support manage legislative strengthening activities on their own with little effective oversight from a single international technical advisor, seem to be more prone to misallocation of resources.

**Recommendations**

- **Closely collaborate with partners in assessing needs, developing plans, carrying out activities.** LRP started with a comprehensive needs assessment developed in close collaboration with the beneficiary. Adoption of a Strategic Institutional Development Plan by the ILS guided project implementation and helped to prevent gaps in program coverage and duplication of effort by other donors. Involving the ILS in the development of the detailed work plan gave the ILS a vested interest in the implementation of project activities and helped ensure success. Allowing for adjustments to the plan during project implementation can help ensure that the activities will continue to be relevant to the beneficiary’s needs, or as Kleinfeld states, “engage local partners to take on the mission as their own” (Kleinfeld, R. 2015, p. 32) and “state goals clearly, but maintain flexibility and expect programs to be altered.” (Kleinfeld, R. 2015, p.33)

- **Leverage partner coordination for success.** Good working relationships with other projects on the ground can reduce confusion and ensure coordination. LRP worked very closely with the international technical adviser to UNDP’s legislative strengthening program and with other international organizations to avoid duplication of effort, particularly with respect to the selection of themes for national policy symposia. On one occasion, learning that a similar request for a symposium on proposed anti-corruption legislation had been received by UNDP, and that work
In the years leading up to the project, the Rwandan government made several legal reforms to improve its justice system, yet serious capacity and systems problems remained. Legal drafting staff in the Ministry of Justice were few, there were no dedicated drafting staff in Parliament, and the training they needed was almost non-existent.

**4B. USAID/RWANDA JUSTICE STRENGTHENING PROJECT (JSP) 2009 – 2011**

This case study examines challenges related to implementing legislative strengthening activities in a tightly controlled, post-genocide, one-party state.

**Country Context and Project Background**

Rwanda is a small, land-locked, East African nation. Relations between Rwanda’s majority Hutu (85 percent) and minority Tutsi (15 percent) had been conflictual throughout the country’s post-independence history, but in 1994 Hutu extremists led a genocide and mass murder of political opponents, killing approximately 800,000 Tutsi and moderate Hutu. In response, the Tutsi-led Rwanda Patriotic Front (RPF) attacked and quickly defeated Rwandan government forces, ending the genocide and establishing RPF control over the nation. Subsequently, the RPF consolidated its authority over Rwanda’s political life. A new constitution was approved in 2003, President Kagame was elected, and a “national unity” political system was established, opposing ethnic, regional, racial, and divisive tendencies, and making “divisionism” a prosecutable offense. Freedom House gives Rwanda a “Not Free” rating. It was in this restricted political context that the Rwanda Justice Strengthening Project (JSP) was conducted.

The primary focus of JSP, as the name suggests, was to strengthen the justice system. The genocide had crippled an already weak system, killing or exiling skilled judges and lawyers, and leaving Rwanda with few experienced legal professionals (see box). Under the new government, Rwanda now needed to draft laws adhering to international standards in three languages (English, French, and Kinyarwanda), and the difficulty was compounded as Rwanda began integrating common law and reliance on legal precedent in court decisions. JSP was one of five Millennium Challenge Corporation Threshold Programs supporting the government of Rwanda’s (GOR’s) efforts to raise its Ruling Justly indicator scores. The project had two objectives:

- **Objective #1:** Strengthen the professionalism, impartiality, effectiveness, and independence of the judiciary by building its institutional capacity
- **Objective #2:** Facilitate and extend the GOR’s legislative reforms to promote judicial independence and to enhance civil liberties, voice and accountability, and political rights in Rwanda

JSP worked with both the justice sector and the Parliament, with the greater share of resources dedicated to justice reform. JSP’s chief of party, Pat Noonan, led justice reform activities, and deputy chief of party, John Bosley, led the efforts with Parliament.
Implementation – Project Challenges

JSP had considerable success in achieving its objectives in strengthening the justice sector. To name just a few: judges trained by the project trained every other judge in Rwanda in judgement writing using materials developed collaboratively with project experts; the Supreme Court adopted a revised form of judgment in use by all Rwandan judges; the Supreme Court created the office of Inspector General of Courts; the project established a successful partnership with the Peace Corps for training judges in English; and ICT solutions supported capacity-building, improved transparency, and increased civil society access to legal processes. Staff in the Justice Ministry and Parliament found training useful and helpful, the quality of judgement writing improved, and society was granted greater access to legal processes and information.

In spite the project’s successes in one branch of government, other reforms stalled. The GOR did not establish the Law Reform Commission (LRC) during the project’s life (but did subsequently), so planned assistance in setting up the LRC could not be delivered; and at project’s end, the Legislative Drafting Support System (LDSS) for use by the executive and legislative branches, had not yet been formally adopted by the Ministry of Justice and the Parliament. Parliament had not submitted any documentation to be included in the system. And neither the Parliament nor the Rwanda Governance Advisory Council had demonstrated any interest in opening the legislative process to civil society and the public. Work with parliamentary committees, developing a legislative agenda with government, and with civil society did not advance well. Introducing new technology or systems can, but need not, lead to changes in institutional behavior.


“Formal institutions are part of an effective and efficient authoritarian system. “Democratic” institutions only exist as a façade and are under the control of the RPF leadership. Several state bodies also serve for cooptation of potential opposition politicians. There is some room for controversial debate when it comes to technocratic issues. Parliament proves to be even more enthusiastic than the government in the over-interpretation of divisionism. . . . Political culture remains largely authoritarian and – due to the social structure – parochial, since the country and its citizens have never experienced liberal democracy.” (Rwanda Country Report, Gütersloh: Bertelsmann Stiftung. 2009, p. 8)

DCOP Bosley believes that uncertainty and disagreement about Parliament’s roles, having no official counterpart for the project to speak on behalf of Parliament, and fear of appearing to challenge the government kept Members and staff from taking advantage of project resources to build a stronger institution. While the Ministry of Justice identified a point person early on in implementation, Parliament did not. Additionally, according to Bosley, MPs and staff were not sure whether they wanted to focus on representation, on legislation, or on improving their physical space. “They said they wanted to learn how to be a modern legislature open to the public, and so you would ask them to meet with CSOs and then they wouldn’t do it. They were very confused. The legislature wanted to be the government. They wanted to make all the decisions rather than passing the laws. They paid lip service to public meetings and public dialogue. The project tried to develop a roster of CSOs for inclusive policy making, but the legislature did not hold a meeting with them, did not really reach out – they didn’t see any value in it.” (John Bosley, interview, 2015)
Parliament had not identified a point of contact for the project, and no member was willing to take on that role. Therefore, no person could commit the institution to act, which hindered planning and implementation of project activities. Per DCOP Bosley, “The Secretary General of the Senate was elected on a pro tem basis, but he didn’t actually ‘speak’ for the institution. Nobody could commit the institution for work and planning, etc. They had some very smart people who wanted to make the government work, but they just couldn’t make it happen. In contrast, there was a government focal point who was the official counterpart supporting the project’s work with government.” (John Bosley, interview, 2015)

Observations and Recommendations

Observations

- **Without commitment, projects fail.** Commitment from counterparts and beneficiaries is a basic requirement for projects to have impact. The commitment was lacking in Rwanda, and the legislative portion of the project made minimal progress. In Vietnam, Dr. Thao’s commitment, vision, and involvement in LRP were critical to its success.

- **Technology can support, but does not guarantee institutional growth.** When project partners have specific reform goals and objectives, and have identified how technology or other tools can be used to reach those objectives, counterparts may use them effectively, and this may result in institutional change. Rwanda’s parliament lacked such goals, but were concerned about the implications of transparent policymaking that the technology facilitated; thus, they did not make full use of the LDSS.

- **Recognize that concern for political safety might impact political will.** It is important to identify agents of change within institutions and counterparts and to empower them. But recognize that such people may be quickly marginalized. It is also important to understand the political and personal safety risks our partners might face as a result of our work, and that these risks might constrain their participation.

Recommendations

- **Consider crafting different strategies and expectations for engagement.** The legislative strengthening portion of this project was an adjunct to a justice strengthening program, and their progress was very uneven. One partner was a hierarchical arm of government with a clearly defined mission. The other was non-hierarchal, unsure of its role, with members and staff who were afraid to do anything that might show them challenging the government.
CONCLUSION

Our recommendations and observations range from commenting on the project’s role in a country, to responding to internal and external government and country dynamics, to leveraging program design to address political realities. In this section, we make a few broad recommendations from the case studies. These fall into the following categories:

- Parliamentary/DRG projects as facilitators and relationship builders
- Suggestions for strategic project design

PROJECTS AS FACILITATORS/RELATIONSHIP BUILDERS

A recurring theme throughout these case studies has been a project’s ability to take on the role of facilitator, supporting reforms and advancing legislative goals by leveraging relationships with in-country partners – projects as conveners and trusted outside partners. The most significant successes of EPRC, BEEP, ProRep, GIG, and LRP came through leveraging relationships among in-country partners.

Further, project relationships with stakeholders facilitated the project supporting relationships between stakeholders.

From the beginning of the project, Mongolia EPRC worked to establish good relations with both government and oppositions parties, and as power shifted back and forth between parties, EPRC was able to bridge the chasm between them, and between government and parliament, to facilitate tax reform. ERPC played a “legislative relations” role, ensuring that tax reform moved forward, a role later lauded in the project’s mid-term review. Similarly, Vietnam GIG developed relationships of trust with government ministries, the National Assembly, and with Vietnamese civil society organizations. When helping to advance reform, GIG leveraged these trust networks to smooth the process, amplifying the voices of marginalized groups, encouraging cooperation between the Assembly and civil society, and facilitating coordination between parliament and government. In each case, close collaboration, and serving in the role of facilitator, paved the way for the cooperating country to ultimately own project activities.

Institution-building support for partners in parliament, government, and civil society – partners whose support was needed to enact meaningful reforms – laid a foundation for these relationships.

This suggests several implications for developing and implementing programs, among them:

- DRG is uniquely placed to leverage substantive policy changes, in ways other sector offices in missions are not.
- Cross-sectoral projects, involving parliament, government, and civil society actors can be especially effective in facilitating substantive policy changes. They will be most effective when they are designed to facilitate interactions among these actors.
- In selecting leadership staff for such projects, skills in facilitating relationships among different institutional actors may be even more important than deep technical expertise in reform areas.
- Train project participants in country-specific advocacy and media skills, ensuring that they understand policymakers’ calendars, how to package and present information to them, what motivates them, and how to work with decision-makers in government and parliament.
• When designing projects, be specific about facilitation roles they should play, making it a part of project design.

SUGGESTIONS FOR STRATEGIC PROJECT DESIGN

The second set of recommendations addresses project design, factors that influence project design, and the importance of thoroughly understanding a country’s political economy for building successful projects. In preparing this reference paper, we were encouraged to view the case studies through a political economy lens, analyzing and discussing the power dynamics and the economy of incentives within political society and systems. And this is consistent with USAID’s new DRG Strategy, which states that strategic approaches should be “country-based” (i.e., specific to the needs of the host country) and will vary depending on the kind of state (authoritarian, hybrid, etc.) and what it is experiencing (conflict, transition, etc.).

Determining political will. Our case study conclusions stress the importance of political will as a foundation for institutional change and significant reform. When it is absent, or when counterpart commitment wavers, projects are unable to meet their goals. The political economy analysis conducted in preparation for Vietnam LRP and Vietnam GIG recognized that despite Vietnam being a one-party state, the NA was beginning to play a greater policymaking and oversight role – and that the NA might be ready for parliamentary support. And Dr. Thao’s direct request for USAID support for the ILS was clear evidence of political will.

In our other one-party state case study, Rwanda, the country was still traumatized from the genocide and its aftermath. Political space was very tightly controlled and, to our knowledge, no Parliament leader had requested assistance. The work in Parliament was an adjunct to the requested justice reform assistance. Judicial reform was quite successful, but parliamentary reform efforts were not. There was political will for building an independent judiciary (the government had requested this support, and JSP was one of a number of US-supported judicial reform projects). But political will to strengthen a legislature, capable of challenging President Kagame and the RPF, was a very different matter. The project’s goals served the vertical power structure of the judiciary, whereas the project’s goals for Parliament threatened to expose fissures in the horizontal power structure of the legislature.

DRG projects should be designed to work independent of those they are trying to influence. GIG and Vietnam LRP chiefs of parties contrasted USAID’s system of project implementation to donor programs where parliaments received and controlled project funds. Both COP’s stated that the USAID project structure gave them more ability to leverage change than their counterparts from other donors enjoyed. USAID’s system allows projects to play a neutral, outside facilitator role – convening actors from different organizations to enable their reaching agreements on reforms – they could not play if funding was controlled locally.

The power of “report cards.” National commitments to improve their standings in World Bank Doing Business (WBDB) Indicators leveraged not only policy changes, but changes in the ways parliaments and governments interacted in Kosovo, Mongolia, and Vietnam. More broadly, this speaks to the policy and institutional changes nations are willing to make in order to gain membership in EU or regional trade pacts etc. for economic gain, and how legislative programming can leverage this desire in developing programs to be more responsive to political economy context.
APPENDIX 1: THE CASE FOR POLICY CLUSTERS

Why are they needed? Policy and law-making in Indonesia, as in many nations, tends to take place within ministries and parliament, with little if any interaction with other sectors. This occurs without taking into account evidence-based policy recommendations made by policy experts and local constituents’ policy interests represented by CSOs. Neither tends to have sufficient understanding of how policies are made, or how to be effective advocates for policy change. These policy communities have been designed in this context to bring together policymakers, experts, and advocates to help them collaborate more effectively in shaping/influencing specific policy changes.

They are designed to strengthen the hand of policy reformers by:

- Bridging the communication gap between policymakers and policy advocates
- Stimulating the establishment of powerful policy alliances among relevant policy actors that build upon the individual and institutional strengths, capacities, and knowledge of the policy communities’ members
- Helping develop shared advocacy goals and a common vision toward specific policies which should keep the policy communities sustainable after the life of the project

Why now? A new government and parliament are now taking office, and with them scores of new ministers, deputy ministers, secretaries general, committee chairpersons, and others. Now is the time to begin working and developing relationships with new leaders and their staff. Reformers in government and parliament have asked that CSOs and policy experts apply expert and media pressure as a counterweight to vested interests opposed to reforms.

How Were They Developed? During ProRep’s base period, the project increasingly brought together CSOs, policy experts, and policymakers to work together for policy reforms. Building on this experience, and recognizing that achieving many of the objectives of USAID’s new Country Development Cooperation Strategy would require national and local level policy changes, the USAID Democracy and Governance Office and ProRep collaborated to develop the policy cluster concept.
## POLICY COMMUNITY/CLUSTER GRANTS

| Education Policy Community | • Ensuring more equitable deployment of Indonesian teachers  
|                           | • Evaluating and proposing improvements to the teacher certification program  
|                           | • Proposing improvements to the School Operational Assistance (BOS) program |
| Environment Policy Community | • Enactment of stalled implementing regulations on the 2009 environment law  
|                          | • Promulgation of regulations on Constitutional Court rulings No. 45/2011 on forest borders, and No. 35/2012 on indigenous forests  
|                          | • Design a local level institutional framework of a benefit sharing mechanism (BSM) of forestry revenues for indigenous peoples.  
|                          | • Supporting the strengthening of the Green Economy Caucus in the DPR |
| Health Policy Community | • Strengthening national health promotion policies in relation to the accreditation of puskemas (local clinics) and certification of health promotion personnel  
|                           | • Improving puskesmas services by developing local regulations through multi-stakeholder collaboration  
|                           | • Improving policies related to the implementation of the new national health insurance program (JKN) and support efforts to reduce maternal mortality by developing a multi-stakeholder action plan based on a case study of midwives |
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TECHNICAL LEADERSHIP IN LEGISLATIVE STRENGTHENING
RESEARCH AND ANALYSIS REFERENCE PAPER

SEPTEMBER 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by DAI.
TECHNICAL LEADERSHIP IN LEGISLATIVE STRENGTHENING

RESEARCH AND ANALYSIS REFERENCE PAPER

Program Title: Technical Leadership in Legislative Strengthening Task Order
Sponsoring USAID Office: Center of Excellence for Democracy, Rights and Governance
Contract Number: AID-OAA-I-12-00003 / AID-OAA-TO-15-00027
Contractor: DAI
Date of Publication: September 2015
Author: Carmen Lane, Peter Dimitroff, and Jeremy Kanthor

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
The authors would like to thank the following current and former DAI project employees for their contributions to the case studies included in this report: Christopher Shields (former COP, USAID-PLSP and USAID-APAP); Kregg Halstead (current COP, USAID-KPSP) and Manash Mitra (former Parliament Component Lead, USAID-PROGATI).
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I. INTRODUCTION

This research paper responds to USAID Task Order AID-OAA-TO-15-00027 under the Deliberative Bodies IQC, a mechanism designed to build the capacity and enhance the performance of legislatures and parliaments in developing countries. The objective of this research is to contribute to USAID’s ongoing legislative strengthening analysis and retrospective study. The results of this research will help to determine the contributions of USAID’s investments in legislative strengthening support and to help to define future programming.

The analysis and findings in this paper are based on DAI’s 16-year history of supporting parliaments primarily through USAID and secondarily through DFID donor support. This legislative strengthening experience dates back to the mid-1990s with support to the emerging legislatures of Poland and Romania. More recently, DAI has managed USAID funded programs in Afghanistan, Armenia, Azerbaijan, Bangladesh, Democratic Republic of Congo, Haiti, Kyrgyzstan, and Pakistan that all had major parliamentary support components.

This research paper includes a focus on four topic areas included in the Task Order: 1) Cross-sector Programming; 2) Institutional Capacity and Parliamentary Administration; 3) Accountability; and 4) Budget Processes. Case studies of DAI’s work in Afghanistan, Kyrgyzstan, Haiti, Pakistan and Bangladesh are used to illustrate each of the four topics.

In Section 2, we provide a review of approaches to legislative strengthening and overview of key research findings. In Section 3, we describe the relevance of the case studies to the selected topics. In Section 4, 5, 6, and 7 we describe provide analysis of the four topics. For each topic, we provide case studies and lessons learned. Section 4 focuses on Cross-sector programming; Section 5 addresses Institutional Capacity and Parliamentary Administration; Section 6 focuses on Accountability; and Section 7 on Budget Processes.
2. OVERVIEW

2A. EVOLUTION OF APPROACHES IN LEGISLATIVE STRENGTHENING

For several decades donors, including USAID, have typically engaged in parliamentary strengthening through a technocratic approach – that is, an approach driven by diagnoses of deficiencies in representation, oversight and legislation, followed by the application of training, technical assistance, and provision of equipment as an antidote. “Technocratic” likely oversimplifies how these projects have functioned in day-to-day practice - experienced fieldworkers and mission staff have long understand that MPs and staff are responding to all sorts of external political, economic, and cultural incentives, and many programs have long engaged with those contextual factors in the course of their work. However, it fair to say that many development assistance programs have historically been conceived in this basic “diagnose and fix” framework, with corresponding approaches for monitoring and evaluation and relatively short timeframes. In this sense, technocratic approaches have over the last decade been found to be necessary, but not sufficient, to support lasting change.

Multiple donors working in the areas of legislative or parliamentary strengthening, including USAID, DFID, UNDP and the World Bank are at various stages of recognizing and studying program design and activities that account for the political nature of parliaments. Over the past decade, at least three driving forces have converged:

- Employing the approaches embodied in the 2009 Paris Principles, with greater emphasis on: 1) alignment (such as with a parliament’s own development strategy); 2) harmonization (including increased donor coordination of programs working with parliament); and 3) managing for results (sharing of research on monitoring and evaluation techniques for parliamentary programs understood to have unique dynamics and cycles);

- Increasing the use of political economy analysis in governance programming by all donors, most recently emphasized in USAID’s Strategy on Democracy, Human Rights and Governance; and

- Working with parliaments to improve process as well as content; for example strengthening parliament to support Millennium Development Goals, counter fiscal corruption or other donor sector interests. The latter corresponds with USAID’s current shift into systems programming or integrated/cross-sector programming.

2B. HOW USAID DIFFERS FROM OTHER DONOR APPROACHES

A 2015 study by U.S.-based Democracy Reporting International, “Global Mapping and Analysis of Parliamentary Strengthening Programs” commissioned by SIDA¹, provides comprehensive detail on recent history of all major donors supporting parliament. The following is a brief summary of issues in relation to the topics of this paper.

As suggested, in general donors are converging on issues such as recognizing the essentially political nature of parliaments, the longer timeframes needed to see results and more issue-based or integrated programming. Donors vary though in how they engage parliaments, what types of issues or sectors they are most interested in and institutional emphasis. For example:

• **UNDP** most typically uses a Project Management Unit approach, with involves outside consultants but puts parliament member and staff leaders more directly in the driver’s seat in determining project priorities and pace. It also more typically (than bilateral donors) works to strengthen regional parliamentary organizations.

• **World Bank** works primarily through an anti-corruption lens, and often ties parliamentary work in with related activities, for example supporting Public Accounts Committees in conjunction with strengthening the whole financial accountability system. It commonly works with and through regional organizations.

• **DFID** has not historically worked as intensively as USAID with parliamentary committees, though a recent study by the British Parliament suggested that DFID should now emphasize committees in its parliamentary assistance work.

Each donor obviously has its own internal bureaucratic drivers in terms of project length. Some DFID governance programs are funded up to seven years, in contrast to USAID’s three to five year timeframes. The British Parliament study cited above quoted DFID governance staff as indicating that “effective parliamentary strengthening requires promoting change over a 20-year horizon…” A NORAD study suggested “10 years would not be too long.” While USAID timeframes are fairly strict due to competitive rules, it should be noted that parliamentary support programs can have many iterations in one country, as evidenced by USAID support for the National Parliament of Afghanistan through three programs and two implementers, since 2003. The challenge in the latter however is project to project time bound results frameworks and pressures for each project/implementer related to activity output and corresponding budget execution.

In any event, all donors appear to be struggling with rationalizing what is now commonly agreed as a need for a more nuanced, iterative political economy approach with accountability and proof to tax payers that money is well spent.

### 2C. OVERALL FINDINGS

The comments and case study findings illustrated throughout the paper reveal some common takeaways for future parliamentary support programming:

• Technocratic assistance is necessary but insufficient in transforming a parliament; political economy analysis, and more politically considered programming in general with room for experimentation, should be embedded in program design for potentially transformational results.

• External parliamentary strengthening assistance is, overall, of value in supporting stability and promoting more democratic governance; less clear is its secondary impact on socio-economic indicators. Support should also be considered in conjunction with issue-based programming rather than necessarily as stand-alone institutional support. This can be done in two ways – closer linkage (with attention to complementary goals and M&E process) of projects in a given donors portfolio, or sector driven programs where parliament is addressed as only one actor.

• Results – both positive and negative – are extremely hard to attribute to one source, given multiple parliamentary actors, other stakeholders including government and civil society, and multiple donors working on overlapping programs. And evaluation methods such as using counterfactuals – how would
a parliament have performed without assistance in a given political environment – are almost impossible to measure; and

- Multi-year programming is difficult to measure against an initial baseline, as elections can usher in a whole new set of actors. For example, turnover rates for Pakistan’s assemblies in the middle of the USAID PLSP program was up to 70%. This can be almost like starting over, at least in the work with members and with parties, and it can be difficult to measure progress year over year. Program M&E and PMPs specifically related to member capacity – and possibly in terms of institutional capacity - needs to be reevaluated with each election cycle.

Specific recommendations to address some of the implied challenges of these findings are found in the summaries of the case studies.
3. SELECTED TOPICS AND COUNTRY CASE STUDIES

DAI has chosen five countries to illustrate the case studies under each of the four topics of: Cross-sector Programming; Institutional Capacity and Parliamentary Administration; Accountability and Budget Processes. Four of these - Afghanistan, Haiti, Kyrgyzstan, Pakistan - represent substantial legislative strengthening programs (contracts and RFAs) through which DAI, in addition to other implementers/donors, has provided multi-year, comprehensive assistance to national and in some cases subnational deliberative bodies. The fifth, Bangladesh, represents a cross-cutting good governance and accountability program (USAID PROGATI), which included a specific effort to support parliament in fiscal accountability efforts.

Throughout the research paper, we include throughout country/program vignettes, which offer overviews of the related program(s) and the context of implementation focusing on one or more of the topic areas. Each topic area includes two case studies and is inclusive of a topic overview and some general findings illustrated by the case studies.

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<th>PAKISTAN LEGISLATIVE STRENGTHENING</th>
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| Pakistan related case-study findings are based primarily on the DAI-implemented **Pakistan Legislative Strengthening Projects (PLSP I and II)** that collectively ran from September 2005 to July 2010. The five year, nearly $17 million program worked with two national houses – the National Assembly and Senate – and four provincial parliaments of Punjab, Sindh, Khyber Pakhtunkhwa (previously NWFP) and Balochistan. PLSP focused on nearly all aspects of institutional reform, including Representation – assisting parliaments to provide information to the public and receive input from citizens during the legislative process; Law Making – improving the structures and mechanisms by which legislation is analyzed, debated, and passed; and Oversight - assisting parliaments to oversee government operations, particularly in the area of budget formulation and implementation, with a cross cutting focus on institutional/administrative strengthening. In the research, we also touch on relevant experiences, contributions and findings of the concurrent and subsequent UNDP Strengthening Democracy through Parliamentary Development program (SDPD, 2003 to 2013) and the EU-funded Improving Parliamentary Performance in Pakistan program (IP3, 2011 - present), which primarily works at the national level.

The USAID, UNDP, and – to a degree – the EU parliamentary strengthening programs in Pakistan have taken place amid a series of tumultuous political and security events. These include a judicial crisis which resulted from the 2007 sacking of the Chief Justice; the December 2008 assassination of popular PPP leader and former Prime Minister Benazir Bhutto, which caused public chaos and the further delay of scheduled parliamentary elections; the unsteady and at times contentious relationship between the two major political parties emerging from the 2008 elections; heightened security and restricted physical access to parliament facilities as the result of bombings throughout the country; and recent opposition-led protests that have at times been violent and paralyzed the capital and major cities.

Despite such crises, for the first time in history the parliament as an institution has survived. Parliamentary elections in 2008 marked the first peaceful transfer of (legislative) power, and the National Parliament’s mandate closed with the adoption of ambitious constitutional reform—known as the 18th Amendment— which formally reduced the powers of the president in favor of the parliament and prime minister, and devolved a large share of federal resources and responsibilities to the four provinces. The parliamentary elections of 2013 consolidated the trend.

PLSP with other programs appear to have helped forge a sense of institutional identity during a delicate transition period, positively changed the norms of behavior of some members, significantly expanded staff research resources, and extended support to reform champions who subsequently made it into prominent leadership positions. At the same time local NGO supported scorecards (at the national level) have shown a downward trend in overall parliamentary performance in recent years in terms of legislative responsibility. A centerpiece of the project’s institutional work – the development and launching of the Pakistan Institute for Parliamentary Services – has proven positive and sustainable.
4. TOPIC 1: CROSS-SECTOR PROGRAMMING

For the purposes of this paper, we define cross-sector program in the context of legislative strengthening as activities that seek to strengthen sector areas, such as health or education, through work with parliament. These cross-sector initiatives may be direct – influencing the content of key laws or policies, or budget expenditures, in line with donor priorities and international standards – or indirect, such as ensuring legislative processes of developing or influencing laws of policies around key sectors are appropriately working to involve local sector expertise, public input, use of accurate research and data, dialogue between ministries and members or committees, etc. The Haiti case study outlined below is primarily an expression of the former, and Kyrgyzstan of the latter.

To a certain extent, to date cross-sector programming has been ad hoc in most legislative strengthening programs. For example, in determining a subset of parliamentary committees to receive general capacity building assistance, it is common for project’s to be encouraged to prioritize work with oversight committees that reflect a mission’s development portfolio (for example health, education, or agriculture). LS programs also may tap into sector expertise in other programs to educate corresponding committees on substantive issues; or, on the flip side legislative strengthening programs may be asked by another sector program – such as one working on education policy – to help them access the legislature or its committees as part of an advocacy effort. European donors typically more explicitly link broader development goals with LS work, such as influencing the human rights agenda or linking parliamentary outputs directly with progress on Millennium Development Goals.

In the cases we discuss below, direct cross-sector work was not the focus of activities, but developed over the life of the programs in question. In Haiti, work on key sector related laws came to align more closely with priority areas or issues of the larger USG, actually affecting the legislative content and passage of certain laws in line with both USAID and embassy interests. In Kyrgyzstan, cross-sector outputs were almost strictly as a result of a focus on good committee processes and not on particular sectors or topics.
HAITI LEGISLATIVE STRENGTHENING

The Haiti Parliamentary Strengthening Program (PSP) was a Cooperative Agreement signed in September 2011, which followed on a previous 5 year USAID program implemented by SUNY, PAPH. PSP was envisioned as a potential five-year program, conceived as two phases of two and a half years each. The program sought to strengthen representation, legislative and oversight functions of the Senate and National Assembly, with overall goals to: 1) Develop the institutional capacity of the Haitian Parliament; 2) Enhance transparency in the legislative process; and 3) Encourage greater interaction between elected representatives and their constituents through the provision of technical assistance, training, staffing and ICT support.

Given previous challenges in working with the Haitian parliament, PSP was very deliberately set up as a design and implementation program, with a longer than usual period of analysis and consultation with parliament before major activities were determined. It also utilized a political economy assessment. After two years of activity, through a participatory mid-term review process involving both DAI and USAID, it was determined that the parliament still did not exhibit sufficient political will for the program to move forward into Phase II, thus it ended in the summer of 2014.

The project implementation took place against a backdrop of paralyzing political turmoil as well as poor cooperation of the ever-changing leadership of Parliament. Relations between the Parliament and new President were nearly non-existent during the first year, and no significant legislation moved through Parliament during this first year. These conditions worsened in Year 2 of PSP with mounting tensions between Parliament and the Executive over the organization of leadership elections and of Permanent Electoral Council (CEP) appointments. This was exacerbated by election delays and expiration of Senate terms. As Year 2 of PSP drew to a close, the productivity of the two legislative sessions in 2013 was generally considered poor.

Paralleling the chaotic political environment, annual changes in Parliament leadership caused constant and disruptive renegotiation over the project workplans and activities. At times, leadership displayed antipathy toward not only the project, but toward USG assistance overall. While annual leadership elections and related work plan consultations with stakeholders were anticipated, the degree of leadership turnover, the difficult personalities involved, and the insistence on specific activity approval by each new set of leaders created serious delays and hurt momentum. The timeliness or effectiveness of individual activities was further challenged by battles between the secretariat leadership and political leadership, request for activities or equipment outside the scope of the program, and the like.

In this environment, the program looked for windows of opportunity, working with individual champions, where it could achieve traction. Notably, PSP provided technical assistance to effectively revise and pass more than twenty laws with significant consequences for Haiti. These laws included subject matter areas jointly important to donors and MPs, including health, education, anticorruption and anti-trafficking. Assistance included training for members and staff in participatory legislative drafting, public meetings, and direct technical assistance to Commission Chairs that resulted in greater expert and public input, as well as better crafted legislation in line with the Constitution and legal intent.

4A. CROSS-SECTOR COUNTRY CASE STUDY: HAITI PSP

The initial program design for the Haiti PSP program, which followed on a required process of consultation and detailed institutional needs assessment, was mainly process focused. While it did not have a specific cross-sector approach per se, the initial assessment noted that the parliament requested specific assistance to three committees, which overlapped with USG interests, including Education; Territorial Collectivities and Decentralization; and Public Health.” These three committees paralleled mission investment in primary education, including literacy and reproductive education; in decentralization/local governance; and in basic health services, including through PEPFAR, HIV/AIDS testing and treatment. The assessment report noted that “[cross-sectoral] assistance of Haiti PSP would likely come in the form of support for public hearings, the provision of technical experts to draft based on evidence; acting as a clearing house for the USG and other donors that conduct examinations or studies
and helping the respective committees to access and digest the [technical/sector] information, revision of existing legislation… and institutional support to committees.” The assessment report follows with the beginnings of a theory of change in this regard: “Process improvement as indicated above should lead to better legislation and implementation of coherent policy in these [sectors] and align in the future with the provision of enhanced services. “ The ultimate design documents also flagged support for these committees and advised that budget analysis and research capacity building focus on “key sectors”.

Cross-sector activities generally fell under PSP’s third component, “Increase Professional capacity within Parliament for Oversight and Lawmaking”, whose intermediate result was that “committees undertake regular public hearings and legislative reviews that reflect participation of internal and outside technical analysts, legal experts, policy advocates.” The component was also to expand policy review and legislative drafting through a broader, participatory approach bringing together committees, political Blocs and or geographic coalitions with outside experts, civil society representatives and citizens through capacity building exercises and public forums. This component was explicitly designed as “issue-based” – to use real-time policy and key draft laws as the vehicles for effective capacity building and for building positive relationships among government bodies and between Parliament and civil society. The Performance Monitoring Plan was designed to measure only improvements in the process, including related indicators: “Number of draft laws debated and subject to final vote”, “Percentage of total laws debated and analyzed by committees”, and “Number of public forums in which national legislators and members of the public interact.”

As mentioned, much of the program’s traction was under this component, namely in the area of participatory lawmaking. Despite all the institutional obstacles laid out in the vignette above, it was relatively easier to engage individual committee chairs and other powerful members on key laws and issues they were interested in, and to align them with program goals and broader USG interests. Project activities – alone and in combination – contributed to the drafting or passage of several pieces of legislation which were considered priorities for the US Embassy / USAID Mission, including those in the areas of health, education and economic

**Process of Support**

This primarily took the form of PSP sponsored subject matter and legal experts who worked under the direction of the relevant committee chairs. These local consultants assisted members with analyzing and drafting, introduced comparative international best practices, advised committee members during drafting and review sessions, and respond to their questions during plenary deliberations of legislation. The experts also assisted in facilitation/organization of many of the resulting public forums and hearings. The expert advice was complimentary to broader project training efforts, for example, training for members and staff in participatory legislative drafting.

Recommendations for the experts came to the project from a variety of sources, including local staff, other donors, and the stakeholders themselves. An internal committee led by the COP with local technical staff reviewed the CVs and conducted interviews. Once the consultants were hired, the program assured quality control for the work products. The parliament-project Steering Committee was also meant to approve consultants, but since they did not meet on a regular basis agreement was usually worked out with the key actor, such as relevant Committee Chair.
Work with the Health Sector and the Adoption Reform Act Is the Best Illustration of Program Activities

Following Haiti’s 2012 ratification of the Hague Convention on Adoption, the US Government placed a high priority on supporting legislation to ensure compliance with the Convention, including protecting the interests of the child in international adoptions. A government bill on adoption had been sent to Parliament in 2009 and voted in the Chamber of Deputies, but died in the Senate. In 2012 the international community, with the support of local NGO IBESR (Institut du Bien-Etre Social et de Recherchés), provided technical assistance in the drafting of a second text, more in line with Hague requirements. After consultation with USAID, in 2013, PSP reached out to the Chair of the Senate Social Affairs Committee to offer assistance to the committee in moving forward on a draft law. In cooperation with the PSP sourced and hired two local experts to assist the Senate Social Affairs Committee in the necessary reconciliation of the two existing draft texts in line with the Convention, finalize the text for vote, and to help draft the committee report. PSP efforts were multiplied by advocacy support galvanized by the USAID Health Policy Project (AKSE). This was both part of the AKSE plan and as a result of joint consultations. In May the committee presented the report to the full Senate, which adopted the text in full.

In July PSP provided logistical support to the Chamber of Deputies Social Affairs Committee for a public meeting with civil society, international organizations, and other stakeholders to discuss the adoption bill passed by the Senate (as well as the draft anti-trafficking law). Following those public consultations, PSP also sourced, financed and provided quality control of two local experts to assist the Chamber committee. As a result of collective efforts, the final Adoption Reform Act was passed in October 2013. Although PSP closed in 2014, the USAID AKSE project continued work to ensure substantive implementation of the new law.

Table 1 depicts a summary of key laws, across sectors, which PSP’s work significantly affected:
Sustainability

With the provision of experts to committees, questions of sustainability do arise on at least two levels. One is, do these experts maintain connections once a program is over, or their contract is over? Related, how would the Haitian parliament afford these experts? As mentioned, this process should be — and was — complimented by broader training programs (including legislative drafting, budget analysis, etc.).
However, given all the myriad distractions of the Haiti parliament, focused and recurrent training of members was challenging. As PSP was designed to respond to the demands/needs (within reason) of the Parliament, provision of experts was certainly related to an expectation of donors in general. Had the program continued, it would have had to introduce a sustainability plan into this process.

4B. CASE STUDY KYRGYZSTAN: SUPPORTING PARLIAMENTARY COMMITTEES FOR CROSS-SECTOR POLICY

After parliamentary elections upon its first sitting in December 2010, the new Kyrgyz Parliament formed 16 committees, in which all parties with members in the Jogorku Kenesh were represented. Aware of a history of very weak committees, and recognizing that supporting committees was the key to improving both the substantive legislative work product of the Parliament and its exercise of oversight over the
executive branch, the USAID/DFID Kyrgyzstan Parliamentary Strengthening Program (KPSP) actively partnered with 10 committees, helping them conduct public forums, policy seminars, field hearings and oversight visits. The program did not undertake this activity with a specific cross-sector agenda in mind, but with a strategy to improving the process that would lead to better legislation and policy in all areas. In the case of Kyrgyzstan, given very specific political sensitivities to outside intervention, it was best that the project lead with process and not suggest a focus on legislative outcome, per se. But by engaging in issues as a by-product, the result was improvements in some key social sector policies as outlined in this piece. As of this writing the impact is intermediate, as not enough time has passed to determine if/how these are being implemented and how that may improve sector outcomes.

Background

KPSP partner committees were chosen in close consultation with USAID. Beneficiary selection criteria included: demonstrated willingness on the part of committee chairs and vice chairs to work with KPSP; history of some effective committee operations, including public hearings and legislative activity; and involvement in issues that are critical to Kyrgyzstan’s economic and social development. Some committees were excluded from consideration because of the politically sensitive areas in which they worked, including energy, defense and national security.

KPSP assistance to its partner committees was multi-faceted seeking to leverage holding committee public meetings with supplemental assistance to improve outcomes and strengthen a committee’s overall work product and performance. For example, the dedicated parliamentary staff who assist a given committee received hands-on mentoring in effectively organizing committee events; KPSP also provided embedded experts in a respective committee’s subject matter areas to assist with corresponding and ongoing legislative drafting and research. The KPSP additionally established a jointly funded Research Fund with the Parliament which aimed to improve law and policy making by providing committees, parliamentary factions, and ad hoc groups of MPs with access to external research and analysis from contracted experts, NGOs, think tanks, and academic institutions. Finally, KPSP facilitated learning exchanges for the chairs and vice chairs to (in chronological order) with the parliaments of several developing and developed countries. Throughout the program, KPSP worked in close partnership with committee chairs and vice chairs to discuss plans for programmatic events and maintain a general schedule of deliverables.

Key Activities and Results

KPSP held in aggregate 98 separate events supporting and strengthening its partner committees with attendance by 658 MPs. Illustrative cross-sector intermediate results produced by (of these) select KPSP supported and organized events include:

- **Electoral Reform.** The Committee on Human Rights, Constitutional Legislation and State Structure held field hearings considering various draft laws that would have significantly changed the electoral system by creating single mandate constituencies or regionally based rather than the current nationally-based party list system for electing MPs. Numerous MPs voiced at the hearings that even though they sympathized with certain substantive portions of the draft laws, they were against adoption feeling it was unfair and could be destabilizing to so dramatically change what was already a new system so close to the next parliamentary elections. The hearings also called out the Central Election Commission’s performance and pushed it to begin its election
preparations earlier and additionally improved coordination between the national and territorial Electoral Commissions, representatives of both of which actively participated.

- **Education Reform.** The Committee on Education, Science, Culture and Sports held field oversight visits and field hearings in all regions of Kyrgyzstan, involving ministry officials, regional and local officials, school directors and teachers. As a result of information that came to light during these events, the General Prosecutor opened a criminal investigation on alleged inflated numbers of students at several schools in Issyk-Kul Region; as a result suspected corrupt officials were forced to resign. In addition, the parliament directed the Ministry of Education to issue new, updated textbooks.

- **Access to Justice.** The Committee on Judicial and Legal Issues and Legality held field oversight visits and field hearings assessing the condition of local court buildings and the general population’s level of access to the justice system. The unanimous consensus emerging among stakeholders working in the judicial and legal fields was that in every region of Kyrgyzstan, court buildings were in a horrendous state of disrepair and functionally slowing or blocking the carrying out of duties. Consequently, with subsequent advocacy by members of the Supreme Court attending the hearings, the appropriation in 2015 for repairing and/or replacing court buildings received a five percent increase from the previous year despite a very difficult overall national budget climate.

- **Economic Growth/Tourism.** The Committee on Economic and Fiscal Policy held annual field oversight visits and field hearings to assess the impact of social and political factors on tourism as well as promote winter and summer tourism as a generator of economic development requiring better coordination among state actors involved in tourism. Possibly as a partial result, Kyrgyzstan each year from 2011 to 2015 saw a steady increase in the amount of tourists (both Kyrgyz nationals and foreigners coming from abroad) visiting the country and particularly Issyk-Kul Region – home to Lake Issyk-Kul and numerous ski resorts. Although there was not a way to track the hearing specifically to these outcomes (or parse them from other pro tourism efforts), the owners of hotels, guest houses, restaurants and other enterprises participating in such hearings in 2013, 2014 and 2015 unanimously praised the substantive nature of the events and commenting that as a result Issyk-Kul region had become much more tourist friendly with particularly dramatically improved state actor facilitation of, partnership with and assistance to the tourism industry.

- **Access to Water and Conflict Mitigation.** Competition among local villagers for water had partially led in the summer of 2013 to several incidents involving Kyrgyz and Tajik border guards opening fire on one another with one death and several injuries. The Committee on Transportation, Communications, Architecture and Construction held field oversight visits and field hearings focusing on access to drinking water and water for irrigation in Kyrgyz border regions near ethnic enclaves in which pumping stations are actually over sections of the disputed borders with both Uzbekistan and Tajikistan. The events resulted in the Committee tasking the Prime Minister’s Office and the corresponding bodies in the executive branch and local government to build two new pumping stations within Kyrgyzstan.

- **Public Health/Agriculture.** The Committee on Agriculture, Water Resources, the Environment and Regional Development held field oversight visits and field hearings on the safety of the meat supply in Kyrgyzstan through improved veterinary services and immunization programs and
better state actor coordination to prevent spread of (heretofore localized) outbreaks of hoof and mouth disease. During the field hearings, cattlemen in particular had complained that there were too few state veterinarians working in the regions and their advanced average age further put at risk the future continued access to veterinary services including vaccinations. The events resulted in the Ministry of Agriculture and Land Reclamation agreeing to end the state monopoly on veterinary services by allowing private veterinarians to also access and use state purchased vaccines for use in vaccination of draft animals, with possible implications for prevention of disease spread.

- It should also be noted that Kyrgyzstan’s amended Law on Normative Legal Acts (2010), requires that draft laws be subject to special evaluations that include legal and expert evaluation on four cross-cutting areas: human rights protection; gender; anti-corruption; and ecological protection. It is the JK – through the lawyers employed by the parliament’s Expert Examination Department – that is required to examine and provide reports on how each of these areas is impacting or being impacted by a proposed bill. KPSP has supported this unit with analysis training, but this has been a bigger purview of UNDP.

4C. CROSS-SECTOR LESSONS LEARNED AND RECOMMENDATIONS

Some of the major lessons learned in the area of budget processes in these case studies include:

- Both a focus on legislative content AND a focus solely on process can have positive outcomes on sector priorities, but entry points are context specific. As mentioned, Kyrgyzstan Parliament at the time was highly sensitive to hints of outside intervention in substance, even though they were much more welcome to USAID/donor assistance than the case of Haiti PSP. In contrast, while the Haiti Parliament sometimes bristled at capacity building, some members welcomed – even expected – the type of substantive expertise the program could provide. Another way to look at this is that Kyrgyzstan is a stronger institution, with opening for institutional support. The Haiti parliament was even more than most developing parliaments, a collection of individuals seeking power and influence in the midst of complete – perhaps even purposeful – chaos. So the project took the openings where they could possibly get any traction in the short to medium term – which were at the individual, committee and law-making level. The question in the end for Haiti PSP had to be asked, was this type of ad hoc intervention – even though it may have some useful outcomes – enough to sustain and justify continued support? USAID and DAI decided jointly that it was not.

- **Ability to achieve cross-sector legislation and implementation is dependent on role of central government and ministries.** The KPSP program did create legislative drafting programs that spanned work of parliament and ministries, bringing the executive and legislature together through joint trainings and communication on both process and content of laws. In Haiti, the relationship between parliament and the executive was so contentious, the project could not play that role, except by indirectly supporting NGO voices on substantive legislation, which had contacts in both institutions.

- **Programs should initiate, then update, sustainability plans for hiring of expertise.** Particularly in the case of Haiti PSP, had the program continued for a five year life span, the program would have put into place a sustainability plan to reduce the reliance on donors expensing consultants that supported the cross-sector initiatives. Recommendations include, for
example: cost share of consultants over time (ensuring Parliament has the legal ability to directly hire short term consultants, as it did in the case of Haiti); increased practices of utilizing expertise within civil society; a continued plan to cultivate more internal expertise among staff.

- Impact of work on cross-sectoral issues (whether direct or indirect) is difficult to measure if not built into the program from the start. In Kyrgyzstan, the program never set out to measure the sector outputs of the work with committees, but rather the process – i.e. were public events being held? Were multiple government and citizen stakeholders engaged? Were stakeholders utilizing both organization and research skills? Currently, there are only tacit linkages between activities with committees and sector outcomes. In Haiti, there is little available data to show how these new laws are being implemented. One solution may be for Missions’ to view cross-sector work with legislatures as an issue of a whole portfolio. For example, other programs could have simultaneously, or after the close of PSP, been asked to track subsequent legislative amendments implementation in their respective sectors.
5. TOPIC 2: INSTITUTIONAL CAPACITY AND PARLIAMENTARY ADMINISTRATION

Most parliamentary strengthening programs focus to some degree on institutional capacity, ranging from staff training to equipment and ICT provision to organizational changes. Making deep impacts on the hiring practices and structure of parliament secretariats and services is arguably one of the most difficult areas for donor to affect in legislative strengthening programs, given often entrenched patronage networks and legacy practices. We offer two case studies of successful sub-projects in Kyrgyzstan and Pakistan to significantly improve the quality of staff and level of staff services, through the USAID KPSP and PLSP programs respectively. We note that the case highlighted for Pakistan – the development of the Parliamentary Institute of Parliamentary Services (PIPS) – was a shining example amongst a set of less intensive (but not particularly successful) attempts to support more rational staff service units and merit based hiring in other areas of the secretariat. The case of Kyrgyzstan, which involved successful establishment of restructuring and merit based hiring, highlights the possibility of overcoming normal bureaucratic entrenchment or patronage interests by capturing a political moment in time. Each case highlights the necessity of internal political will and how it was leveraged.

5A. CASE STUDY: THE PAKISTAN INSTITUTE FOR PARLIAMENTARY SERVICES (PIPS)

PIPS was officially established in law by the Parliament of Pakistan in December 2009, as a parliament funded institution. This marked a milestone in a series of initiatives of the USAID Pakistan Legislative Strengthening Project (PLSP), beginning in earnest in 2006, to support the establishment a parliamentary institute to serve as the focal point for research and training for Members of the six legislative bodies within Pakistan: the National Assembly and the Senate, and the four Provincial Assemblies. Establishment of an institute as part of the parliament Secretariat (originally deemed the Pakistan Institute of Legislative Studies or PILS) was called for in the 2005 USAID request for proposals, though its form, status and funding evolved over the life of the program. From the beginning, it had the clear support of a small but influential group of Members of the National Assembly and Senate.

Some of the key milestones of PIPS Development include:

- Formation of a parliament Steering Committee to deal with all project activities, but acting specifically as interlocutors/supporters for PIPS development (2005–2006).
- Launching of and managing an interim PIPS facility, within confines of the Parliament Lodges (parliamentarian’s housing facility – 2006).
- Hiring PIPS support staff and branding of all training products and events as PIPS (2006–2010).
- Passage of PIPS Act by Parliament (2009).
- Selection of PIPS Director (2009).
- Construction launched for PIPS building (2010).
- Turnover of all PIPS interim staff to parliament payroll; transfer of all PLSP training modules and associated materials and products (2010).

**Early and Continuous Buy-In and Leadership**

The idea for such an institute was proposed to USAID by members of parliament during consultations for a new program, which followed on a previous USAID funded activity. From the beginning, the idea had support from a small but influential group of members of the National Assembly and Senate, who sat on the eventual project-facilitated Steering Committee. This organized band of supporters, which included both government and opposition, were able to keep the idea alive in the face of resistance by some in the Secretariat and by bureaucratic foot dragging such as on tabling the PIPS Act, making the land transfer and choosing a final Director.

**Status of PIPS Outside Direct Secretariat Bureaucracy**

The initial RFP from USAID indicated that PIPS would be a part of the Secretariat of Parliament. Over time, it became clear that members did not trust that PIPS would achieve high standards or be directly responsive to members if it was treated as another bureaucratic unit. Consultations between the project and Steering Committee led to a hybrid institution. PIPS would develop its own board (led initially by the Speaker of the National Assembly) with members from all the assemblies, and Secretariat staff such as the Secretary General as observers. Its core funding for staff and operations would be provided for in the Parliament’s budget, with ability to accept outside funding from donors. PIPS adopted its own service manual, with, for example, competitive recruitment procedures outside of the Secretariats, but still within keeping of Pakistan law and practice.

**PIPS Activities and PIPS as a Brand**

The PIPS quality brand was in development long before the permanent facility became a reality. First, USAID PLSP fitted out a venue provided by the Parliament at Parliament Lodges to ensure an appropriate professional environment for training and events. In addition, USAID assisted the Provincial Assemblies in establishing and staffing provincial resource centers to serve as satellite locations for the Institute to provide training and resource services to Members of Provincial Assemblies (MPAs) as part of the longer range planning for PIPS.

The interim institute with project support developed a series of core curriculums for the Institute in 16 areas for legislators and legislative staff. By January 2009, more than 4,400 participants from the Members and Secretariat staff of the National Assembly, the Senate and the Provincial Assemblies had attended Member Orientations, policy seminars, issue workshops, and skills enhancement courses, primarily under the PIPS banner. In addition to such programming, the project with its own and PIPS-based staff provided PIPS-branded in-depth research, analysis, information databases, and briefings for members and staff. The interim PIPS was host to workshops and seminars in legislative research methodology and presentation, with leading scholars and researchers based in major think tanks, academic institutions and Civil Society Organizations across the country.
PIPS Recruitment

The chief recruitment task was to choose an Executive Director with the vision, leadership qualities and skills to launch this new entity in what was an inherent political environment. PLSP staff agreed with the Steering Committee then subsequently the PIPS Board on the criteria and transparent processes for recruitment. Criteria allowed for the emergence of a manager that also brought non parliamentary private sector or academic management experience.

The project facilitated numerous rounds of selection and short-listing. All candidates were deemed unsuitable by a subcommittee of parliament members established to review candidates. Finally, in a closed meeting of the PIPS Board in Spring 2009, the Board unilaterally selected Mr. Ahmed Goraya, former Secretary General of the National Assembly and interim consultant affiliated with PLSP.

While not passing judgment on the specific persons involved, it was clear the process established by PLSP for competitive recruitment was bypassed. Loose speculation at the time ranged from pay-back for past political support, to a reaction to the fear that if another person not intimately familiar with and respected by the Secretariat were chosen, that PIPS would suffer from negative competition and lack of cooperation inside the parliament system. Mr. Goraya served as Director until his retirement in 2014, when he was replaced by Mr. Mahmood Salim Mahmood, a veteran, senior civil servant. (We note and regret that Mr. Mahmood passed away suddenly in September 2015 as this paper was finalized.)

USAID Additional Commitment for PIPS Building

In 2008 USAID committed between nearly $10 million to establishment of a permanent Institute facility, which now serves as its permanent home. Through separate funding from PLSP, USAID contracted for the building design for PIPS, engaging through a competitive process the services of one of Pakistan’s most renowned architects. While PLSP facilitated Parliament’s involvement in design decisions, the ultimate design and construction is state of the art and designed with flexibility of use in mind, including a modern, module conference center to host smaller and large meetings and events. Construction proceeded through the close of PLSP in July 2010, and PIPS moved into its permanent home in early 2011.

Sustainability

Following the closure of PLSP, DAI staff undertook several site visits to the PIPS, as well as interviewing staff of the ongoing EU-funded I3 program. The most significant fact to be highlighted is that PIPS remains and functions as a viable parliament funded research and training institute. During the initial period of independence there were some concerns about the quality of training provided, as well as the relatively slow pace of staff hiring, however PIPS can also cite some significant successes that speak positively about its sustainability. In 2013-2014 PIPS significantly staffed up, with nearly two dozen professional training and research staff and other administrative and support staff. The organization currently consists of a Research and Information Technology Wing; Legislation and Training Wing; Human Resource and Finance Wing and Parliamentarian’s Resource Center, which offers a small library and use of computers. PIPS has updated and/or expanded on a number of technical manuals and guidebooks for parliament, which it makes available online. It also makes substantial research products available online. It has instituted some new services such as the introduction of a year-round Budget Office Desk for the current Parliament, replicating many aspects of the PLSP Budget Analysis Tools. PIPS plans to expand this initiative into a permanent Budget Analysis Unit. For the past several years, PIPS has led comprehensive New Member Orientation, previously a role of donor programs.
The USAID/DFID Kyrgyzstan Parliamentary Strengthening Program, beginning its operation in the immediate aftermath of the 2010 transition, made it an early priority in order to seize a moment in time that was driving structural and behavior change across the government bureaucracy. KPSP successfully supported the JK to introduce and institutionalize a merit-based hiring and retention system that included clear standards for testing, attestation and performance evaluations of both new and senior parliament staff. The project assisted the JK in conducting a functional analysis of the proper setup and role of each division and department in the Kyrgyz Parliament to reach the optimal organizational structure. The KPSP also conducted throughout its duration corresponding trainings for JK Administration department and division heads and deputy heads to enhance their capacity, supervisory abilities and improve their individual and collective productivity.

### Political Context

For the provisional government that took power in the spring of 2010, it was clear that the general population was becoming increasingly cynical and frustrated by official corruption. There was a fear amongst power elites that potentially violent protests and attempted revolutions would only become more and more frequent if radical measures were not taken to rebuild the credibility and competence of state institutions at all levels. It was in this context that the country transitioned from a super-presidential system to a super-parliamentary one in which the greatest authority would be vested in the Jogorku Kenesh. At this time, there were a series of provisions, resolutions and strategies adopted to fight official nepotism, patronage and corruption, and increase the state’s responsiveness to its citizenry. These reforms were beginning to be pushed at all levels of state service, from law enforcement officers in isolated rural districts all the way up to the President.

**Introduction of Merit-Based Hiring and Staff Retention System for the Kyrgyz Parliament**

Beginning in 2010, the KPSP worked closely with the Head of the JK Administration and his Deputies to put into practice standards for merit-based hiring for state servants. KPSP built upon rules and laws that already existed in Kyrgyzstan - but had never been enforced and put into practice within the JK. KPSP’s contributions to this process included helping set up a plan in compliance with existing law and providing technical assistance with the development of the computerized tests and later interview formats, direct participation in JK Hiring Commission meetings and evaluations, and general monitoring of how the
process as a whole is being observed. KPSP staff also drafted permanent qualification requirements for each JK staff position and the permanent internal JK regulation on the procedures for conducting competitive hiring for JK staff vacancies in accordance with legislation relating to state service.

**Introducing Transparency and Competitive Hiring**

KPSP utilized local HR experts to assist the JK in drafting the questions for all substantive areas being tested for corresponding JK staff vacancies. Applicants who achieve a score of 50 percent or more on their test are then allowed to proceed to the second stage of the hiring process, which consists of interviewing with the JK Hiring Commission. In relation to the hiring interview process, KPSP developed the methodology for conducting the interviews and assigning evaluative interview scores for each applicant. Based on the aggregate results of the test and interview evaluative score along with considering the educational attainment and work experience of the applicants proceeding through stage two, the JK Hiring Commission makes a decision on which applicant will be hired for the JK staff position being filled.

**Promotion and Retention**

In 2013, the Speaker of the JK with assistance from KPSP issued an internal order establishing a JK Attestation Commission to oversee existing JK staff evaluation and retention, a process that had not been followed in the previous 10 years. The process consists of the following:

- Self-evaluation by the JK staff member;
- Evaluation by the immediate supervisor;
- Evaluation of the ultimate supervisor;
- Administration of a computerized test; and
- Evaluation of the JK Attestation Commission, including the results of an oral interview.

The computerized test, which KPSP helped to modernize, measures a JK staff member’s knowledge of legislation relating to state service and of the relevant substantive area to which his/her position relates. JK staff members who achieve a score of 50 percent or more on their test are then allowed to proceed to the next stage – the interview – and those who do not achieve a score of 50 percent must re-take the test after a six-month interval of time.

**Targeted Trainings for the JK Administration to Increase Capacity and Improve Individual and Collective Productivity**

Over the course of KPSP implementation, a series of complementary trainings were carried out to improve the professional knowledge and skills of JK Administration staffers, including trainings on human resources management (HRM), organizational psychology, and management. Specific sessions covered “The Manager as a Professional,” “The Procedures for Entering and Advancing in the Civil Service,” “Mentoring and Adaptation of New Employees,” “Bullying in the Workplace,” and “Evaluation of Personnel,” among other topics. The Program organized a number of specialized trainings for an emerging Parliamentary Women’s Staffer association including in strategic planning, public speaking and comparative gender related administrative policies.
Directors and Deputy Directors of JK Administration divisions and departments along with the Head of the JK Administration often credit these frequent KPSP trainings with substantially improving the work capacity of JK Administrative staffers participating in them. The trainings also provided opportunities for networking and increased communication between different divisions and departments, which frequently have only limited interaction with each other because of the JK Administration’s organizational structure and the high rate of turnover in staff. This aspect of the trainings was repeatedly raised by participants in their evaluations.

Functionality of the Proper Setup and Role of JK Administration Divisions and Departments

KPSP assisted the JK in conducting a functional analysis of the proper setup and role of each division and department in the Kyrgyz Parliament to optimize the internal organizational structure. As of this writing, the results of this initiative along with its accompanying report and recommendations are being reviewed by the JK Working Group assigned this task by order of the JK Speaker and the Head of the JK Administration. Once finalized, the substantive product emerging from this work will be presented to both MPs and JK staff. Pending their approval by the JK Speaker, faction leaders and the Head of the JK Administration, the recommendations will be implemented within the divisions and departments in the Kyrgyz Parliament in its next sitting, set to begin after parliamentary elections slated for October 2015.

Results and Sustainability

Pursuant to the new systems and enforcement of standards, vacancies at the JK now must be openly competed with official announcements made on the internet and print media and with applicants submitting their documents to the JK Division for State Service and Personnel Matters, which then evaluates them and compiles a shortlist for the JK Hiring Commission, which decides which applicants are sufficiently qualified to move to the first stage in the competitive hiring process, a computerized test measuring their knowledge of legislation relating to state service and of the relevant substantive area to which the vacancy relates. Further, now attestation takes place in the JK one year after an employee assumes their position. KPSP and the JK administration jointly tracked the administration use of these new procedures. Since March 2013 to program close in Summer 2015, these procedures have been followed for 100 percent of the vacancies in the JK Administration.

The ultimate goal of merit based hiring and accompanying administrative reforms, is to ensure the MPs can better perform their jobs. Certainly, in every measurable aspect of legislative performance, the parliament elected in 2010 has improved significantly over time including in measures that can be at least indirectly related to staff quality work (significantly greater usage of the Legislative Department, number of bills accompanied by appropriate legislative analysis, reduction in legal errors of draft legislation, etc.). The program had no measure to determine a directly link between the aforementioned work and the actual performance of parliament, but a proxy indicator has been the satisfaction of members with their staff. Through an annual survey beginning in 2010, respondents (Members of Parliament and the staff leadership) were asked if Parliament is a more constructive, effective and well-managed institution than it was 12 months earlier. By 2013, the positive response had gone from a base-line of 26 percent, to 62 percent (leveling to 63 percent by program close).
5C. INSTITUTIONAL CAPACITY AND PARLIAMENTARY ADMINISTRATION LESSONS LEARNED

Some of the major lessons learned in the area of budget processes in these case studies include:

**Immediate response to local demand.** In neither case were the institutional changes primarily a normative “demand” of the donor, although they certainly fit within best practices of parliamentary institutions. The KPSP was able to ingratiate itself within the Kyrgyz Parliament and make quick progress on its goals because it was offering assistance in precisely those administrative areas which were most troubling to the JK Administration as it responded to public scrutiny and parallel changes in government systems. PLSP began working with members on their vision of the establishment of PIPS even during the start-up phases of the program, recognizing the opportunity to build momentum early with the new Steering Committee, even though it was a multi-year task.

**Assistance must balance going around a system, or going through a system.** As demonstrated, the KPSP took advantage to the opportunity to work within the established apparatus given that there was real will and demand for institutional reform coming from staff leadership. In Pakistan, members believed that if PIPS were not to develop as an independent institution – funded by parliament’s budget but answerable to a Board of Governors led by members – it was in danger of taking on some of the habits of the Secretariat, including nepotism and other non merit-based decisions in hiring, lack of responsiveness and burdensome bureaucracy. While it is not good practice for donors to fund completely parallel structures that may be unsustainable, PIPS became a hybrid structure that has so far showed sustainability and decent performance, though it is not completely absent of bureaucracy and nepotism.

**Human Resource reform is often the “third rail” of institutional assistance, as it threatens with entrenched interests and sometimes powerful bureaucracies; its success is directly linked to political will.** As mentioned, the PLSP program undertook other parallel efforts to strengthen institutional staff functioning of parliament. For example, the program undertook studies to combine the two (National Assembly and Senate) small libraries, and help provide more robust, joint library services to both institutions. As each library had its own entrenched staff and constituencies, this attempt was blocked at every turn. Similarly, the head of the Senate blocked a previously agreed upon review of the HR systems. One was undertaken in another province, but its recommendations were not followed up on by the administration. Pakistan is a country where the bureaucracy — including the parliamentary bureaucracy in particularly entrenched, and can block sometimes even the will of powerful members. In the case of Kyrgyzstan, the need for reform was coming from inside the parliament, backed by member and staff leaders, with additional broader pressure from civil society. It is **recommended that donors – through program design** – **undertake a form of political economy analysis to determine if/where/how a project can galvanize any existing will for HR reform.**
6. TOPIC 3: ACCOUNTABILITY

Parliamentary strengthening programs are focusing increasingly on the role of elected officials in promoting accountability, including explicit attention to the issue of corruption. Often, this attention to accountability focuses on parliamentary oversight over budgets and government policy. This can take the form of introducing or strengthening committee or individual MP use of oversight tools such as question and answer sessions, oversight hearings, field hearings, and mid-term budget reviews. In addition, supporting parliamentary caucuses or forums dedicated to anti-corruption can also promote a greater role for the legislature in addressing accountability issues. These efforts often face challenges as there can be limited incentives for robust oversight within parliamentary systems where the majority party and government have shared interests. We offer case studies of two initiatives in Afghanistan and Bangladesh to increase parliament’s role in accountability. In Afghanistan, through ALBA, integrated efforts engage Commissions in stronger oversight over government expenditures and policy implementation, supported the Parliamentary Anti-Corruption Caucus, strengthened the Budget Commission’s oversight over public expenditures and engaged civil society in greater accountability in the mining sector. In Bangladesh, the PROGATI project supported the establishment of a budget analysis and monitoring unit in parliament to promote greater parliamentary oversight over public expenditures.

Below each case study is laid out, followed by a discussion of collective lessons learned that may be applicable to other programs.

6A. CASE STUDY: ACCOUNTABILITY/ANTI-CORRUPTION IN AFGHANISTAN

Corruption has consistently been described as serious a threat to the stability and development of Afghanistan as the ongoing insurgency; indeed, it is hard to separate one from the other. There is broad agreement that Afghanistan needs to improve its ‘accountability system’ – the web of oversight, advocacy, monitoring, and transparency that enables government and citizens to assess how programs and decisions conform to standards. Addressing the parliament’s role in anticorruption is within the overall government oversight mandate of the ALBA program, as well as an explicit cross-cutting theme, and complimentary to the efforts of the USAID Assistance for Afghanistan’s Anticorruption Authority (4A, 2012–2015). Activities in this area have become more direct over the past two years.

Political Background: Afghanistan possesses the basic institutional architecture for government accountability (including the Attorney General’s Office (AGO), the High Office of Oversight (HOO), the Independent Joint Monitoring and Evaluation Committee (MEC), and others); however, necessary political will to drive reform, and coordinated efforts by and between the Executive, Parliament and civil society to improve accountability have been lacking. As a result, Afghanistan has consistently ranked in the top ten most corrupt states in the TI Corruption Perceptions Index over the past decade. Major scandals such as the Kabul Bank crisis, involving the loss of close to $990 million USD threaten both trust in the state as well as the financial viability of the economy. Corruption in the educational, and health sectors effect citizens in a very personal way, and
Persistent problems with such government activities such as procurement in the security sector threaten the very ability to effectively combat a growing insurgency.

**The Role of Committee Oversight Activities in Accountability.** As part of its budget and oversight component, in its first year ALBA supported commissions to conduct several oversight trips to the provinces. Although these initial efforts were useful, the ability to shift program funds into this area, along with an injection of additional funding from the UK government, enabled the program to dramatically increase the frequency of such trips, and to make them part of the commission’s regular oversight planning. Commissions are now developing coherent plans for oversight, focusing on one or more key areas of the government’s operations in the regions. For example, the Budget and Economic Commission has recently completed a series of visits to customs posts in Herat, Kandahar and throughout the Northern region, developing a series of recommendations aimed at decreasing the loss of revenue through corruption and inefficient practices. In addition commissions now have the ability to conduct fact-finding missions to such areas as Kunar, during the recent influx of refugees from North Waziristan, and to Badahkshan, to investigate the recent spike in security incidents in the north. To make these trips as effective as possible, ALBA support includes mentoring of the planning process, ensuring that that they include outreach activities, such as town-hall meetings, as well as engagement with local CSOs and government line departments at the provincial level.

**Developing and Supporting the Parliamentary Anti-Corruption Caucus (PACC).** The ability of the ALBA program to recognize and react to opportunities also resulted in its engagement with the PACC. Initially a partner with USAID 4A anti-corruption program, the PACC was a small but dedicated group of MPs coming together on an ad-hoc basis to work on anti-corruption issues. ALBA recognized the potential of this group and designed a program to develop their internal organization, including a recruitment / expansion plan, internal elections, a charter, and by-laws. ALBA began facilitating PACC meetings with other groups in the anti-corruption field, such as the Independent Joint Monitoring and Evaluation Committee (MEC), Transparency International (TI) and the Global Organization of Parliamentarians Against Corruption (GOPAC). ALBA provided training and briefing sessions to the PACC, and housed them within ALBA’s parliamentary offices, giving them access to laptops and printers. With this and other support from ALBA, the PACC has quickly become the largest and most active caucus in Parliament, and has engaged both the President as well as the entire Cabinet on anti-corruption policy initiatives, as well as spearheading the effort to amend and pass the Access to Information Law.

During ALBA’s second year, the PACC grew from 12 to 23 members, as PACC members agreed to expand their caucus to the Upper House. This is the first time that members of the two Houses have come together in a single caucus, and this development is crucial in building a critical mass of advocates in both Houses for both the current anti-corruption legislation as well as other key Parliamentary initiatives in this area. The new members also come from a variety of Commissions, which means that the PACC can make its views known across a wide range of WJ and MJ Commissions.

With ALBA’s assistance the PACC held a national conference with CSOs during the second year, with 180 participants coming from all regions of Afghanistan. The conference discussed the potential approaches to anti-corruption for the new Presidential administration as well as methods to increase parliamentary-CSO coordination. The final set of recommendations included the following:

- Retention of the High Office of Oversight, with reform of staffing practices and transfer of investigative authority to the Attorney-General’s Office;
- Reform of the system of asset declaration, expanding it to both senior and middle management of all Ministries;
- Institution of a working group consisting of PACC, CSOs, and the staff of the President’s Special Representative from Governance and Reform;
- Inclusion of PACC and civil society representatives in the President newly-created High Committee on Procurement; and
- Renewed efforts at the implementation of Civil Service Commission reforms related to merit-based hiring.

It is important to note that many of the recommended actions have been taken up by the Executive – PACC and civil society representatives hold seats in the President’s Procurement Committee, chaired by President Ghani himself, Special Representative Massoud meets regularly with civil society and the PACC, and reform to the HOO is ongoing.

**Supporting the Development of Accountability Tools.** Civil society and Parliament need information to perform effectively, such as from ministries, academia, the private sector, government, and civil society. In Afghanistan, the tools of such information generation are only recently being put in place. With leadership from the PACC, the Parliament passed an Access to Information Act in 2014, and most Ministries currently make rudimentary data available through its websites and other avenues. ALBA worked to expand this access, by providing briefings and summaries of the public accounts – the annual Qatia report – to civil society and media organizations, enabling them to analyze government programs and projects at the provincial and local levels.

**Engaging the new Cabinet and Securing Political Will.** During the Karzai government many discussions on combatting corruption and increasing accountability within the government floundered due to a lack of political will at the highest levels of the Executive. The Presidential elections of 2014 provided the opportunity to engage the incoming government on accountability, and ALBA worked with the PACC to engage the incoming Executive on accountability issues, and during the Presidential elections 9 out of the initial 11 candidates committed to a plan of action to increase accountability, including the eventual winner, Ashraf Ghani. These pledges included the following commitments:

- Register personal assets with the concerned entities within the first fifteen days of tenure in the relevant ministry;
- Register assets of all deputy ministers, directors and heads of departments with the concerned entities within the first thirty days of tenure in the relevant ministry;
- Avoid personal use of governmental facilities, tools and vehicles and develop and approve specific procedures for this purpose within the first sixty days of tenure in the relevant ministry, beyond taking required measures for its implementation and monitoring;
- Hire employees at all levels on the basis of principles of equality, merit and recruitment with respect to an open competition process; and
- Facilitate easy, timely and inclusive access of CSOs, PACC and media to required information as per the Law on Access to Information.
Shortly after his election PACC and ALBA leadership met with the President-elect to remind him of his pledge and in return he asked the PACC to develop a set of policy recommendations relating to the accountability framework for his new Cabinet, which led to, amongst other actions, the establishment of a Cabinet committee for Procurement, which includes PACC representatives along with CEO Abdullah, Special Representative for Reform Zia Massoud and the Minister of Finance. During the ratification of the incoming Cabinet, PACC and ALBA hosted all of the nominated Ministers to extract additional pledges of action to increase accountability and anti-corruption efforts within their respective portfolios. Although many of the commitments within these pledges have yet to be completely implemented, they are considered a major step in defining what is required, and puts the Ministers ‘on notice’ with respect to the standards to which they are held. Moreover, they serve as a clear report card for Parliament and civil society with which to assess the new government. The pledges were highly publicized in national and local media during the coverage of the Cabinet ratification hearings.

**Supporting Civil Society Engagement with the Parliament in the Mining Sector.** Extractive industries represent a huge potential for the economic development of Afghanistan, however a robust legislative and regulatory framework was absent, resulting in a variety of illegal and corrupt practices in the mining sector in particular. As part of its focused support to priority legislation, ALBA worked with a consortium of civil society groups, including Global Witness, Transparency International, Integrity Watch, and the MEC to develop briefing papers and engage key committees on the draft Mining Law, at both the plenary and joint committee stages in both Houses. These briefings succeeded in identifying some key amendments for the legislation, including clauses relating to: water usage; land rights; the role of security and militias in mining operations; and transparency in bidding and awarding of contracts.

**6B. ACCOUNTABILITY CASE STUDY: BANGLADESH**

The Promoting Governance, Accountability, Transparency, and Integrity (PROGATI) project established a Budget Analysis and Monitoring Unit within the Parliament Secretariat to increase parliamentary scrutiny over public expenditures. The establishment of a budget analysis unit within the parliamentary secretariat as part of a broader program focused on anti-corruption emphasizes the role of parliament as a key accountability institution. Under PROGATI, setting up a budget unit was intended to strengthen parliamentary oversight over the national budget and specifically to increase scrutiny over public expenditures by arming Members of Parliament with detailed analysis on how money was being appropriated and spent. It is important to note that PROGATI was launched in 2007 during a Caretaker Government, when Parliament was suspended for two years as an unelected, technocratic government backed by the military assumed power. The Caretaker Government took over in large part to respond to unchecked corruption. During the Caretaker Government’s two year administration, corruption charges were pursued against the heads of the two major political parties, both former prime ministers.

Prior of the PROGATI efforts, there was no function within the Parliamentary secretariat to conduct budget analysis and no process to identify or build budget analysis capacity. The USAID approach was to create a unit within the Secretariat staffed by parliamentary officials generating regular reports on budget issues and answering questions from MPs and committees. While initially launched and supported with donor funding, the unit would eventually be integrated into the parliamentary secretariat’s organogram.

BAMU’s evolution covered four major phases starting from after the 2008 elections.

**Phase 1 - Introduction.** Immediately after the 2008 elections through mid-2010, PROGATI staff worked to introduce the concept of a parliamentary unit dedicated to budget oversight to a wide range of
The USAID Promoting Governance, Accountability, Transparency and Integrity (PROGATI) project (2007-2012) brought together the Bangladeshi Parliament, government institutions, civil society organizations (CSOs), and the media to promote the transparent governance of public resources and to work together toward a more fair, just, and better governed society. Through PROGATI, USAID helped to (1) build the government’s capacity to analyze, and monitor policy and budgetary priorities; (2) increase opportunities for citizen participation in the oversight of the national budget and government decision-making process; (3) increase the capacity of the media to serve as watch dog by reporting on transparency-related issues and advocating for reforms; (4) build new civil society coalitions, networks, and public-private partnerships to increase awareness of corrupt practices and (5) improve dissemination of information by public institutions at the national and local level to increase citizen access to government information.

PROGATI was implemented on the foundational belief that government institutions can become more transparent and accountable through the improvement of effective government auditing, checks and balances, and greater citizen and media oversight of public funds and decision-making. PROGATI worked to blend increased supply and demand for improved governance by strengthening the Office of the Comptroller and Auditor General (OCAG), while supporting civil society and citizens groups in carrying out their watchdog roles by providing direct training and establishing strong networks. By facilitating the increased supply and demand for good governance, PROGATI was successful in creating a more transparent participatory national budget development process, increasing governmental oversight of budget formulation and public expenditure, and involving citizens groups in decision making processes.

A central element of PROGATI’s work to improve demand for good governance was the establishment of a Budget Analysis and Monitoring Unit (BAMU) within the parliamentary secretariat. This work included support to the Secretary in identifying the appropriate model for such a unit, building the capacity of the parliamentary staff assigned to BAMU, generating demand from Members of Parliament, and supporting think tanks to create a broader budget analysis community of practice.

Phase 2 - Acceptance. In mid-2010, the transition from “if BAMU” to “when BAMU” took place among key stakeholders. This coincided with resolution through tripartite meetings of Parliament, USAID and PROGATI on the project modalities and the approval of a notional work plan. Parliamentary leaders, both of MPs and staff, started to discuss BAMU independent of PROGATI staff and came to accept that budget analysis support was important. During this phase, the embedded budget analysts started to produce early budget analysis notes and training of the 10 BAMU officials covered the conceptual underpinnings necessary for budget analysis. The Parliament’s formal launch of BAMU took place in December 2010.

Phase 3 - Production. Following with the BAMU launch in December 2010 through 2012, BAMU entered a period of production. Numerous events have been held, budget analysis reports produced and an expanding group of MPs have made use of BAMU services. In 2012, BAMU, comprising the 10 BAMU officials and two embedded advisors, organized the first “Budget Help Desk” during the parliamentary deliberations over the budget. A core group of BAMU officials have been involved in writing reports.
representing the first time parliament staff, rather than embedded Budget Analysts, were involved in BAMU work product. PROGATI training during this time has focused on practical skills rather than budget analysis concepts.

In September, 2012, the PROGATI project ended and the responsibility and staff to support BAMU shifted to the Promoting Democratic Institutions and Practices, a project funded by USAID and DFID ending in May 2015. With PRODIP support, BAMU entered its current phase.

**Phase 4 - Sustainability.** Following the shift from PROGATI to PRODIP, BAMU support focused primarily on securing the sustainability of the unit. This entailed concerted efforts to institutionalized some of the key functions, including the organization of the Budget Help Desk, and embed BAMU within the parliamentary secretariat. During this phase, which is ongoing after PRODIP’s close, BAMU staff has increased their production of materials, reports and answers to MP questions. In June 2015, BAMU staff organized the Budget Help Desk without any assistance from donor-funded programs.

**The Context for BAMU.** The PROGATI, and subsequent PRODIP, support to establish BAMU succeeded in building the structures and necessary staff capacity to conduct budget analysis. MPs routinely request information about the budget and ask questions about public expenditures and the BAMU staff are able to respond. However, several factors influence the degree to which BAMU actually serve as a mechanism for accountability. The following summarize some of the contextual issues that affect BAMU functions:

**Limitations within the Rules of Procedure.** The Rules limit Parliament’s role in the budget process. Specifically, Rule 111 (3) does not permit review of the budget by committees in advance of debate by the full Parliament. As a result, MPs engagement in the annual budget deliberation is restricted to a short speech and vote by the plenary. Without the ability and responsibility to review and recommend changes to the budget, the function of a budget analysis unit is more informative than oversight. During the support to BAMU, Parliament considered amendments to the Rules of Procedure that would have allowed greater parliamentary engagement on the budget. The interest in budget analysis did not translate to broader support for accountability, and the amendments failed.

**MP and Parliament Secretariat Dynamic.** While MPs expressed interest and support for BAMU and the access to more information about the budget, multiple and often competing interests within the Secretariat resulted in a more cautious and deliberate approach. Day to day BAMU activities were overseen by the Parliament Secretariat, not MPs and leadership, including the assignment of staff to BAMU, approval of training activities, and inclusion of the new unit within the Secretariat organogram. There were several turnovers of the parliamentary staff assigned to BAMU which mirrored the frequent transfers within the secretariat.

**Opposition Representation and Participation.** The lack of a strong political opposition has limited BAMUs utility in promoting accountability. BAMU has now served both the 9th (2009-2014) and 10th (2014 to present) parliaments. In the 9th Parliament, the opposition coalition won only 33 of the 300 contested seats, and decided to boycott proceedings. Opposition MPs participated in BAMU activities and were frequent requestors of budget analysis products. The opposition boycotted elections for the 10th parliament and are not clients for BAMU. In the current parliament, demand for BAMU products and services comes from the government, with several questions and requests coming from Ministers themselves.
Efforts to Improve the Supply and Demand for Accountability. PROGATI implemented a variety of activities and approaches to support the establishment of BAMU as an accountability mechanism for MPs. Project staff designed a clear strategy of simultaneously building both the supply of budget analysis skills and the demand for budget analysis services. On the supply side, the initial staff assigned to BAMU had minimal fiscal analysis experience requiring a focus on basic economic theory and understanding of the budget process. These included topics from “linking budget to policy” to “Financing the Public Budget Domestic vs. External” to “Sectoral Priorities of the National Budget.” A shift toward more practical capacity building, with embedded budget analysts to serve as mentors, enabled the BAMU staff to begin producing real budget analysis products and services. An internship program pairing parliamentary budget analysts with economic research institutes was effective in both generating high quality research and building capacity. On the demand side, BAMU was most effective when they brought the budget closest to MPs. This was achieved by positioning the help desk just outside the Parliament hall where MPs would pass on their way in and out of the budget debate. PROGATI also worked to align BAMU products with the incentives of MP, producing reports on key sectors such as health, education and infrastructure, and attempting to gather as much information as possible about constituency level expenditures.

The PROGATI experience also highlighted a critical limitation of any external donor-funded project aimed at promoting increased accountability in parliament – that of ensuring local ownership within the institution and, as a result, a need to move at a pace acceptable to key local actors. Because PROGATI was launched during an unelected ‘caretaker government’, the broad consultations necessary to directly align BAMU with MP needs could not happen. Efforts to expedite support to BAMU were consistently met with resistance as Parliament and Secretariat leaders responded to different constituencies for and against the new unit. The technical assistance to support BAMU also did not translate into influence on systemic issues that constrain greater accountability.

BAMU legacy for parliamentary accountability. It is too early to demonstrate BAMUs direct contribution to parliamentary oversight. Due to the limitations for MP participation in the budget process, BAMU has succeeded primarily in sensitizing parliamentary counterparts to a potential role for greater budget oversight. For example, MPs routinely ask questions about the budget allocations to their constituencies. However, this is a question that cannot be answered given current budget organization – government programs are not budgeted down to geographic areas. In addition, the opposition parties, who would be major consumers of budget analysis information, boycotted the most recent elections and are not participating in this parliament.

6C. ACCOUNTABILITY LESSONS LEARNED

Some of the major lessons learned in the area of accountability in these case studies include:

- **Programs should be flexible to responding to changing priorities.** In both cases highlight the need for legislative strengthening programs to be responsive to the needs of key parliamentary counterparts to promote greater accountability. In its program design ALBA resembled the ‘classic’ approach to legislative strengthening, with tasks and activities clustered around the three major functions of Parliament. In light of the severity and persistence of the problem in Afghanistan, accountability and anti-corruption have taken on an increased emphasis, and it was crucial that resources be increased to support such actors as the PACC, and enable the Parliament to play an increased role in this area. After discussions with project leadership, USAID supported
amendments to the existing workplan and the PMEP to accommodate this shift; USAID was also critical in negotiating support from the UK government, and this increased British funding was targeted towards a marked emphasis on oversight activities. The PROGATI project launched during a caretaker government, with no parliament. Nonetheless, the contract included a deliverable of “establish a functioning and sustainable budget analysis unit.” As the project awaited parliamentary elections and helped to promote broad understanding for the need for budget analysis skills, PROGATI began working with a network of Bangladeshi think tanks and organizations. This Budget Analysis Community of Practice became an influential voice to MPs and parties across the political spectrum on the need for such resources.

- **Identify trusted leaders and leverage their efforts.** The experience of both Bangladesh and Afghanistan demonstrate the key role of identifying and cultivating champions for accountability. In Afghanistan, Parliament has a mixed reputation in the area of corruption, and deservedly so – many are suspected of either turning a ‘blind eye’ to corruption at best, and at worst actively engaging in practices such as the selling of votes. Investing resources and effort in the PACC has resulted in a group of MPs and Senators who not only are seen as relatively ‘clean’, but has in a short time placed the PACC in the forefront of the fight against corruption, both on the public stage and in the eyes of the government as a partner. By bringing together the PACC with such groups as the MEC, TI, Global Witness, and others ALBA has given parliamentary actors new allies in the fight against corruption in addition to sources of valuable and credible research generated by these groups. For PROGATI, consistent networking with MPs and senior Parliamentary staff at the onset of efforts to establish BAMU was crucial. The project engaged a former MP to conduct a set of consultations with current members to assess their needs. Eventually, a core group of MPs, including influential committee chairs and women members, were able to express their needs for budget analysis and influence senior leadership to move forward.

- **Leverage Parliament’s unique powers.** The two cases represent how parliament’s role in accountability can be limited by the extent of their powers. Although many stakeholders are active in accountability issues in Afghanistan – including the Executive, the Judiciary, civil society, the media, and the international community – Parliament has the unique ability to initiate and pass legislation and other tools to increase accountability, as well as the ability to compel Ministers and Ministerial officials to provide testimony in public. USAID programs must realize that engaging civil society, or the government, on accountability issues will be limited in their effectiveness without involving Parliament and its commissions. The future success of the Law on Access to Information, for example, will hinge on the ability of Parliament to oversee both its initial implementation – in terms of the new structures and offices that must be established – as well as the continued operation of the new system, which will undoubtedly require changes in existing attitudes towards public access to governmental information. Because of the Bangladeshi Parliament’s very limited role in the budget process, there was never Executive resistance to the BAMU. If this role is expanded, it is likely that both BAMU will serve as an important mechanism for parliamentary accountability, and that the Executive will push back on sharing data and cooperation.
AFGHANISTAN LEGISLATIVE STRENGTHENING

The USAID Assistance to Legislative Bodies of Afghanistan (ALBA) project is a 4-year technical assistance initiative (2012–2016) designed to support both chambers of the National Parliament. It builds on the strong foundations of the predecessor Afghanistan Parliamentary Assistance Program (2004-2011) implemented by the State University of New York, with expanded activities in support of the Upper House, the Meshrano Jirga (MJ). It also followed other major donor initiatives with parliament, such as the UNDP SEAL program, which provided equipment and helped establish basic institutional systems. ALBA activities are grouped around the four following four project objectives: Strengthened Legislative Processes; Improved Capacity to Provide Effective Oversight; Increased Outreach Capacity; and, Increased Institutional Development. Cross-cutting themes included transparency and gender mainstreaming, especially in the areas of budget processes and legislation.

DAI's approach to this second generation program includes capacity development aimed at immediate and long-term application for practical, on-the-job learning for MPs and staff to reduce reliance on embedded advisors and engage in legislative, oversight, and outreach activities alongside government, civil society, and private sector actors. While previous programs were absolutely critical in getting the new parliament up and running and helping contribute to the legitimacy of the parliamentary system, lack of adequate planning and budgeting within the leadership of Parliament meant that resources and investments in professional staff are scarce, especially critical as international support filling resource and budget gaps like SEAL began to wane.

As anticipated, the program has taken place in a volatile environment. The Parliamentary elections of 2010 and the Presidential and Provincial Council elections of 2014 both led to prolonged crises which undermined confidence in the government as a whole, and in a practical sense delayed the work of the Parliament as MPs and Senators shifted to the provinces to work for their preferred candidates. Further, the deteriorating security in the capital and in the provinces meant that many MPs could not freely travel to their home provinces and the Parliament itself became a prominent target for insurgent attacks. The signing of the Bilateral Security Agreement became a focal point for vigorous debate, during the Consultative Loya Jirga in 2013, and then again in 2015 as NATO and US forces ceased active combat operations against a background of insurgent activity.

Nonetheless, USAID’s parliamentary programming has been highly valued, and in the Parliament ALBA is considered the Parliament’s primary partner for development and support. Rather than embedding advisors in the majority of committees of both Houses, ALBA supports the legislative process through its assistance to priority legislation, forming commission support units (CSUs) consisting of commission leadership, Ministry officials, representatives from civil society and other stakeholders to produce analyses and recommend amendments. To institutionalize capacity building programs for both MPs and staff, ALBA supports the Afghan Parliamentary Institute, the primary source of professional development in the National Assembly.
7. TOPIC 4: BUDGET PROCESSES

INTRODUCTION

Oversight of the national budget and its related processes is a critical role for any Parliament, however it is also a role in which the Parliament is usually ill-equipped to carry out in a robust manner. The limited length of time allocated to Parliaments to scrutinize the budget documents, the vast amount of detailed information presented (often without independent sources of credible data) and a lack of specialized expertise on the full range of issue areas – all create a challenge for MPs and staff alike. Hence it is a feature – often a major focus – of most USAID legislative strengthening and some other donor programs.

Budget cycles usually consist of several components:

- Initial budget formulation at the Ministry level/Consolidation of submissions by Ministry of Finance in draft budget.
- Discussion of draft budget by Cabinet/Submission to Parliament.
- Approval of draft budget by Parliament.
- Issuance of Supplement budget.
- Mid-year review of budget/initial budget formulation of next year’s budget.

With this fixed cycle, budget processes possess their own sense of urgency, and therefore considerations of impact often take precedence over sustainability when discussing approaches to support in this area. Other program design issues include: the importance of sectoral analysis of the national budget, the role of Parliament in sub-national budgets with centralized systems of government, and the need to scrutinize not just proposed expenditures and investments, but also ‘upstream’ issues such as revenue generation and ‘downstream’ issues such as project management and procurement.

Implementers including DAI have engaged in least three models of assistance to strengthen the budget process, including: creation of or support for a dedicated Budget Analysis Unit with specialized staff linked to the parliamentary administration (see Topic 6B of this paper on Bangladesh); assistance focused primarily – though not exclusively - on the Finance committees (budget, and sometimes audit) as illustrated in the Afghanistan case study below; and finally with a focus on the whole committee system and its role in formulating and overseeing the budget, including from sector perspective as is the case of Pakistan PLSP below. In many cases, implementers employ more than one approach. For example, in Afghanistan, in addition to work with the Budget Committee, the program is undertaking support for the Afghanistan Parliamentary Institute to provide significant budget expertise with the Institute, working toward it filling the role of a Budget Analysis Unit. Also, in addition to work with all major committees on the budget process, and development of tools that could be used to track sector budgets, PLSP invested budget analysis capacity with Pakistan Institute for Parliamentary Services (see Section 5A), which is reportedly now enhancing this service to operate as a Budget Analysis Unit within PIPs.

7A. BUDGET PROCESSES CASE STUDY: AFGHANISTAN

For the majority of the first Parliament since the overthrow of Taliban rule (2005 – 2010), its record of scrutinizing the national budget and its components was decidedly weak. Leadership from the Budget
committees of both Houses was lacking and deliberations were often used as a way to extract personal concessions from Ministers rather than a way to seriously debate the government’s priorities as expressed in the budget document. Expert support from the Secretariat’s Budget office was non-existent, as its staff members were considered poorly qualified to provide the level of advice required by the budget committees. Budget data provided by the Ministry of Finance was presented in a manner that made analysis from a sectoral or regional basis almost impossible by committee staff. The establishment of a stand-alone Public Accounts Committee, long the goal of the international community actors such as USAID and the World Bank, floundered due to political resistance from various committee chairs, inhibiting the scrutiny of government expenditures. Lastly, the ability of the budget committees – indeed, all of the committees – to properly understand and conduct deliberations on the budget was constrained by time, as the budget was tabled by the government in early / mid-November and was required to be passed prior to the rising of Parliament in mid – January.

Enhancing Parliament’s capacity to review the national budget and its execution by executive branch institutions was considered a core area for USAID’s ALBA project, and key to addressing the existing imbalance in Executive-Legislative relations. Since 2013, ALBA’s efforts to enhance the budget process and resulting accountability and oversight have produced mixed results, with lessons learned in many areas that can be incorporated in future program design.

The challenges ALBA addressed can be roughly described in the following ways:

- Deepening Parliament’s Engagement with the Executive on the Budget Process;
- Moving Parliament Beyond Scrutiny of Expenditures and into Revenue Generation;
- Expanding Scrutiny of the Public Accounts.
- Supporting the Engagement of Civil Society in Budget Processes;
- Tackling the Information Imbalance; and
- Balancing Immediate Impact versus Sustainability.

**Deepening Parliament’s Engagement with the Executive on the Budget Process**

As mentioned above, for the duration of the first Parliament, scrutiny of the budget consisted of discussions of the national budget document as it was introduced in the late November, followed by questioning of Ministers and Ministerial officials prior to votes of approval in early January. Moving beyond basic deliberations on the national budget as it is introduced to Parliament, the ALBA project encouraged and supported committee staff to produce analyses on all of the major components of the budget cycle, which in the Afghan context consisted of:

- March/April – Supplement Budget.
- June/July – Mid-Year Budget Review.
- August/September – Qatia Report Issued.

Enabling the budget committee to understand the supplemental budget and the mid-year budget review was crucial to the committee’s effective oversight of the budget, as the changes enacted in these processes...
were often enormous – a reflection of the Government’s poor ability to estimate and produce accurate data on revenues and expenditures.

To deepen this engagement, ALBA began bringing together ministerial officials, and in particular, the Parliamentary Liaison Units in each ministry, and facilitating meetings between these units and relevant sectoral and budget committees of each House – this coordination was key in enabling the Parliament to receive information as ministries began drafting their respective budget submissions, and provided key signals of the government’s budget priorities well in advance of the formal budget submission in the November / December timeframe. In support of this effort, ALBA conducted numerous seminars introducing Parliamentary staff to the national budget process, and in particular focused on how the Parliament can better integrate itself into the overall budget submission cycle managed by the Ministry of Finance.

Moving Parliament Beyond Scrutiny of Expenditures and into Revenue Generation

Another challenge was to support the Parliament in not only examining and deliberating on the program priorities (i.e., planned expenditures) as expressed in the budget document, but to do two other crucial tasks: 1) examine the assumptions of revenue generation contained in the national budget; and 2) expand oversight activities into revenue generation activities of the government, which in the case of Afghanistan meant primarily the Customs and Border systems and facilities.

The project mentored budget committee staff to prepare numerous briefings to committees of both Houses; over the course of the project the format for these briefings changed significantly and incorporated some of the best practices from other countries in budget analysis (a result of several study trips). In addition to the sectoral and provincial analysis of the budget, the following issues were addressed in the budget analysis document:

- Macroeconomic scenario and growth prospects;
- Revenue generation and fiscal sustainability strategies;
- National Priority Programs (NPPs) and their implementation;
- Employment generation opportunities and unemployment in the country; and
- Poverty reduction strategy and budgetary allocations for poverty reduction.

This research was augmented by a series of hearings supported by ALBA in which officials of MoF’s Revenue department provided detailed breakdowns of assumed revenue streams, from both a sectoral and provincial level. Another focus of the hearings was the implementation of the Automatic System for Custom Data (ASYCUDA), a computerized system for customs tariffs management, installed in the major transit points of the country with the financial assistance of the World Bank, whose officials also appeared before the budget committee to provide details on its progress.

Moreover, as mentioned above, prior to 2013, oversight activities such as provincial visits and hearings were planned by committees based on a variety of factors, but primarily on the personal interests of the committee leadership and members. Upon its establishment, the ALBA project worked with committee leadership to develop oversight plans based on analyses of the public accounts and other reports such as the quarterly performance reports issued by the ministries as part of their required reporting via the Ministry of Finance. By mentoring committee leadership to see oversight as much more than simply
scrutiny of the national budget document, ALBA support essentially moved the committees beyond a level of basic scrutiny of the budget itself, and enabled them to examine ‘upstream’ issues such as customs and revenue generation, as well as ‘downstream’ issues such as procurement and program implementation. This resulted in oversight activities that better reflected the actual development challenges facing the country.

Expanding Scrutiny of the Public Accounts

Although the budget document is an important statement of the government’s priorities, ALBA support also increased significantly on the annual Qatia report, the Afghan government’s public accounts. Issued each August, the public accounts provided detailed information on the expenditures – or lack thereof – of each budget unit with the government for the most recently completed fiscal year.

Committee staff were mentored on how to provide sectoral and provincial analyses of the public accounts, and committees quickly realized the importance of this information, using the analyses to conduct hearings on each Ministries performance with respect to major programs and projects. During the last two years the budget committee of both Houses called Ministers and Ministry officials to provide testimony on the varying levels of budget execution, which is most cases averaged only 25 – 45%. This surprising underspend meant that crucial projects were being left uncompleted and donor funding was lost.

As mentioned above, this level of oversight of the public accounts was quite new for both Houses, and in many ways the Qatia report is a much more significant document than the national budget, as it paints the picture of the actual revenue and expenditures of budget units, and therefore serves as a measure of departmental and Ministerial performance, rather the as a statement of intended expenditures (as is the national budget, especially in light of the significant revisions to the original budget document during the supplemental budget and mid-year budget review discussed in the previous section). These efforts had the effect of replicating the functions of a Public Accounts committee, as well as reviving calls from many MPs for the establishment of such a committee in the future.

Engaging CSOs and the Media on the National Budget and the Qatia Report

As part of the effort to increase scrutiny of budget processes, ALBA has implemented a regular series of briefings for civil society and the media, aimed at engaging them on the various parts of the national budget process – i.e., the supplement budget, the mid-year budget review, the public accounts, and the national budget – as they are introduced by the Ministry of Finance. This has enabled many of the more active civil society groups to be able to engage with the budget committees and relevant sectoral committees in a much more effective manner.

As an example, during the weeks prior to the London Conference in December 2014, ALBA held several briefing sessions, in coordination with the budget committees of both Houses, for 53 CSO representatives who were invited to travel to the UK and participate. These sessions focused on the following:

- Definition of Qatia/key points in the Qatia report;
- Budgetary units’ responsibilities towards Qatia;
- Ministry of Finance and Supreme Audit Office role in Qatia reporting;
- MJ/WJ role in Qatia;
- Civil society oversight role in Qatia;
• Explanation of FY 1392 revenues/FY 1392 operating and development budgets;
• Information about development projects’ zero expenditures’ percentage during the FY 1392; and
• Line ministries and budgetary units’ violations in FY 1392 Qatia.

This enabled the CSOs to more clearly advocate for their respective issue areas, based on actual data from the previous financial year.

**Tackling the Information Imbalance - Enhancing Access to Macroeconomic, Fiscal, Budget, and Sectoral Data.** Since 2008, the transparency of Afghanistan’s budget process has been rated by the International Budget Partnership’s Open Budget Index, and from 2010 onwards gained significantly in its scoring by virtue of the publication by the MoF of three documents: 1) a pre-budget statement; 2) the national budget; and, 3) a ‘citizen’s budget, in which details of the budget and its impacts from the point of view of the ordinary citizen are explained. Similarly, the World Bank’s Public Expenditure and Financial Accountability Index notes some improvements since 2008 in areas such as transparency – as evidenced by the accessibility of the budget document and the Qatia reports, but notes challenges in the credibility of the budget due to the low executions rates and over-use of contingency funds. ALBA’s efforts have demonstrated to the Parliament the importance of using the Qatia reports as a way of ‘shining a light’ onto the actual expenditures of the government and has extended this to civil society however more can be done, and scrutiny of the operations of state-owned enterprises (SOEs) can be expanded in the workplans of the committees of both Houses.

The ALBA project began an effort to coordinate with MoF to revise its database and augment it with other sources, including IMF, ADB, and World Bank data. In addition the project is also working with the Central Statistics Office (CSO), and other government ministries such as Health and Education to provide more information relevant to civil society and Parliamentary committees are they undertake oversight of government activities on a national and local level. This revamped database will improve the independent research and comparative analysis that ALBA provides to Parliament in fiscal, budgetary, and sectoral issues, and eventually Parliamentary staff will be trained to utilize the database to conduct its own analyses. The project will then seek to place the database online in coordination with the research and budget offices of Meshrano Jirga and Wolesi Jirga.

This effort, however, is underway as of this writing; accurate statistics is an ongoing issue at the national and provincial level, due to a variety of factors, including the increased level of insecurity throughout many parts of the country as well as the political and ethnic sensitivities of carry out a rigorous census. Line ministries are considered to have poor databases in terms of beneficiaries and project data, and other approaches must be considered, such as engaging local communities and civil society groups at the district level to fill the information gap and provide credible alternatives to Ministry and government data.

**Impact and Sustainability**

ALBA’s predecessor, the Afghanistan Parliamentary Assistance Program (APAP), focused on getting the nascent Parliament and its committee structure ‘on its feet’, embedding ALBA staff in virtually each of the Lower House’s 18 committees, as well as several of the Upper House. While this had the effect of getting committee operations up and running rather quickly, the knowledge transfer from APAP staff to committee staff did not take place, and almost all of the committees became overly dependent on APAP for their daily operations. There was a deliberate effort in the program design of ALBA to change that dynamic, and trade off some immediate impact for longer-term sustainability.
ALBA took a more strategic approach to committee support, working with committees on the basis of the priority legislation. In other words, ALBA supported the passage of legislation as it passed through the Upper and Lower Houses, and this resulted in a more efficient legislative system (for example, during the period consisting of Fall 2012 – Spring 2014, the number of pieces of legislation passed with the assistance of USAID increased from an average of 2 per session to 6).

This approach, however, was not applied to the budget and economic committees of both Houses; rather, the ALBA budget team was essentially still ‘embedded’ in three main committees:

- Wolesi Jirga Commission on Finance, Budget, Public Accounts and Banking Affairs;
- Wolesi Jirga Commission on National Economy, Non-governmental Organizations, Rural Development, and Agriculture; and
- Meshrano Jirga Commission on National Economy, Finance, Budget and General Accounts.

This decision was taken in light of the complexity of the budget and budget issues in an environment such as Afghanistan, where donor commitments and funding add another dimension to budget management, and also in light of low capacity of the Secretariat’s Budget Office, which consists of five individuals who are considered vastly under-qualified for their tasks. As a result, ALBA’s budget team is still considered the subject matter experts by the leadership and members of the three key committees listed above.

As the project heads into its third year, ALBA has recognized the need to develop a continuous training program for the staff of the Budget Office, and this will include courses along the following lines:

- Analysis of key economic variables.
- Revenue and tax policy analyses.
- Analysis of draft budget.
- National Priority Programs (NPPs) and alignment of budget with NPPs.
- Analysis of sector policy proposals and bill costing.
- Qatia report and Auditor General reports.
- Sector performance reports and analysis.
- Budget Reforms: program budgeting, medium term budgeting, and provincial budgeting.
- Data collection and management: macro, fiscal, budget, and sectoral data.
- Preparing Committee briefs and presentations.

The aim of these courses is to develop independent and analytic research units in the WJ and the MJ, and would move the Parliament further towards a level of independence that does not exist at present. In addition, ALBA is working with the current UNDP program ICSPA (International Community Support to the Parliament of Afghanistan), which has as one of its objectives to work with the leadership of both Secretariats to increase efforts at HR reform; certainly one of the priority areas for effort should be the recruitment of truly professional budget advisors, given the importance of this function in the work of the Parliament.
7B. BUDGET PROCESSES CASE STUDY: PAKISTAN

The Pakistan Legislative Support Program (PLSP) focused on building the capacity of the budget committee and other sector committees in six houses to better scrutinize the state budget, successfully improving the analytical skills of members and staff, providing them with sector measurement tools, and in the process, training journalists on how to cover the budget process. The EU Improving Parliamentary Performance in Pakistan (IP3), awarded two years after the close of PLSP, continues to support a similar capacity building program, including activities aimed at the for the budget process, specifically at the national level with the National Assembly and Senate. UNDP also conducted an institutional reform program, which supported elements such as gender budgeting.

At the time of PLSP’s inception in 2006, Pakistan’s National Parliament and Provincial Assemblies were among the most disempowered legislatures in the world in terms of the amount of time and information provided to them when they are asked to consider the annual budget. Both the Treasury Bench and Opposition Bench parliamentarians in all Houses were stymied by a lack of information from the Executive Branch that would assist to critically analyze annual budgets as a fiscal policy documents and the respective institutions’ proper role.

PLSP worked to build the capacity of members and staff through expert led trainings in the government budget process, provision of on-site experts during the budget review period, manuals and guidebooks, and the development of a Budget Analysis Tool to enable committee members and staff to quickly assess funding trends within sectors and identify challenges such as delayed disbursements of funds. PLSP also worked with committees through a variety of activities to strengthen their general oversight role, include budget and fiscal oversight. PLSP provides an important example of what new budget practices gained traction, which did not, and why.

Some of the key challenges included:

- Building Capacity for Budget Analysis.
- Developing a Budget Analysis Tool.
- Supporting Committee Hearings.
- Supporting the Public Accounts Committee.
- Ensuring Impact and Sustainability.
- Determining Outcomes and Long-term Impact.

Building Capacity for Budget Analysis

During the first year of the program, PLSP began focusing on providing “Budget Analysis and Processes” workshops for senators and MNAs and for MPAs in all four provinces just prior to the June Budget sessions. US and Pakistani budget specialists were brought in to orient legislators to the Rules of Procedure and constitutional provisions related to the budget, provided comparisons of the budget exercise with other countries and provided tools to enhance the capacity of elected representatives to analyze the budget as a fiscal policy document and better oversee government operations. Participants found the workshops helpful, and these types of workshops were replicated in some form every year during the project. Elements were added, such as co-training in gender budgeting in cooperation with UNDP.
The program also introduced the concept of mid-term budget analysis, to provide members the opportunity to assess information on the volume of expenditure that had already been undertaken and the flow of expenditure against the various revenue heads during the current fiscal year.

The initial workshops in 2006 identified a series of twelve recommendations to enhance the legislatures’ role in the budget process. The four determined as most critical were:

- Legislators need more detailed information earlier in the process including actual expenditure data;
- Actual expenditure data must be released on a regular and timely basis to legislators.
- The budget should be scrutinized by the relevant standing committees; and
- Budget analysis and scrutiny should be ongoing throughout the budget cycle.

**Developing the Budget Analysis Tool**

Based on these three recommendations, and reinforced by MPs and MPAs, PLSP developed a Budget Analysis Tool (BAT) presented budgetary revenue and expenditure trends, by reviewing sectoral budgets within the context of the overall national or provincial perspective, comparing growth and performance rates from immediate past years’ budgets, and from a policy perspective. The BAT was rolled out to the respective Budget Committees as well as the relevant sector committees. The Data that populated the BAT worksheets were drawn from the national Ministry of Finance’s Budget Pink Book, Federal Budget in Brief and Supplementary Budget Report; Accountant General Pakistan Revenues (AGPR/) Civil Appropriation Accounts and Draft Civil Appropriation Accounts; and, the Project to Improve Financial Reporting and Auditing (PIFRA) Chart of Accounts.

BATs were designed to use simple excel spreadsheets to facilitate easy replication into multiple sectors. The Tool enabled users to see past budgetary revenue and expenditure trends of the sectors, an indication of how spending related to specific policy objectives of each ministry, disaggregated allocations between development and current budget and other key analyses. Other analyses provided by the BAT included the ability to review the functional distributions within sectors, comparisons of current and development expenditures, allocations measured against specified national policy objectives and other areas of interest. PLSP developed a user-friendly manual to assist legislative support staff to update and individualize the tool as new budget figures was developed in parallel, complementing the tool.

Graphic illustrations of the analyzed data provided easy comparison drawn from the above-mentioned Data Sources. The table chart shown here illustrated the trend of the Development Budget within the Health Sector. The three-year comparison showed that each year Development Expenditures on Health were consistently under-utilized compared to budget estimates (the light bar indicates Actual Expenditure against the Budget Estimates are shown in grey). In this illustration, legislators are able to play their intended oversight role by reviewing critical development funding, and then raising critical questions of the ministries based on the BAT’s illustration, on why the Health Sector development budget fell short of the established budget expenditure targets. As this particular sector’s development funds made up approximately four percent of the overall national development budget at that time, this made it a potentially powerful tool for oversight, especially by sectoral committees of the parliaments.
Supporting Committee Hearings

In the “Conference of Chairs of Standing Committees” facilitated by PLSP in February 2007 one of the key recommendations that emerged during the meeting was the “Establishment of Council of Committee Chairs” that was to meet on regular basis to identify critical areas in committee functioning that need improvement. The report from the conference was also shared with members providing them in documented form shared experiences from the previous assemblies on how committees can be made for effective.

PLSP was able to undertake the intensive training plans in both terms of Parliament, establish a Committee Branch Working Group involving all six houses, create a series of Policy Resource Guides matched to the corresponding committees, and development of a Committee Handbook on holding public hearings. However, the proposed Council of Committee Chairs – called for in the Rules of Procedure – never realized its potential for harnessing the Committees to greatly strengthen their role in the Budget Process. Some advances were made, but overall did not fulfill its potential.

In addition to the annual Budget Process and Analysis seminars for parliamentarians, PLSP initiated the first-ever Mid-term Budget Review session in 2007. In subsequent years the Project worked with seven Committees of the Senate and National Assembly and the research staff, as a result of these sessions, helped the Senate conduct its first-ever Pre-Budget Session in 2007. Committee-specific public hearing trainings were held by PLSP geared towards the budget cycle. A series of committee specific Policy Resource Guides were developed by the project to assist Committee Members and staff access independent policy experts to increase knowledge of the budgetary impact of legislation. These Guides were included with the training modules prepared for PIPS. PLSP also helped committee research staff begin the development of a legislative impact assessment process that would assist MNAs understand the financial impact of legislation. Also, the project established a merit-based selection system for Parliamentary Interns, focusing the Intern program on direct assistance to Committee Chairs. Much of the training modules and research resource remain available through the now-independent PIPS, which has built on that foundation and continued it.

Supporting the Public Accounts Committee

Upon request from the Chair of the PAC, who was also the main opposition leader, PLSP added to the scope work with the National Assembly PAC. This primarily consisted of a comprehensive assessment and series of recommendations for the PAC members and staff, led by the former Chair of the equivalent committee of the Parliament of South Africa, Gavin Woods, who was also a professor of public finance. Some of the recommendations began to be implemented, but the activity took place close to the end of the program. It does not appear that other programs picked up work with the PAC, which may have been a missed opportunity given the activity and enthusiasm of a core group of both government and opposition PAC members.

Impact and Sustainability

The primary vehicle for sustaining the work of PLSP (and currently, for IP3) has been through the Pakistan Institute for Parliamentary Service. PIPS was conceived, designed, formulated and ultimately housed through PLSP (ultimately within a separate state of the art building whose construction was funded by USAID) to carry on both research and training roles for all six houses. Its core operational funding comes from the National Assembly and Senate, and a board consisting of national and provincial MPs has overseen it since 2009.
With regards to work with budget committees and related matters of budget analysis, PIPS has carried and expanded upon on the work of PLSP, including: Pre and Post Budget Orientations for MPs and MPAs, direct research for MPs, individual budget briefings for MPs, a Post Budget Seminar, and direct data analysis for parliamentary committees.

The parliament and provincial assemblies did not take up the Budget Analysis Tools once the project closed. The necessary resources required to gather information for updates to the BATs were at the time deemed too much a strain. Also, the government does not have a record of providing access to data easily or straightforward, whether for the assemblies, the media, or the general public. Most recently, however, the PIPS established a year-round Budget Office Desk for the current Parliament, replicating many aspects of the BATs, and is expected to formalize the Budget Office Desk, serving as the possible nucleus of a future permanent Budget Office.

**Outcome and Impact**

Determining outcomes and longer-term impact for these efforts must viewed within the prism of parliamentary bodies being evolving organisms, with election turnover often removing key plays in driving budgetary process reform. In the 2008 election, the National Assembly saw a turnover rate of 57%, with 197 of the total 342 NA seats changing hands – mostly to newcomers. The provincial assemblies saw similarly high rates of turnover – Punjab – 72%; Sindh – 66%; Khyber Pakhtunkwai – 62%; and, Balochistan – 54%. The 2013 election saw a less dramatic turnover rate at the National Assembly of approximately 29%, but that is still well above most established democracies. This meant that a substantial number of members in each house with each election were starting at ‘square one’ in terms of their knowledge of the budget process, although the staff remained relatively constant.

PLSP’s Performance Management Plan measurements provided for identifying select elements of progress in the area of budget programming, although the PMP itself was challenged in its full comprehension, as the program began with a two-year phase and evolved through a series of cost and no-cost extensions into a five year program with the addition of activities and a substantial budget increase in the final year. Data from the 2007 PMP showed increased improvement in budgetary oversight by committees, measuring the number of committees actively engaged in oversight, as determined by the number of budget-specific Committee actions taken during the budgetary review process. Evaluation data from 2008 showed strong support among Members and Senators at the national level for budgetary training. And finally, the final project year PMP noted that the National Assembly Public Accounts Committee (PAC) issued and tabled an Annual Report for the first time since 1983, and Sindh Provincial Assembly submitted its first ever PAC Report to the House.

In looking at the potential longer-term impact of PLSP and complimentary efforts, a review was conducted of the parliamentary monitoring and scorecards led by local NGOs since the close of PLSP. The Free and Fair Elections Network, an established local good-governance NGO, issued major analyses of the 2013 and 2014 Budget Sessions, identifying a strong level of participation by MNAs both years (38% in 2013, 41% in 2014) in budget and budget related debates and discussions.

The NGO Pakistan Institute for Legislative Development and Transparency (PILDAT), in its February 2013 Background Paper on Parliamentary Budget Reforms, stressed its concern over the lack of timely budget data provided to the Parliament, citing the fact that budget documents arrive only a day or two prior the start of the Budget Session; owing to the compressed time for consideration – averaging only 13-14 days from receipt of the Government data to the completion of the Budget Session – this is a serious
problem. Among PILDAT’s recommendations cited in the Paper was a call to move the start of the Budget Session back to a full 60 days prior to the end of the Fiscal year to allow a more reasonable period of 30 to 45 days – echoing initial PLSP efforts, and something that to date has not been taken up by the government. PILDAT also called for each Standing Committee to conduct mandatory pre-budget hearings in October prior to the Budget Session the following June. As a means for providing for a larger period of consideration, as well as assisting Standing Committees in pre-budget hearings, PILDAT calls for the creation of an independent Budget Unit within the Parliament, something that has been taken up by PIPS.

The question of parliamentary resources for providing the budgetary analysis necessary for a legislature to properly conduct its crucial oversight role – both in the development of budgets and overseeing the quality of execution of budgetary priorities after it is passed. This problem was highlighted by PLSP, for which the creation of PIPS was one of several efforts to encourage maximization of existing parliamentary human resources as well urging investment by Parliament in itself.

Possibly, a different approach that might work in lieu of the issues related to the budget process would be to tackle the budget as a specific issue – the focus being on making it more transparent and responsive to the needs of citizens – and address all the actors in the process. That kind of approach could work with the Ministry of Finance, Parliament, or key parliamentary committees, as well as citizen groups that can monitor the budget and demand greater efficiency and accountability. Such an approach would build the capacity of parliament, but could also create greater grassroots demand and provides more incentives for action.

Regardless of which approach is taken – and neither is mutually exclusive of the other – it remains critical for the Parliament and Provincial Assemblies to address institutional needs required to successfully perform the key institutional role of oversight, helping to move Pakistan toward more stable governance to enable it to address the many needs and threats it currently faces.

7C. BUDGET PROCESSES LESSONS LEARNED

Some of the major lessons learned in the area of budget processes in these case studies include:

- Models of budget support must practically be based on need, where there are administrative and political openings, and project budget resources. The Budget Analysis and Monitoring Unit in Bangladesh was part of a broader accountability program working with multiple levels of government and civil society. The unit was seen as one critical entry point to close broader accountability gaps, and under the scope of the project could not have been expanded to broader budget oversight efforts. In Afghanistan, the greatest opportunity for sustainability was to focus on financial committees and their link to the Institute. In general though, it is important to link the main activities with other sector committees to ensure the budget is seen as a policy tool, not just an accounting practice. In Pakistan this took the form of the BAT, while in Afghanistan the project used the Qatia reports to do similar analyses.

- **Oversight of the Budget must be a Continuous Process.** Parliament’s work on the national budget cannot be limited to the four – six week period during which the government introduces the budget, and getting committees involved in the formulation process is key to their effectiveness. Engaging ministries through the fiscal year and ensuring committees understand and are active in all the major components of the process is crucial. If the government’s ability to forecast revenues and expenditures are weak, as is the case in Afghanistan and to a lesser extent,
Pakistan, the supplemental budget and the mid-year budget review become important focal points for Parliamentary scrutiny.

- **Importance of Supporting the Public Accounts.** In a context such as Afghanistan, where donor funding makes up a significant portion of the budget and is conditional on major reforms, scrutiny of the public accounts becomes even more critical in understanding government budget performance. The progress made in transparency of budget processes described in the Open Budget Index was largely a result of pressure from the donor community. In a similar fashion, donor funding should be made contingent on the development of a fully-functioning Public Accounts committee, free from interference by Ministers and Parliamentary leadership and staffed with qualified public financial management experts. ALBA should have engaged leadership in the Parliament and Ministry of Parliament Affairs more rigorously, and earlier, in the timeline of the project. In Pakistan, where the chair of the PAC is also an opposition member, there exists the real threat that the PAC is neglected and/or under-resourced; support programs should ensure that support continues to this critical committee even after donors’ programs end.

- **Civil Society and the Media Need Access to Data and Training.** In order to enable the effective participation of civil society and the media in scrutinizing government programs, access to data is critical, as well as ensuring that they understand the various components of the budget cycle, including the system of public accounts. Project design should ensure that resources and efforts are devoted to training and other activities involving those civil society actors who work both at the national and provincial level in government budget execution.

- **Early Planning for Knowledge Transfer is Crucial.** With access to international and local experts, projects can and should seek to provide immediate impacts through its activities. This will reinforce relationships with Parliamentary actors at all levels, encourage buy-in from leadership and ensure that the effectiveness of the institution is increased in the short-term. However, projects must have a credible plan to start knowledge transfer at the outset, and work towards building the long-term capacity of commission and secretariat staff as part of their core activities. Periods of ‘handover’ – where project staff are gradually replaced by Parliamentary staff, and they in turn are recognized subject matter experts – should be designed to be long enough for mentoring to take place and gaps in support to be avoided. ALBA is starting to focus on this area during Years 3 and 4, however this could have been initiated much earlier in the project’s timeline, and the API will be tasked with carrying on the capacity building of budget staff. Similarly, the PLSP viewed the PIPS as key to continuous development of staff dealing with budget issues.

- **Impact and Sustainability.** In both cases the impact of program activities in the area of budget processes was considerable; by several different measures oversight increased as a result of the efforts of both ALBA and PLSP. MPs were more active in budget debates, committee hearings on the budget increased, and issues surrounding the public accounts became more prominent and underwent greater scrutiny by committees and individual members. However, in both cases these efforts were limited by the inability of the various parliamentary actors and groups to sustain them once support programs ended. The establishment of a permanent Budget Office within Parliament, to act as the nexus of knowledge and skills relating to the budget and its components, was identified as critical to the further development of this particular aspect of parliament’s oversight role.
LEGISLATIVE STRENGTHENING EVALUATIONS AND THEIR IMPLICATIONS FOR FUTURE PROGRAMS

METHODOLOGICAL AND SUBSTANTIVE ANALYSIS OF USAID LEGISLATIVE STRENGTHENING EVALUATIONS, 2003-2015

SEPTEMBER 2015

This publication was produced at the request of the United States Agency for International Development. It was prepared independently by John Lis and Gabrielle Plotkin of Social Impact.
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USAID Project Number AID-OAA-I-12-00004/AID-OAA-TO-15-00028

DISCLAIMER

The author’s views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
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## ACRONYMS

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<tr>
<td>ADS</td>
<td>Automated Directives System</td>
</tr>
<tr>
<td>DEC</td>
<td>Development Experience Clearinghouse</td>
</tr>
<tr>
<td>DRG</td>
<td>Democracy, Human Rights and Governance</td>
</tr>
<tr>
<td>LS</td>
<td>Legislative Strengthening</td>
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<tr>
<td>PPL</td>
<td>Policy, Planning, and Learning</td>
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EXECUTIVE SUMMARY

INTRODUCTION
Since the fall of the Iron Curtain, USAID has supported legislative development around the world. As the field has developed and grown, USAID has endeavored to learn from its legislative strengthening efforts. USAID introduced its Evaluation Policy in 2011, representing a significant move to standardize various elements of evaluations. The rollout of the policy precipitated a substantial increase in the number and quality of evaluations in all sectors.

PURPOSE, METHODS, AND LIMITATIONS
As its contribution to development of the USAID Legislative Strengthening Handbook, Social Impact (SI) reviewed 30 evaluations, assessments, and final reports of USAID legislative strengthening (LS) programs and analyzed them in terms of their methodological quality and substantive content. The methodological analysis is intended to provide USAID with a better understanding of the strengths and limitations of its evaluations of legislative strengthening programs. The substantive review is intended to assist USAID in understanding which legislative strengthening program components have tended to be the most successful, as well the various legislative and country contexts that are most conducive for success of a given intervention.

In consultation with USAID, SI identified a sample of 30 reports from 2003 to 2015 to be subject to this review. Although not exhaustive, the sample included programs based on substantive interest to DCHA, geographical diversity, country context, and relative success or failure of the programs.

The SI team conducted a rapid methodological review of the evaluation reports using USAID’s “Summary Checklist for Assessing USAID Evaluation Reports” to assess overall methodological quality and to provide guidance as the team selected reliable information for the substantive review. The team also gleaned information about use of performance monitoring data in the evaluation reports.

Based on the methodological review, the team carried out a substantive review of the success of the various programs and their components. Out of the 30 reports, SI identified and categorized the 14 program components that were most common and what they sought to accomplish:

1. Institutional development
2. Legislative processes
3. Oversight
4. Committee strengthening
5. Research
6. Budget analysis
7. Sectoral issue advocacy
8. Consultations on issues
9. Constituent outreach
10. Information technology
11. Public information and transparency
12. Caucuses
13. Women
14. Internships and fellowships

SI analyzed the conclusions of the independent evaluators in the reports to determine whether a given objective was successful, partly successful, or not successful. The SI team did not conduct an independent, direct review of the legislative programs in order to develop observations about program success, but instead synthesized the information as provided in the evaluation reports. SI then considered the relationship between success of a specific component and the following contextual factors:

1. Constitutional system
2. Stage of democratic development
3. Type of program
4. Electoral system
5. Post-conflict environment
6. Program length
7. Years since national independence
8. Number of chambers

The coded data were entered into a spreadsheet, and component scores were analyzed for correlation with other components and country characteristics.

Among the limitations of these analyses are the following; the methodological discussion in the main body of the report describe how the research team dealt with them:

- Six of the reports reviewed were authored by Social Impact, presenting a challenge of institutional bias in the team’s coding.
- The checklist used for the methodological review is based on the 2011 Evaluation Policy; this in effect disadvantaged the methodological review of pre-2011 evaluations.
- While the checklist does include items that address appropriateness of data collection and analytical techniques used in the respective evaluations, overall it emphasizes compliance with various presentational and format criteria as specified in the Evaluation Policy over methodological approach.
- The substantive review relied on the findings and conclusions of the authors of the 30 reports for its initial data.
- The 30 reports reviewed included four final reports that were written by the implementers of those programs, who may have been less critical of their own programs than external evaluators would have been.
- Some nuance characteristic of legislative strengthening programs may have been lost due to the fact that the team’s analysis at times needed to aggregate several program activities into a single component to facilitate analysis.
- The limited time allotted for this study precluded more rigorous analysis of the data using more sophisticated databases, triangulation of data sources and statistical tools.
• Due to data limitations, this study does not provide analysis of how LS programs in individual countries have performed over time.

The Social Impact team for this review included John Lis (Team Leader) and Gabrielle Plotkin (Research Assistant). They were assisted by James Fremming (Senior Technical Advisor).

FINDINGS

Methodological Review

1. The total scores of the evaluation reports generally increased over time, indicating overall improvement in evaluation methodologies.
2. Desk review and key informant interviews were the primary means of data collection.
3. Limitations to the evaluations included small sample sizes for key informant interviews; reliance on implementers for selection of interviewees and site visits; security threats; inadequate field time; and poor M&E data as available from implementing organizations.
4. Most evaluations did not list all program indicators or use actual performance indicator data in their analysis of program performance.

Substantive Review

1. Committees are essential for lawmaking.
2. Committees are essential for oversight.
3. Committee strengthening is a key to overall legislative strengthening.
4. Institutional development is another key to legislative strengthening.
5. Research supports lawmaking.
6. Legislative strengthening is difficult in countries that are not free.
7. Newer countries are more receptive to legislative strengthening programs.
8. Constitutional systems do not affect overall program success but do affect specific program components.
9. Unicameral parliaments are more receptive to institutional development than bicameral bodies.
10. Length of program affects the performance of representation components.
11. Electoral districting does not guarantee success of constituent outreach.
12. Activities to support women are more successful in longer programs.
13. Focused LS programs are more successful than programs with broader scope.
14. For-profit and non-profit implementers achieve similar levels of success.
15. LS programs have a sophomore slump; i.e., longer-term programs tend to be less successful in the second five-year period than earlier or later years.
CONCLUSIONS

Methodological Review

1. The overall quality of LS evaluation reports increased over time.
2. Over time, LS evaluations improved in transparency of their data collection approaches.
3. Evaluations did not always take steps to mitigate any biases that may have been present in their methodological approach.
4. Performance indicator data is a largely accurate, albeit imperfect predictor of program success.

Substantive Review¹

1. Strengthen committees to strengthen lawmaking.
2. Strengthen committees to strengthen oversight.
3. Committee strengthening should be part of all LS programs.
4. More research is needed on institutional development.
5. Include a research component with a legislative process component.
6. Avoid legislative strengthening in countries that are not free.
7. Be wary of legislative strengthening in long-independent countries.
8. Pay attention to constitutional systems in program design.
9. Bicameral parliaments may require additional effort.
10. Consider sequencing representational activities.
11. Constituent outreach is difficult to support.
12. Think carefully about how to support women in parliament.
13. Consider dedicated legislative strengthening programs rather than broader DRG programs.
14. Continue using both for-profit and non-profit implementers.
15. Think carefully about the follow-on program.

¹ Please note that these are summative conclusions based on the review team’s analysis of the content of the evaluations, taking into account their methodological quality. They are analytical results for consideration in future LS programming, to be used in the context of multifaceted decision making as future programs are planned. Therefore they should not be considered evaluative recommendations.
INTRODUCTION

While U.S. support for developing democratic legislatures can be traced to post-World War II Germany and Japan and university-led legislative exchanges in the 1970s, USAID initiated dedicated legislative strengthening (LS) programs in the late 1980s. The fall of the Iron Curtain at the end of that decade led to a series of legislative strengthening initiatives in former communist countries in the 1990s. Since then, USAID has continued to support legislative development around the world.

As the field has developed and grown, USAID has endeavored to learn from its legislative strengthening efforts and to evaluate whether programs have been successful and the reasons for their successes and failures. In the 1990s, USAID’s Center for Development Information and Evaluation launched a series that it called “impact evaluations” of several programs. In retrospect, these reports read more like case studies, documenting the situation in a given country and its legislature, the assistance provided by USAID, program accomplishments, limitations and concerns, and lessons learned. This more anecdotal approach can found in retrospectives of USAID programs into the early 2000s.

A review of USAID LS evaluations reveals a change in approach around 2003. At this time, reports began to read less like case studies and took on more aspects that reflect evaluations today. Reports began to include information on methodology and more systematically evaluated the outcomes of program activities. Reports included findings of the evaluation teams, who drew conclusions from those findings and made recommendations based on their conclusions.

A review of evaluations in the 2003-2010 period shows a general increase in the rigor of the reports, though with great variation depending on the authors. In reviewing reports from this period, a reader can gain a sense of which components and which overall programs were successful, based on the conclusions of the evaluation authors.

Under the administration of Rajiv Shah, USAID introduced the Evaluation Policy in 2011. Spearheaded by the Bureau for Policy, Planning, and Learning’s Office of Learning, Evaluation, and Research (PPL/LER), the policy imposed a more systematic approach to evaluation through requirements for increased methodological rigor and evidence-based findings, conclusions, and recommendations.

The policy represents a significant move to standardize various elements of evaluations, including:

- Terminology (e.g. performance versus impact evaluation);
- Rationale (accountability and learning);
- Internal planning for evaluations (budgeting and developing scopes of work for evaluations);
- Report structure (especially findings, conclusions, and recommendations); and
- Utilization of evaluation findings.

The Policy also emphasizes the need for evaluation capacity building both for USAID personnel and that of locals, consistent with Administrator Shah’s landmark USAID Forward initiative. Relatedly, the USAID Forward initiative also called for approximately 250 “high quality evaluations” to be conducted.
between 2011 and 2013; by the end of 2012 alone, more than 200 had been submitted to the Development Experience Clearinghouse (DEC).²

The rollout of the Policy precipitated a substantial increase in the number and quality of evaluations in all sectors. As previously mentioned, a 2013 review by PPL/LER found that 201 evaluations were submitted to the DEC in 2012, up from 142 in 2010, the year before the advent of the evaluation policy. Likewise, an externally conducted meta-evaluation found that 2012 evaluation reports “were of [statistically] significantly higher quality than those completed in 2009.”³

The last several years saw a particularly large increase in the use of impact evaluations, which use rigorously defined counterfactuals; these evaluations increased across sectors, including in democracy, human rights and governance (DRG) programming. USAID’s successful use of impact evaluations in DRG has helped assuage concerns about the feasibility and appropriateness of such quantitatively rigorous methods in the sector; however, more traditional and qualitative research designs continue to be the most common and appropriate for DRG programs.

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PURPOSE, METHODS, & LIMITATIONS

PURPOSE

As its contribution to development of the USAID Legislative Strengthening Handbook, Social Impact (SI) reviewed 30 evaluations, assessments, and final reports of USAID legislative strengthening programs and analyzed them methodologically and substantively. The methodological analysis is intended to provide USAID with a better understanding of the usefulness of its evaluations of legislative strengthening programs. The substantive review is intended to assist USAID in understanding which legislative strengthening program components tend to be the most successful, as well the various legislative and country contexts that are most conducive for success of a given objective. The audience for this paper is USAID, legislative strengthening practitioners, and the academic community.

METHODS

Document Source Selection

In consultation with USAID, SI identified a sample of 30 reports from 2003 to 2015 to be subject to this review. Although not exhaustive, the sample included programs based on substantive interest to DCHA, geographical diversity, country context, and relative success or failure of the programs. This included both contractor and CEPPS programs, as well as programs where parliamentary work was only one component of a governance program of broader scope. SI consulted with USAID regarding the final selection of reports to include in the synthesis. In countries where USAID has undertaken multiple legislative strengthening programs, SI used the most recent evaluation report.

Methodological Review

The SI team conducted a rapid methodological review of 26 evaluation reports, using USAID’s “Summary Checklist for Assessing USAID Evaluation Reports.” The methodological review had two advantages. First, it gave the SI team information on the overall methodological quality of key pieces of the relevant literature. This helped in developing a perspective on the overall quality of evaluative and assessment information to support LS-related learning. Second, it provided guidance as the team selected reliable information from documents for derivation of findings in the substantive review described below. One individual conducted the coding of the review, which ensured the consistency of the scores assigned to each question. This coding was reviewed by the research team’s Senior Technical Advisor to strengthen reliability of coding.

4 Of the 30 documents selected for this review, four were final reports conducted internally by the program implementers. As these were not evaluations, the team excluded them from the methodological review.

5 This is an abridged version of the checklist used to conduct the previously mentioned meta-evaluation of USAID evaluation reports in 2013.
Table 1. Reports Reviewed for This Paper

<table>
<thead>
<tr>
<th>Country</th>
<th>Program</th>
<th>Report Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>ALBA</td>
<td>2015</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>PPA</td>
<td>2011</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>PRODIP</td>
<td>2015</td>
</tr>
<tr>
<td>Burma</td>
<td>EPPA</td>
<td>2015</td>
</tr>
<tr>
<td>Colombia</td>
<td>CEPPS</td>
<td>2012</td>
</tr>
<tr>
<td>DR Congo</td>
<td>Programme de Bonne Gouvernance</td>
<td>2014</td>
</tr>
<tr>
<td>Georgia</td>
<td>PSP</td>
<td>2013</td>
</tr>
<tr>
<td>Haiti</td>
<td>PSP</td>
<td>2014</td>
</tr>
<tr>
<td>Indonesia</td>
<td>ProRep</td>
<td></td>
</tr>
<tr>
<td>Iraq</td>
<td>LSP</td>
<td>2011</td>
</tr>
<tr>
<td>Kenya</td>
<td>Kenya Legislative Strengthening Project</td>
<td>2004</td>
</tr>
<tr>
<td>Kosovo</td>
<td>Kosovo Assembly Strengthening Program</td>
<td>2013</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>KPSP</td>
<td>2014</td>
</tr>
<tr>
<td>Lebanon</td>
<td>PSLP</td>
<td>2012</td>
</tr>
<tr>
<td>Liberia</td>
<td>LSP</td>
<td>2013</td>
</tr>
<tr>
<td>Macedonia</td>
<td>PDP</td>
<td>2010</td>
</tr>
<tr>
<td>Mongolia</td>
<td>STAGE</td>
<td>2014</td>
</tr>
<tr>
<td>Montenegro</td>
<td>Legislative Strengthening Activity and Political Party Program</td>
<td>2011</td>
</tr>
<tr>
<td>Morocco</td>
<td>PSP</td>
<td>2010</td>
</tr>
<tr>
<td>Nepal</td>
<td>SPPELP</td>
<td>2013</td>
</tr>
<tr>
<td>Nigeria</td>
<td>CEPPS</td>
<td>2003</td>
</tr>
<tr>
<td>Pakistan</td>
<td>PLSP</td>
<td>2008</td>
</tr>
<tr>
<td>Palestine</td>
<td>ARD</td>
<td>2004</td>
</tr>
<tr>
<td>Peru</td>
<td>Developing Skills of the Peruvian Congress</td>
<td>2004</td>
</tr>
<tr>
<td>Serbia</td>
<td>CEPPS II</td>
<td>2011</td>
</tr>
<tr>
<td>Somalia</td>
<td>CEPPS III</td>
<td>2013</td>
</tr>
<tr>
<td>South Sudan</td>
<td>IRI</td>
<td>2008</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>FOTI</td>
<td>2014</td>
</tr>
<tr>
<td>Uganda</td>
<td>UPTAP</td>
<td>2003</td>
</tr>
<tr>
<td>Ukraine</td>
<td>IUPDP</td>
<td>2008</td>
</tr>
</tbody>
</table>

Final reports authored by LS program implementers
Parliamentary sector assessment
The team also gleaned information about use of performance monitoring data in the evaluation reports. The team cross-checked any observations made about the indicators against the quality of the reports, including whether evaluation reports that include program indicators are stronger than evaluations that do not include these indicators. In addition, the team attempted to determine whether there is a connection between the indicators considered in evaluation reports and evaluators’ conclusions about the success of a given program component.

The checklist employs a five-point Likert scale (from 1 “not addressed” to 5 “exemplar,” though the SI team modified the checklist to include a rating of 0 for “not applicable”) to determine if reports fulfill the Evaluation Policy’s requirements for report quality. The checklist includes questions such as “Is there a clear description of the evaluation’s data collection methods?” and “Are findings specific, concise and supported by strong quantitative and qualitative evidence?” Each report received a total score based on the reviewer’s assessment of the checklist’s 20 points. Annex I includes a copy of this protocol.

Substantive Review

Based on the methodological review, the team carried out a substantive review of the success of the various programs and their components. Out of the 30 evaluations, SI identified and categorized the program components that were most common and what they sought to accomplish.

For the purpose of this paper, “components” refers to objectives, sub-objectives, intermediate results, and sets of activities that were included in each of the 30 programs. Some of the reviewed components were general program objectives, such as “improved oversight,” under which there may have been several activities that were also reviewed as components, such as committee strengthening or budget analysis. The components were selected in order to highlight relationships between one another in programs; i.e., to analyze whether particular components may have had an effect on the success of other components or overall programs. They were defined in a way to include several activities intended to achieve a common objective; e.g., legislative drafting and improved rules of procedure were included together in a legislative processes component. The 14 components reviewed were:

1. Institutional development (including administration, planning, orientation, and internal training)
2. Legislative processes (including legislative analysis, drafting, and rules of procedure)
3. Oversight (where improved oversight was explicitly a program objective)
4. Committee strengthening (including public hearings, reports, planning, and staff training)
5. Research (including research services, libraries, research training, and outside research)
6. Budget analysis (including training, parliamentary budget offices, and outside budget analysis)
7. Sectoral issue advocacy (e.g., decentralization, anti-corruption, etc.)
8. Consultations on issues (including CSO advocacy and town hall discussions)
9. Constituent outreach (including constituency offices and casework)
10. Information technology
11. Public information and transparency (including press services and websites)
12. Caucuses (based on party, ethnicity, or youth)
13. Women (including MP women’s caucuses, staff associations, issue advocacy and training)
14. Internships and fellowships
### Table 2. Legislative Strengthening Components Reviewed for This Paper

<table>
<thead>
<tr>
<th>1. Institutional development</th>
<th>2. Legislative processes</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Administration/Secretariat</td>
<td>a. Analysis of legislation</td>
</tr>
<tr>
<td>b. Speaker’s office</td>
<td>b. Legislative drafting</td>
</tr>
<tr>
<td>c. Parliamentary Service Commission</td>
<td>c. Rules of procedure</td>
</tr>
<tr>
<td>d. Reform committee (MPs)</td>
<td>d. Legislative agenda</td>
</tr>
<tr>
<td>e. Strategic planning</td>
<td>e. Documentation</td>
</tr>
<tr>
<td>f. Orientation</td>
<td></td>
</tr>
<tr>
<td>g. Internal training institute</td>
<td></td>
</tr>
<tr>
<td>h. Internal budget</td>
<td></td>
</tr>
<tr>
<td>i. Ethics</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. Oversight</th>
<th>4. Committee strengthening</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Explicit oversight objective</td>
<td>a. Public hearings</td>
</tr>
<tr>
<td>b. Oversight hearings</td>
<td>b. Reporting</td>
</tr>
<tr>
<td>c. Investigations</td>
<td>c. Committee planning</td>
</tr>
<tr>
<td>d. Interpellation</td>
<td>d. Committee staff training</td>
</tr>
<tr>
<td></td>
<td>e. Chairmen/MP training</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Research</th>
<th>6. Budget analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Research service</td>
<td>a. Budget analysis training</td>
</tr>
<tr>
<td>b. Parliamentary library</td>
<td>b. Parliamentary budget office</td>
</tr>
<tr>
<td>c. Research training for staff</td>
<td>c. Budget committee</td>
</tr>
<tr>
<td>d. Provision of outside research</td>
<td>d. Outside budget analysis</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Sectoral issue advocacy</th>
<th>8. Consultations on issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Decentralization</td>
<td>a. CSO advocacy</td>
</tr>
<tr>
<td>b. Anti-corruption</td>
<td>b. Town hall issue discussions</td>
</tr>
<tr>
<td></td>
<td>c. CSO monitoring</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>9. Constituent outreach</th>
<th>10. Information technology</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Constituency offices</td>
<td>a. Hardware</td>
</tr>
<tr>
<td>b. Constituency visits</td>
<td>b. Software</td>
</tr>
<tr>
<td>c. Casework</td>
<td>c. Office equipment</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Public information and transparency</th>
<th>12. Caucuses</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Press service</td>
<td>a. Party</td>
</tr>
<tr>
<td>b. Journalist training</td>
<td>b. Ethnic</td>
</tr>
<tr>
<td>c. Website</td>
<td>c. Youth</td>
</tr>
<tr>
<td>d. Radio/TV broadcasting</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. MP caucus</td>
<td>a. Student internships</td>
</tr>
<tr>
<td>b. Women’s staff association</td>
<td>b. Post-graduate fellowships</td>
</tr>
<tr>
<td>c. Women’s issue advocacy</td>
<td></td>
</tr>
<tr>
<td>d. Political leader training</td>
<td></td>
</tr>
</tbody>
</table>
SI analyzed the conclusions of the independent evaluators in the reports to determine whether a given objective was successful, partly successful, or not successful. The SI team did not conduct an independent, direct review of the legislative programs in order to develop observations about program success, but instead synthesized the information as provided in the evaluation reports. Based on the evaluators’ conclusions, the team assigned a score of 0 (not successful), 1 (partly successful) or 2 (successful) to each component and to each overall program. Where evaluators did not provide a conclusion, SI reviewed the evaluators’ findings and drew a conclusion. SI then considered the relationship between the success of a specific component and the following factors:

1. Constitutional system
2. Stage of democratic development
3. Type of program
4. Electoral system
5. Post-conflict environment
6. Program length
7. Years since national independence
8. Number of chambers

The raw data were entered into a spreadsheet, and component scores were analyzed for correlation with other components and country characteristics. For programs in which legislative strengthening was only one component of a broader democracy and governance program, the overall score represents the success of the legislative strengthening component only, not the broader program.

LIMITATIONS

Methodological Review

Six of the 30 reports reviewed were authored by Social Impact. In four cases, the authors of this paper were part of the SI team. These reports include:

- Bangladesh, 2015 Paper author on evaluation team
- Burma, 2015 Paper author on evaluation team
- Kyrgyzstan, 2014 Paper author on assessment team
- Timor-Leste, 2014 Paper author on evaluation team
- Georgia, 2013 Other SI evaluators
- Indonesia, 2013 Other SI evaluators

As a result, there may be issues of bias related to the assessment of Social Impact evaluations by the Social Impact team that conducted the analysis for this report. Most notably, the two evaluations that were given the highest scores were primarily written by the Team Leader of this assignment under other
contracts with SI. In her review of the reports and completion of the checklist, the Research Assistant worked independent of the Team Leader in the scoring.

Furthermore, the methodology of this analysis gave an inherent advantage to all SI evaluations. The checklist used for the methodological review of evaluations is routinely used by SI in its review of evaluation reports prior to submission to USAID. As a result, SI reports tend to score well, particularly on compliance questions (e.g. inclusion of an SOW, data collection instruments, descriptions of methods used am limitations, etc.), because draft SI evaluation reports are explicitly reviewed against this checklist as part of SI’s quality assurance procedure.

There are some noteworthy limitations of the checklist. These include the facts that:

- Many of the questions address points that do not relate directly to the methodology, but rather address general points related to transparency, quality, and evaluation policy compliance. For example, the first question asks if there is an appropriate executive summary and another asks if the report has a dissemination plan. Given that several of the surveyed evaluations were conducted prior to the 2011 policy, such questions disadvantage the early evaluation in terms of the total possible points, given that pre-2011 reports all received scores of 0 in these categories.

- Some of the evaluation questions invite subjective scoring, such as the one which asks, “Does the evaluation report give the appearance of a thoughtful, evidence-based, and well organized effort to objectively evaluate what worked in the project, what did not and why?” This calls for a summative judgment to be made by the reviewer.

- The scoring assumes that there is an equal, one-point difference in each possible score (1-6).

- The checklist does not query the appropriateness of the methods employed in the evaluations. Rather, it asks whether the methods were described and employed to triangulate findings.

Taking all these limitations in mind, the SI team finds that use of the checklist for the methodological review is a defensible approach, especially given that the universe of studies are USAID-commissioned evaluations and the checklist is a USAID quality review tool.

**Substantive Review**

The substantive review relied on the findings and conclusions of the authors of the 30 reports for its initial data. As noted in the methodological review, some of these reports were more rigorous than others, and data from less rigorous evaluations may be less reliable.

In many cases, evaluators did not draw a conclusion about the success of a component. In those cases, the SI team reviewed the findings of the evaluators and drew its own conclusion from those findings. In some cases, a component that was part of a given program was not evaluated by an evaluation team. In these cases, the SI team did not include that component in the study, having no data on which to base any findings or conclusions. This occurred most frequently with internship components.

The 30 reports reviewed included one assessment of the parliamentary sector in Kyrgyzstan and four final reports. While the Kyrgyzstan assessment was authored by an independent SI team, the four final reports were written by the implementers of those programs, who may have been less critical of their own programs than an outside evaluator would have been. These data were included in the program and component scores, but they were excluded in some analyses of implementer performance.
Including multiple sets of activities under a single component served to increase the sample size for that component, but some nuance may have been lost as a result. For example, including legislative drafting, legislative analysis, and rules of procedure under the “legislative process” component resulted in a robust data set for that component, but did not indicate which of those activities is more effective. Future study could seek to define some “components” more narrowly in order to learn which specific interventions are more effective.

The limited time allotted for this study precluded more rigorous analysis of the data. The authors used spreadsheets to analyze the data, rather than more sophisticated databases and analytic software that would have required more time for coding and analysis. While the conclusions of this report provide useful guidance in the design and implementation of legislative strengthening programs, they also suggest areas in which more detailed analysis could generate more useful conclusions to guide future programs.

The structure of this study also failed to provide analysis of how LS programs perform over time. While it makes some conclusions about the effectiveness of program length on programs and various components, it did not analyze multiple programs in a single country over time. This was intentional, so that data from any single country would not be weighted more heavily than the others. Future research might examine legislative strengthening in countries where multiple LS programs have been implemented in order to learn more about the utility of long-term efforts to strengthen a given legislature.
FINDINGS AND CONCLUSIONS

METHODOLOGICAL REVIEW

Finding 1: General Trends

The total scores of evaluation reports varied greatly. The average total score among the 26 reports reviewed was 79.6. The lowest score achieved (38) was a 2004 evaluation of the Kenya Legislative Strengthening Project. Two evaluations earned the high score of 105—one was an evaluation of Bangladesh’s PRODIP program and the other of the EPPA program in Burma. Both of these evaluations occurred in 2015. As depicted in the graph below, the total scores of the reports generally increased over time.

The score that garnered the highest scores was the one that asks whether the evaluation reports included the SOW as an annex. Reports that included them received a score of 5, whereas the four reports that did not include the SOW received a score of 1. Of these four, three occurred before the Evaluation Policy was in place and the other (Montenegro) occurred in the first year of the policy. The lowest scores were regarding whether any changes to the SOW were documented in an annex. There were no observed instances of a scope change, so all evaluations received a score of 0 with the exception of the Somalia CEPPS evaluation report, which mentioned a modification to the SOW to have a greater emphasis on gender. It is unclear if this was ever formalized through a contract modification, so this report received a score of 2 (“partially addressed”) for the two questions related to SOW modifications (4.1 and 4.3). In addition, every evaluation report received a score of 1 (“not addressed”) for the final question, number 20 on the checklist, which asks if the evaluation has a dissemination plan. If any of these evaluations had such plans, the reports did not document them.

Conclusion 1: General Trends

The overall quality of LS evaluation reports increased over time. This is consistent with the findings from USAID’s 2013 meta-evaluation, which found that evaluation quality has increased since the introduction of the 2011 policy. Therefore, while the sample of reports may not have been statistically representative of all LS evaluations, it is likely that this is a reflection of a real trend and not due to sampling bias.

Finding 2: Methods Employed

Almost all of the sampled reports discussed the data collection methods used to generate findings. Only the Kenya, Palestine, and Ukraine reports lacked any discussion of methods (garnering a score of 1 on the checklist)—these three were all conducted prior to the evaluation policy. In order to achieve a score of 5 (exemplar), the reports had to have a description of methods both in the body of the report with greater detail in an annex. There was some variation in the level of detail used to describe the methods, so the average score for question 5 on the checklist was 3.54, which is high relative to the other questions. The only post-2011 evaluation to obtain a score less than three for this question was the Colombia CEPPS report, which did not include any discussion of methods in the body and only a general overview in an annex. Evaluation reports that scored well on this question also tended to include the actual data collection instruments as annexes (question 5.1) and likewise, those that did not tended to exclude the protocols from the reports. The correlation is supported by the similar average score for question 5.1, which was 3.42. Question 7—which asks whether the report contained a limitations section—performed lower than 5.1 and 5.2 based on its average score of 3.0.
For the reports that detailed the evaluations’ data collection methods, 100% employed desk review and key informant interviews. Use of other methods was relatively scarce. It is possible that this is due to feasibility or budget constraints, these were typically not discussed in the reports. The table below depicts the other methods employed:

**Figure 1**

<table>
<thead>
<tr>
<th>Methods</th>
<th>Country, Year (total report score according to review)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Survey/questionnaire (structured or semi-structured)</td>
<td>• Iraq, 2011 (100)</td>
</tr>
<tr>
<td></td>
<td>• Georgia, 2013 (104)</td>
</tr>
<tr>
<td></td>
<td>• Liberia, 2013 (98)</td>
</tr>
<tr>
<td></td>
<td>• DRC, 2014 (94)</td>
</tr>
<tr>
<td></td>
<td>• Bangladesh, 2015 (105)</td>
</tr>
<tr>
<td>Focus group discussions (FGDs)</td>
<td>• Georgia, 2013 (104)</td>
</tr>
<tr>
<td></td>
<td>• Liberia, 2013 (98)</td>
</tr>
<tr>
<td></td>
<td>• Nepal, 2013 (96)</td>
</tr>
<tr>
<td></td>
<td>• DRC, 2014 (94)</td>
</tr>
<tr>
<td></td>
<td>• Mongolia, 2014 (76)</td>
</tr>
<tr>
<td></td>
<td>• Afghanistan, 2015 (90)</td>
</tr>
<tr>
<td>Site observation (unstructured)</td>
<td>• South Sudan, 2008 (86)</td>
</tr>
<tr>
<td></td>
<td>• Serbia, 2011 (45)</td>
</tr>
<tr>
<td></td>
<td>• Liberia, 2013 (98)</td>
</tr>
<tr>
<td></td>
<td>• Timor-Leste, 2014 (91)</td>
</tr>
<tr>
<td>PMP data analysis</td>
<td>• South Sudan, 2008 (86)</td>
</tr>
<tr>
<td></td>
<td>• Morocco, 2010 (64)</td>
</tr>
<tr>
<td></td>
<td>• Iraq, 2011 (100)</td>
</tr>
<tr>
<td></td>
<td>• Liberia, 2013 (98)</td>
</tr>
</tbody>
</table>

Of these 11 evaluations, only two occurred prior to the evaluation policy. With few exceptions, the table shows that the higher scoring evaluations employed these other methods. It is worth noting that the South Sudan, Iraq, and Liberia cases used formal PMP data analysis per the requirements of those respective evaluation SOWs. The Morocco evaluation did not include the SOW in the report, so it is unclear if this was a requirement or initiated by the team.
Conclusion 2: Methods Employed

Surveyed LS evaluations improved the transparency of the data collection over time with the inclusion of detailed descriptions of methods and data collection protocols. Nonetheless, the gamut of methods used remains limited to methods such as focus group discussions and typically unstructured surveys and site observations. While it is encouraging that recent evaluations do draw on multiple methods more than the older reports, there is still a heavy reliance on the standard measures. It appears that use of alternative methods is related to methodological requirements laid out in the evaluation SOW.

Finding 3: Evaluation Limitations

Among the pre-2011 reports, all lacked a discussion on limitations except Nigeria (2003). However, while most of the post-2011 reports contained adequate limitations sections, four contained none at all (Azerbaijan, Colombia, Montenegro, and Serbia). Notably, these were the reports with the lowest total scores of the post-2011 evaluations. Where addressed, commonly encountered limitations include:

- Small sample sizes for interviews, especially due to limited availability of MPs;
- Reliance on IPs for selection of interviewees and site visits;
- Security threats that limited travel;
- Inadequate time in the field;
- Incomplete or poor quality M&E data.

Best evaluation practice suggests that teams mitigate these risks through use of multiple methods and triangulation of data, but as discussed above, use of multiple data sources and methods was rather limited across the sample.

Conclusion 3: Limitations

Discussion of evaluation limitations was less prevalent than discussion of methods, even among recent evaluations, adversely affecting the quality of evaluation reports. Understanding of the limitations and how the teams addressed them is an important consideration for assessing the appropriateness of the overall evaluation approach. The findings regarding the limited use of data sources suggest that evaluations did not always taken the ideal steps to mitigate any biases that may relate to limitations.

Finding 4: Program Indicators

Performance indicators are the measurements by which LS programs measure progress against their intended objectives and results—usually tracked in a performance monitoring plan (PMP). Therefore, it stands to reason that data collected on this progress is a logical starting point for evaluations, which usually seek to answer question regarding program effectiveness. However, the Morocco report notes:

“Often maligned in the field of democracy and governance (DG) because of its simplified quantifications of complex phenomena, PMPs offer what can be some of the only quantitative evidence to support changes that can be seen and felt …”

The value of such data rests both on the quality of the indicators themselves as well as the integrity of the data. Therefore, it is problematic to rely exclusively on indicator data to determine success, particularly
when the limitations of such data are not understood by evaluators. However, this assignment is neither a formal indicator review nor a data quality assessment.

Upon reviewing the evaluation reports, the team found that most reports did not list all of the program indicators or use actual performance indicator data as findings. As suggested above, Morocco, South Sudan, Liberia, and Iraq are notable exceptions to this trend. Besides these four cases, the review found that nine evaluations referenced achievements on indicators in their determinations of program success. Nevertheless, even within these nine reports, discussion of indicators was often limited to a few indicators, rather than the majority or full set tracked by the programs.

The following table lists the reports which include mention of indicators, what the indicator data demonstrated, and how the program component or overall program was judged by the evaluation:

<table>
<thead>
<tr>
<th>Country, Year</th>
<th>Total report score</th>
<th>Indicator Data Performance</th>
<th>Determination of Success</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iraq, 2011</td>
<td>100</td>
<td>In some cases, the indicators showed partial achievement or, in the case of objective 2, exceeding of targets. In other cases, the indicators showed no achievement.</td>
<td>By and large, determined program components to be unsuccessful.</td>
</tr>
<tr>
<td>Liberia, 2013</td>
<td>98</td>
<td>Most targets exceeded, though targets were largely for output indicators except where</td>
<td>Program deemed largely successful</td>
</tr>
<tr>
<td>Morocco, 2010</td>
<td>64</td>
<td>Indicators demonstrate achievement</td>
<td>Results were “tangible, but modest”</td>
</tr>
<tr>
<td>Bangladesh, 2015</td>
<td>105</td>
<td>Few targets met</td>
<td>Program had limited success</td>
</tr>
<tr>
<td>Uganda, 2003</td>
<td>79</td>
<td>Targets exceeded</td>
<td>Program was generally successful</td>
</tr>
<tr>
<td>Ukraine, 2008</td>
<td>82</td>
<td>Mixed performance vis-à-vis targets</td>
<td>Mixed achievement</td>
</tr>
<tr>
<td>Timor-Leste, 2014</td>
<td>91</td>
<td>Some targets were exceeded</td>
<td>Success of LS component and overall program was limited</td>
</tr>
<tr>
<td>Georgia, 2013</td>
<td>104</td>
<td>IRI hit most targets, NDI did not collect performance data</td>
<td>IRI program deemed mostly successful, NDI less so</td>
</tr>
<tr>
<td>Colombia, 2012</td>
<td>72</td>
<td>No outcome indicators available</td>
<td>Program generally a success</td>
</tr>
<tr>
<td>Mongolia, 2014</td>
<td>76</td>
<td>Targets met</td>
<td>Program successful</td>
</tr>
<tr>
<td>Indonesia, 2013</td>
<td>85</td>
<td>Targets mostly met</td>
<td>Program generally successful</td>
</tr>
<tr>
<td>Pakistan, 2008</td>
<td>62</td>
<td>Actuals were suspiciously high</td>
<td>Program deemed successful</td>
</tr>
<tr>
<td>South Sudan, 2008</td>
<td>82</td>
<td>Indicator data quality not strong enough to make sound judgment for all components</td>
<td>Generally successful</td>
</tr>
</tbody>
</table>

6 Although the team originally planned to comment on the effectiveness of the programs’ indicators, the team was unable to do so based on the available reports without more information, such as that which would be contained in a performance indicator reference sheet (e.g. definitions of measurement, methods of collection, etc.) and additional time and LOE to obtain and review these sources. Any judgment made about indicator quality without review of additional information would have been largely subjective.
Notably, a mixture of high and lower-than-average quality evaluations discussed indicator data in the evaluation reports.

**Conclusion 4: Program Indicators**

Although evaluators and implementers alike are often skeptical about the value of indicators for capturing success, the reports reviewed suggest that indicator data is a largely accurate, albeit imperfect predictor of program success. Given the potential limitations of such data, it is critical that evaluations effectively triangulate this data with other sources in order to establish sound findings and conclusions.

**SUBSTANTIVE REVIEW**

The data from the substantive review in many cases confirmed conventional wisdom of practitioners in the legislative strengthening field; for example, the centrality of committee-strengthening components in facilitating other key objectives in legislative development. However, the data also contained some surprising findings; for example, legislatures where MPs are elected from single-member districts are not the most conducive to successful constituent outreach components. This section highlights some of the most significant findings from the data, presents conclusions about what these findings indicate for future legislative-strengthening programs, and in some cases suggests where future analysis could be useful.

All scores in this section are based on a 2-point scale, in which 2 represents a successful program or component, 1 represents partial success, and 0 is a program or component that was not successful.

**Component Findings**

**Finding 1: Committees are essential for lawmaking**

In advanced legislatures, committees are the engines that drive the legislative and oversight processes. Bills are referred to committee for deliberation and amendment before floor action; committee hearings are the most visible and significant form of oversight. This analysis found that the same is true of developing legislatures, which has significant implications for the design of legislative strengthening programs in such countries.

Successful committee components and successful legislative process components are inexorably linked. A successful committee strengthening component greatly increases the chances of success of a legislative process component. This analysis found that legislative process components without successful committee strengthening components achieved an average score of 1.00 on the 2-point scale. By contrast, in programs with a successful committee strengthening program, the average score of the legislative process program was 1.88.

**Conclusion 1: Strengthen committees to strengthen lawmaking**

If a legislative strengthening program has improved lawmaking as an objective, that program should include a committee strengthening component in addition to other activities to improve legislative processes, such as legislative drafting training or revised rules of procedure.

**Finding 2: Committees are essential for oversight**

Inevitably, legislatures are at a disadvantage to the executive branch when it comes to resources and personnel. Given the numerous ministries and agencies in most governments, it would be a formidable
task for a legislature to attempt to conduct oversight of those ministries in plenary session. As a result, most legislatures rely on their committees to oversee ministries in their jurisdiction.

A successful committee component is the most important indicator of whether a legislative strengthening program will improve oversight. Oversight programs that were coupled with a successful committee strengthening component scored 1.50 on average, compared to 0.45 for oversight programs without a successful committee component. Conversely, of the seven oversight components judged unsuccessful by evaluators, none were accompanied by a successful committee component.

Conclusion 2: Strengthen committees to strengthen oversight

If a legislative strengthening program has an objective of improved oversight, that program should include a committee strengthening component. The most predictive indicator of a failed oversight component is the lack of a successful committee strengthening component.

Finding 3: Committee strengthening is a key to legislative strengthening

In addition to the above findings on legislative processes and oversight, this study found that a successful committee strengthening component correlates with success in legislative strengthening programs overall and other components:

<table>
<thead>
<tr>
<th>Component</th>
<th>Successful committee component</th>
<th>No successful component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
<td>1.89</td>
<td>0.95</td>
</tr>
<tr>
<td>Budget</td>
<td>1.83</td>
<td>1.10</td>
</tr>
<tr>
<td>Institutional development</td>
<td>1.63</td>
<td>0.94</td>
</tr>
<tr>
<td>Research</td>
<td>1.67</td>
<td>1.13</td>
</tr>
<tr>
<td>Consultation</td>
<td>1.80</td>
<td>1.45</td>
</tr>
</tbody>
</table>

Conclusion 3: Committee strengthening should be part of all LS programs

Given the importance of committee strengthening to overall program success, to the key areas of legislative processes and oversight, and the connection to success in other key components, new LS programs should include a committee strengthening component.

Finding 4: Institutional development is another key to legislative strengthening

Another component linked to successful legislative strengthening programs is institutional development. Programs with successful institutional development components had an overall score of 1.80 on average, compared to 0.95 for all other programs.

This table illustrates the relationship between successful institutional development components and other components:
Component & Successful institutional development & No successful component

<table>
<thead>
<tr>
<th>Component</th>
<th>Successful institutional development</th>
<th>No successful component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oversight</td>
<td>1.33</td>
<td>0.50</td>
</tr>
<tr>
<td>Legislative Process</td>
<td>1.67</td>
<td>1.08</td>
</tr>
<tr>
<td>Budget</td>
<td>1.83</td>
<td>1.33</td>
</tr>
<tr>
<td>Research</td>
<td>1.67</td>
<td>1.33</td>
</tr>
<tr>
<td>Committees</td>
<td>1.50</td>
<td>1.08</td>
</tr>
</tbody>
</table>

**Conclusion 4: More research is needed on institutional development**

It is clear that a successful institutional development component often leads to a successful legislative strengthening program. However, at the component level, it may be useful to do a more detailed analysis of various institutional development activities. For this study, several program activities were combined into this category because they all contributed to a stronger institution. It may be instructive to look at these various activities and their effect on other program components.

**Finding 5: Research supports lawmaking**

In order to be independent of the executive, the legislature needs to have its own sources of information and analysis. Supporting parliament in developing its own research capability or providing access to outside research can complement other program objectives.

Most notably, a research component contributes greatly to the success of a legislative process component. In cases where a program had a successful research program, the average score of its legislative process program was 1.71. In cases where there was not a successful research program, the average score of a legislative process program was 1.14.

Surprisingly, the correlation was not as strong for oversight. In programs with a successful research component, the average score of oversight components was 1.00, compared to 0.85 in the others.

**Conclusion 5: Include a research component with a legislative process component**

While there is a link between stronger research and stronger legislative processes, there could be more analysis of the data. Specifically, this study grouped together all efforts to improve legislative research. It did not differentiate between efforts to develop parliament’s own research capacity, through a parliamentary research service or better-trained committee staff, and programs that procured outside research for parliament, such as contracting with a university professor. It could be useful for a follow-on study to differentiate between research components that built internal capacity and those that paid for outside research to see if there are differences in the two approaches.

**Country Characteristic Findings**

**Finding 6: Legislative strengthening is difficult in countries that are not free**

Determine the level of democracy in a country is a difficult task, but the Freedom in the World series from Freedom House offers a widely accepted and cited set of rankings. Each year, Freedom House rates countries (and some territories) as Free, Partly Free, or Not Free, based on the political and civic freedoms each offers. While some individual cases might be debated, these ratings are broadly useful in assessing the state of a country’s democratic development.
When comparing the success of a legislative strengthening program to the Freedom House rating in the year of the evaluation, it is clear that LS programs in Free and Partly Free countries tend to be more successful than those in Not Free countries. These results generally hold true across various program components as well:

<table>
<thead>
<tr>
<th>Component</th>
<th>Free</th>
<th>Partly Free</th>
<th>Not Free</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
<td>1.40</td>
<td>1.35</td>
<td>0.88</td>
</tr>
<tr>
<td>Legislative Process</td>
<td>2.00</td>
<td>1.50</td>
<td>0.67</td>
</tr>
<tr>
<td>Oversight</td>
<td>1.33</td>
<td>0.91</td>
<td>0.60</td>
</tr>
<tr>
<td>Committees</td>
<td>2.00</td>
<td>1.29</td>
<td>0.75</td>
</tr>
<tr>
<td>Research</td>
<td>2.00</td>
<td>1.44</td>
<td>0.67</td>
</tr>
<tr>
<td>Budget</td>
<td>N/A</td>
<td>1.64</td>
<td>0.80</td>
</tr>
<tr>
<td>Consultation</td>
<td>1.33</td>
<td>1.80</td>
<td>1.00</td>
</tr>
<tr>
<td>Public Information</td>
<td>1.33</td>
<td>1.78</td>
<td>0.75</td>
</tr>
</tbody>
</table>

**Conclusion 6: Avoid legislative strengthening in countries that are not free**

The data above make a strong case for not funding legislative strengthening programs in non-democratic countries. While the Freedom House methodology is not foolproof, it does provide a good initial view on the prospects for success in legislative strengthening. Admittedly, there may be cases where broader foreign policy and nation-building interests are at work, such as Afghanistan and Iraq; the task of rebuilding those countries almost required an LS program. Similarly difficult decisions must be made in countries where a democratic transition may have just started, like Burma or Somalia.

**Finding 7: Newer countries are more receptive to legislative strengthening programs**

Programs in countries that have been free for fewer than 25 years outperformed those in countries with a longer history of independence or territories that had not yet achieved independence. These included newly independent states of the former Soviet Union and the former Yugoslavia7, as well as a few countries that achieved independence in this century. Programs in the eight newest independent countries scored 1.75 on average, compared to 1.05 in territories and older countries.

This finding is in line with conventional wisdom. Newer countries often need to establish new legislatures or to transform provincial legislatures into national parliaments. In many cases, these countries gained independence from communist regimes where their sub-national legislature was a rubber stamp, necessitating a transition to a democratic, national legislature.

**Conclusion 7: Be wary of legislative strengthening in long-independent countries**

The data from this analysis suggests that USAID should give careful thought to legislative strengthening programs in countries whose independence pre-dates the fall of the Iron Curtain. That said, a more insightful analysis might have looked at the time that elapsed from the country’s democratic transition. The authors’ experience suggests that new democracies, not just new countries, are fertile ground for

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7 For this analysis, Serbia was treated as the continuation of Yugoslavia, while Macedonia, Kosovo and Montenegro were treated as newly independent countries.
legislative strengthening. This approach was not used in this paper due to the difficulty and subjectivity of determining whether and when a democratic transition took place.

**Finding 8: Constitutional systems do not affect program success but do affect components**

Legislative strengthening programs can be successful across various constitutional systems. Overall program scores average 1.18 in parliamentary systems, 1.17 in semi-presidential systems, and 1.31 in presidential systems.

Constitutional systems do have an impact on the program components that may be successful in a given country. Several notable examples are:

<table>
<thead>
<tr>
<th>Component</th>
<th>Parliamentary</th>
<th>Semi-Presidential</th>
<th>Presidential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oversight</td>
<td>0.50</td>
<td>0.75</td>
<td>1.22</td>
</tr>
<tr>
<td>Budget</td>
<td>1.80</td>
<td>1.00</td>
<td>1.22</td>
</tr>
<tr>
<td>Consultation</td>
<td>2.00</td>
<td>1.40</td>
<td>1.33</td>
</tr>
</tbody>
</table>

The data on oversight are in line with conventional wisdom. In a parliamentary system, the government comes out of the parliament and is generally led by the parliamentary majority. In such a system, there is less incentive for MPs to conduct vigorous oversight of their party colleagues in government, and MPs who do not challenge their parties are more likely to be rewarded with ministerial seats. The data for the other two components are less easily explained and may be of interest for future research.

**Conclusion 8: Pay attention to constitutional systems in program design**

While a country’s constitutional system should not affect a decision on whether to undertake a legislative strengthening program, it should affect program design. In particular, oversight components are measurably less successful in parliamentary systems. Programs in such countries might look instead to budget and consultation components as elements of a successful program.

**Finding 9: Unicameral parliaments are more receptive to institutional development**

One surprising finding is that institutional development components are notably more successful in unicameral parliaments than in bicameral legislatures. Institutional development components scored 1.41 on average in unicameral legislatures, compared to 0.63 in bicameral legislatures.

**Conclusion 9: Bicameral parliaments may require additional effort**

One explanation for the above finding is that bicameral legislatures tend to have duplicate staff structures in each chamber. There are often two secretariats, two secretaries general, and two separate administrative departments. In many cases, a bicameral legislature will be a good candidate for an LS program, but it is important to recognize that there may be duplication in the program. If institutional development is indicated, it may be prudent to reduce the number of interventions, recognizing that they may need to be repeated for two different audiences.

If building new institutions, such as a research service or budget office, it may make sense to build a single institution to serve both chambers, following the examples of the U.S. Congressional Research Service and Congressional Budget Office, which serve both the House and the Senate.
Finding 10: Length of program affects representation components

One surprising finding of this study is that efforts to improve public input into parliament’s work generally do not do as well in the initial years of a legislative strengthening program as they do in later years. This finding applies to two categories of representation: consultation components, which aim to enable civil society and the general public to provide their views on issues to legislators through activities like roundtable discussions and town hall meetings, and constituency outreach components, which seek to bring legislators closer to their constituents through efforts like developing district offices or improving staff ability to process casework.

Representation programs in these two categories generally are not successful in the initial years of a program. In the first four years of an LS program, consultation programs score 1.20 on average, compared to 1.73 for programs that have operated for five years or more. Overall, consultation programs do prove more successful than constituent outreach programs, with an average score of 1.56.

The relatively poor performance of constituent outreach programs was surprising; they score on average just 0.58. The performance of such programs does improve in later years: they score 1.00 in programs of 10 years or longer, compared to 0.38 for programs of nine or fewer years.

One notable distinction is between activities that help citizen voices be heard by the legislature, such as consultation and constituent outreach, and public information programs intended to inform the public about the work of the legislature. Such programs include activities like improved parliamentary websites, strengthening parliamentary media relations offices, and establishing broadcasts of plenary sessions and committee hearings. Such public information programs actually do better in the early years of a program: public information programs score 1.86 on average in the first five years of LS support, compared to 1.11 in programs of six years or more. Overall, public information programs score 1.44.

Conclusion 10: Consider sequencing representational activities

Democratic legislatures exist to ensure that popular will is reflected in a country’s laws, but supporting this function is not straightforward. This study found that public information components tend to be more successful in the early years of an LS program, while increasing parliament’s consultations with civil society and the public are more successful after the first four years. Assistance to establish representational offices throughout a country or to improve staff capacity to address constituent concerns has proven moderately successful only after a decade of legislative support.

A review of the data alone would lead the reader to conclude that USAID should emphasize consultation components over constituent outreach, given the relative success of the components. However, consultation programs face sustainability issues. Activities like transporting a parliamentary committee to a remote region for a field hearing tend to be expensive, even more so when there is a cultural expectation that attendees will be provided a meal in exchange for their time. Consultation programs that prove successful thanks to USAID funding may not be sustainable once parliament needs to pay for such programs on its own.

Finding 11: Electoral districts do not guarantee success of constituent outreach

A surprising finding is that the election of MPs from electoral districts has little impact on the success of a constituent outreach program. Conventional wisdom in legislative strengthening is that constituent outreach is difficult in parliaments elected on national party lists because MPs owe their seats to the party that placed them on the electoral list and they cannot identify a subset of voters as “their” constituents.
Conversely, MPs elected from a district can identify a subset of voters from a smaller geographic region whose votes they need to be re-elected. This effect should be strongest in single-member districts, where the individual is elected directly by voters.

This study found that constituency relations components score 0.60 on average in parliaments where some or all members are elected from districts, compared to 0.50 on average where MPs are elected from nationwide party lists. The district category included three variations: single-member districts, where each member is elected directly; multi-member districts, where multiple members are elected from party lists in several sub-national electoral districts; and mixed systems, where some members are elected from districts (sometimes one chamber of a bicameral legislature) and others are elected nationwide (sometimes the other chamber in a bicameral legislature).

Another surprising finding is that constituent outreach components are most successful in multi-member districts, with an average score of 1.25. Components in single-member districts scored just 0.25, and those in mixed systems scored 0. One explanation could be that there are fewer districts in a multi-member system, so it is easier for an LS program to establish and support constituency offices that serve multiple MPs in each district. For example, Macedonia, with a successful constituency component, has six multi-member districts, whereas Nigeria, where constituent outreach proved unsuccessful, has 360 districts for the House of Representatives and 109 districts for the Senate.

**Conclusion 11: Constituent outreach is difficult to support**

In the U.S. Congress, Members generally attach great importance to their relationships with their constituents. All Members have one or more offices in their district or state and devote significant staff resources to communication with constituents. Looking at this example, it is not surprising that a U.S.-funded legislative strengthening program would seek to replicate this successful model. Furthermore, one would expect such efforts to be most successful in systems where each MP alone represents a single district, as in the U.S. House of Representatives.

This study has found that constituent outreach components tend not to be successful. The best chances of success come where MPs are elected from multi-member districts and where USAID LS programming has been active for 10 years or more. These surprising findings merit more targeted study.

**Finding 12: Activities to support women are more successful in longer programs**

Many USAID programs aim to improve the capacity and effectiveness of women MPs and staff or to promote issues of greater importance to women in society. These components have had mixed results, with an average score of 1.17. Other studies have examined this issue and suggested explanations; most notable is that women elected from party lists -- often to seats that are reserved for women -- are more beholden to their parties and less likely to participate in a cross-party women’s caucus.8

One surprising finding is that women’s programs – both those that build women’s capacity and those that promote women’s issues – are more successful in longer-term LS programs. Women’s components score on average just 0.71 in the first eight years of LS programming, while they score 1.80 when USAID has funded an LS program for nine years or more.

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8 This point was made by several participants at a Roundtable Discussion on “The Role and Impact of Parliamentary Women’s Caucuses” organized by the Inter-Parliamentary Union and USAID, Washington, Nov. 18, 2013. This finding was corroborated in 2014 by the Team Leader’s own evaluation of the Department of State LS program in Iraq.
Conclusion 12: Think carefully about how to support women in parliament

While women have been historically underrepresented in legislatures and disadvantaged in society, LS activities to remedy these problems need to be thought out thoroughly. This study and others suggest that organizing a women’s caucus in the first years of an LS program may not achieve its objectives, particularly where women may owe their seats a system that allows parties to appoint women to seats reserved for women.

The finding that women’s programs are more successful in longer-term LS programs could owe something to the increased confidence that MPs enjoy once they have won re-election. It is possible that women’s in their second terms may feel more secure in their positions and be more willing to undertake initiatives like a cross-party caucus that may not entirely reflect their party’s agenda. Further study could build on this finding and others to help inform future activities to support women.

Finding 13: Focused LS programs are more successful than broader programs

In an era of limited funding, USAID often faces tough decisions about legislative strengthening and other programs to improve democracy and governance. Programs will often combine several objectives of democracy and governance support in a single program, resulting in programs to support political parties, civil society and electoral systems, in addition to legislatures. Such programs may also promote synergies between these components, such as increased civil society engagement with parliament or developing party caucuses in parliament.

This study found that stand-alone legislative strengthening programs tend to be more successful than the legislative strengthening component of a broader DRG program. LS-only programs score 1.33 on average, compared to 1.00 for the legislative component of broader programs (excluding two sector programs).

Conclusion 13: Consider dedicated legislative strengthening programs

While there are funding and resource constraints that may lead USAID to bundle assistance to various groups into a single program, USAID should consider designing programs aimed specifically at strengthening legislatures. The findings and conclusions in this study may provide guidance as to when a legislative strengthening program is indicated in a particular country.

Finding 14: For-profit and non-profit implementers achieve similar success

USAID uses two main mechanisms to make awards for legislative strengthening. One is the Indefinite Quantity Contract (IQC) for legislative strengthening, which includes five for-profit development contractors; the other is the Consortium for Elections and Political Process Strengthening, a cooperative agreement with the International Republican Institute, National Democratic Institute, and International Foundation for Electoral Systems. On occasion, USAID will award a contract to a firm outside the IQC mechanism.

This study found that there is virtually no difference in success between for-profit contractors and CEPPS partners. CEPPS partners on average scored negligibly better on dedicated legislative strengthening projects, and the two groups scored evenly on legislative strengthening components of broader programs. Scores are given below. (Please note that these data exclude the two sector programs and the four programs where no independent evaluation was performed.)
Conclusion 14: Continue using both for-profit and non-profit implementers

Independent evaluators found comparable success in legislative strengthening between for-profit contractors and the non-profit CEPPS partners. USAID’s current practice of awarding LS agreements to both groups of implementers is justified.

Finding 15: LS programs have a sophomore slump

Another surprising finding is that LS programs perform better in their initial four years and in the long-term (10 or more years) than they do in the medium term (5-9 years). Many LS agreements last for four or five years, indicating that the second iteration of many programs proved less successful than the first contract did, but patience can bring rewards. Programs of four years or less scored 1.50 on average, those of 5-9 years scored 0.82, and those of 10 years or more scored 1.44.

Conclusion 15: Think carefully about the follow-on program

Explanations for the sophomore slump from this study are more conjecture than fact. It may be that the first LS program in a country can pick the low-hanging fruit; many newly democratic parliaments start from such a low base that some success seems inevitable. A follow-on program may face additional obstacles, such as new elections that may seat MPs less committed to legislative strengthening or new parliamentary leaders who may view the LS program as a legacy of their ousted predecessors. A second program may seek to replicate the success of the first without examining potential new components where the prospects of success may be greater.

Similarly, it may be that longer-term programs continue for more than a decade because they follow successful programs. It is likely that programs that are not successful in their second five years will not be renewed at the 10-year mark, leaving only successful programs operating in the long term.

In order to gain more insight into this issue, a future study could examine multiple LS programs in the same country or countries, tracking success over time and examining factors, including program design, intervening elections, and MP turnover, that may contribute to long-term success.

FUTURE RESEARCH

The findings from this study suggest several areas in which future research could be undertaken in order to gain more detailed or refined findings about legislative strengthening programs. Some areas for future research are driven by methodological shortcomings of this paper; others would provide greater details on several key findings.

Program Indicators

Although the team originally planned to comment on the effectiveness of the programs’ indicators, the team was unable to do so without more information, such as that which would be contained in a performance indicator reference sheet (e.g. definitions of measurement, methods of collection, etc.) and additional time to obtain and review these sources. A follow-on study could be designed to evaluate
program indicators and provide USAID with analysis on which are effective for determining the effectiveness of legislative strengthening programs.

**Institutional Development**

The initial design of this study lumped together several activities into a component called “institutional development,” and this study concluded that a successful institutional development component often leads to a successful legislative strengthening program. However, at the component level, it may be useful to do a more detailed analysis of various institutional development activities. For this study, several program activities were combined into this category because they all contributed to a stronger institution. It may be instructive to look at these various activities and their effect on other program components. These separate activities include:

- Support to administration or the secretariat
- Support to the Speaker’s office
- Support to a Parliamentary Service Commission of MPs that oversees administration
- Support to a reform committee of Members of Parliament
- Training and support for parliament-wide strategic planning
- Orientation or induction programs for new Members of Parliament
- Support for development of an internal parliamentary training institute
- Support to parliament to develop and administer its internal budget
- Support for development and implementation of ethics rules

**Parliamentary Research**

This study grouped together all efforts to improve legislative research. It did not differentiate between efforts to develop parliament’s own research capacity, through a parliamentary research service or better-trained committee staff, and programs that procured outside research for parliament, such as contracting with a university professor. It could be useful for a follow-on study to differentiate between research components that built internal capacity and those that paid for outside research to see if there are differences in the two approaches.

**Democratic Transition**

This study analyzed legislative strengthening programs in countries based on how long they have been independent. A more insightful analysis could examine the time that elapsed from the country’s democratic transition. The authors’ experience suggests that new democracies, not just new countries, are fertile ground for legislative strengthening; however, it can be difficult and subjective to determine whether and when a democratic transition took place. A future study could develop a methodology for determining when a democratic transition has taken place and how the age of a country’s democracy affects the likelihood for success of a legislative strengthening program.
Women

This study and others suggest that organizing a women’s caucus in the first years of an LS program may not achieve its objectives, particularly where women may owe their seats a system that allows parties to appoint women to seats reserved for women. It found that women’s programs are more successful in longer-term LS programs, but did not control for whether some women MPs were appointed by their parties. Further study could examine the link between the success of women’s programs and the proportion of women MPs placed by their parties on electoral lists or directly in parliament. Another area for study could be to examine the success of various program components aimed at strengthening women parliament, such as caucuses, staff associations, leadership training, and others.

Long-Term Programs

This study found that LS programs perform better in their initial four years and in the long-term (10 or more years) than they do in the medium term (5-9 years); this medium term generally correlates to the second phase of a program. In order to gain more insight into this issue, a future study could examine multiple LS programs in the same country or countries, tracking success over time and examining factors, including program design, intervening elections, and MP turnover, that may affect long-term success.
High quality, evidence-based evaluation reports with a clear focus on decision-making for USAID and other key partners are critical for improving USAID’s development effectiveness. USAID and evaluators need to work collaboratively to ensure high quality evaluations using clear and specific standards. The Evaluation Report Checklist is used to review and strengthen draft evaluation reports. The following is a summary version of the Evaluation Report Checklist. Staff may reference the longer version when desired.

This summary checklist consists of the twenty (20) critical items of the Checklist that should be addressed in early drafts of the evaluation report. As the report is finalized we recommend that you assess it against the full seventy-six (76) factor checklist to ensure high technical quality, a strong executive summary, and the targeting of recommendations for decision-making purposes. One of USAID’s main responsibilities with evaluations is to ensure that they are broadly disseminated--and actively communicated--for learning, program improvement and accountability purposes. Make sure to pay attention not only to the technical quality of evaluations but to promoting their use and impact.

SUMMARY EVALUATION REPORT CHECKLIST - V1.0
GOOD PRACTICE ELEMENTS OF AN EVALUATION REPORT
Keyed to USAID’s 2011 Evaluation Policy

Title of Study Being Reviewed: ________________________________

Main Implementer(s): ________________________________

Reviewer: ________________________________

Date of Review: ________________________________
<table>
<thead>
<tr>
<th>EVALUATION REVIEW FACTOR</th>
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<th>3</th>
<th>4</th>
<th>5</th>
<th>Reviewer Comments</th>
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<tr>
<td>1. Is the report well-organized (each topic is clearly delineated, subheadings used for easy reading)?</td>
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<td>2. Does the evaluation report begin with a 3- to 5-page stand-alone summary of the purpose, background of the project, main evaluation questions, methods, findings, conclusions, recommendations and lessons learned (if applicable) of the evaluation?</td>
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<td>3. Is there a clear statement of how the evaluation will be used and who the intended users are?</td>
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<td>4. Does the evaluation address all evaluation questions included in the Statement of Work (SOW)?</td>
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<td>5. Is there a clear description of the evaluation’s data collection methods (summarized in the text with the full description presented in an annex)?</td>
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<td>6. Are all sources of information properly identified and listed in an annex?</td>
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<td>7. Does the evaluation report contain a section describing the limitations associated with the evaluation methodology (e.g. selection bias, recall bias, unobservable differences between comparator groups, small samples, only went to villages near the road, implementer insisted on picking who the team met with, etc)?</td>
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<td>9.1. As appropriate, does the report indicate confirmatory evidence for FINDINGS from multiple sources, data collection methods, and analytic procedures?</td>
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</table>
### CONCLUSIONS

10. Is every CONCLUSION in the report supported by a specific or clearly defined set of FINDINGS?

### RECOMMENDATIONS

11. Are all RECOMMENDATIONS supported by a specific or clearly defined set of FINDINGS and CONCLUSIONS? (Clearly derived from what the evaluation team learned?)

12. Are the RECOMMENDATIONS practical and specific?

13. Are the RECOMMENDATIONS responsive to the purpose of the evaluation?

14. Are the RECOMMENDATIONS action-oriented?

15. Is it clear who is responsible for each action?

### LESSONS LEARNED

16. Did this evaluation include lessons that would be useful for future projects or programs, on the same thematic or in the same country, etc.?

### BOTTOM LINE

17. Does the evaluation report give the appearance of a thoughtful, evidence-based, and well organized effort to objectively evaluate what worked in the project, what did not and why?

18. Does the evaluation report explicitly link the evaluation questions to specific future decisions to be made by USAID leadership, partner governments and/or other key stakeholders?

19. Does the evaluation report convey the sense that the evaluation was undertaken in a manner to ensure credibility, objectivity, transparency, and the generation of high quality information and knowledge?

### REPORT DISSEMINATION

20. Has a dissemination plan been developed for this report?
DEFINITIONS

**Performance evaluation**: focuses on descriptive and normative questions: what a particular project or program has achieved (either at an intermediate point in execution or at the conclusion of an implementation period); how it is being implemented; how it is perceived and valued; whether expected results are occurring; and other questions that are pertinent to program design, management and operational decision making. Performance evaluations often incorporate before-after comparisons, but generally lack a rigorously defined counterfactual.

**Impact evaluation**: measures the change in a development outcome that is attributable to a defined intervention; impact evaluations are based on models of cause and effect and require a credible and rigorously defined counterfactual to control for factors other than the intervention that might account for the observed change. Impact evaluations in which comparisons are made between beneficiaries that are randomly assigned to either a —treatment| or a —control group provide the strongest evidence of a relationship between the intervention under study and the outcome measured.

**Theory of change**: A tool to design and evaluate social change initiatives. It is a blueprint of the building blocks needed to achieve long-term goals of a social change initiative.

**Development Hypothesis**: Identifies causal linkages between USAID actions and the intended Strategic Objective (highest level result).

**External Validity**: The degree to which findings, conclusions, and recommendations produced by an evaluation are applicable to other settings and contexts.

**Findings**: Empirical facts collected during the evaluation

**Conclusions**: Interpretations and judgments based on the findings

**Recommendations**: Proposed actions for management.
## ANNEX II: METHODOLOGICAL REVIEW DATA

### Total Score Over Time

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### Plan by 2022

- Executive Policy
- Dissemination

---

**LEGISLATIVE STRENGTHENING EVALUATIONS AND THEIR IMPLICATIONS FOR FUTURE PROGRAMS**

33
### ANNEX III: SUBSTANTIVE REVIEW DATA

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STRENGTHENING DELIBERATIVE BODIES

LEGISLATIVE ENGAGEMENT REFERENCE PAPER

SEPTEMBER 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by SUNY Center for International Development.
Program Title: Technical Leadership in Legislative Strengthening Task Order
Sponsoring USAID Office: Center of Excellence for Democracy, Rights and Governance
Contract Number: AID-OAA-I-12-00005/AID-OAA-TO-15-00029
Contractor: SUNY Center for International Development
Date of Publication:
Authors: Robert Nakamura, Susan Crowdy, David E. Guinn, Paul Gumpper, Lisa Petter, Heather Senecal, Cecelia M. Skott, and Andrea Wolfe

The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
“Success or failure is a function of whether the provider of assistance can establish and sustain a critical measure of trust with the key representatives of the recipient institution.”

Joel Barkan

Cover Photo: A Citizens’ Interest Forum held in Betanzos, Potosi, Bolivia. These were held so that members of Congress, Congressional committees, and brigadas, could inform the public and listen to citizens voice their opinions, demands, and criticisms. The fora were designed to consider one or two important topics in depth, giving the representatives greater opportunities for preparation and enabling serious dialogue with constituents.

The authors would like to thank Christian Haupt (COP USAID/Strengthening Governing Institutions and Processes in Bosnia and Herzegovina) Arthur Sist (former COP USAID/PARC II), Luis Luna (former DCOP USAID/PARC II), as well as Jerusha Ouma, DFID Programme Officer, for their contributions to the case studies.
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EXECUTIVE SUMMARY

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

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

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

GENERAL LESSONS

1. Legislatures have proven to be versatile institutions offering entry points for programming in the four topic areas examined as well as offering the promise of adaptability to other purposes.

2. Legislative environments proved flexible in offering donors and their implementers diverse choices among partners appropriate for different purposes because they are more internally diverse and less hierarchical than the executive, and their division of labor into committees provides a focus for different civil society groups.

3. Successful legislative programs developed “social capital”—relationships of trust with participants—which meant that new tasks could be taken on with minimum transaction costs and in a short period of time.

4. Results in all the cases were co-produced and dependent upon partner cooperation and commitments that had to be created and maintained through a process of mutual adaptation rather than established once and for all.

5. And success is best conceptualized as existing on a continuum in which functioning systems should be considered as essential starting points for subsequent development.
AREAS FOR FUTURE DEVELOPMENT

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

TOPIC 1. CROSS-SECTORAL PROGRAMMING

Kenya STARCK helped to put climate change on the national political agenda by supporting efforts of motivated MPs, linking them with experts who could help connect problems with solutions, and facilitating a public engagement process. Uganda LINKAGES also linked Parliament to attentive publics in targeted issue areas, increasing parliamentary ability to deal with the selected topics and providing a means for incorporating public inputs into legislation. In Kenya and Uganda, legislatures have proven to be useful arenas through which to deliver greater policy focus and to push for policy area results because they offered programming entry points featuring:

1. Responsiveness to mobilized constituencies. As general purpose representative and law making institutions, legislative programming can be re-focused on different sectoral programming as societal needs and priorities change.

2. Influence. Their potential power made them arenas attractive to different sectoral actors seeking influence.

3. Confluence. Because they are officially situated between the public whom they represent and the executive through whom they act, they are the place where popular concerns and government action can come together.

TOPIC 2. CAPACITY BUILDING IN BUDGETING

In Morocco and Afghanistan, considerable capacity building did occur in the targeted areas despite impediments. Capacity building inputs of training, technical assistance and other forms of support are effective tools for producing outputs in the form of increased knowledge and abilities to perform tasks. Outcomes brought about by the utilization of those capacities included more informed legislative participation and willingness to act on the basis of that knowledge. In neither Morocco nor Afghanistan were functioning budget offices sustainably created nor did the hoped-for aftermath of institutionalized and persistent legislative involvement in the budget develop. We draw the following lessons from this experience.

1. Budget involvement should be conceptualized as existing in continuum rather than as a goal that is either achieved or not according to binary indicators such as whether or not a budget office is formally established.

2. While the development literature and donor admonitions stress the importance of “political will” and “ownership,” the actual commitment of legislative partners varies considerably in character.
and meaning; these cases provide insights into the sources of diversity, depth, variability and durability of partnerships.

TOPIC 3. ACCOUNTABILITY IN BOSNIA AND HERZEGOVINA (BIH) AND BANGLADESH

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

TOPIC 4. ADDRESSING CONFLICT IN KENYA AND BOLIVIA

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

1. Leadership succession issues tend to put legislatures temporarily in central positions as normally dominant executives are either absent or their claim to positions in doubt.

2. Having a legislative development program in place when conflict erupts provides ready access for helpful post-conflict assistance.

3. In Kenya and Bolivia, the status and reputations of SUNY’s activity leaders brought special advantages to USAID efforts:
   a) each could draw on accumulated “social capital” because due to existing relationships with legislators, activity managers who could talk directly and quickly to many of the principals;
   b) activity managers kept USAID abreast of what was going on in ways that were not available to donors just rushing in;
   c) and their knowledge of the range and character of citizen groups informed decisions about which groups to include.
INTRODUCTION

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

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

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

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

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


Legislatures are political institutions, dealing with the politics of each place offers a variety of challenges and requires different strategies and tactics.

LESSONS FOR LEGISLATIVE PROGRAMMING

1. **Versatility and flexibility.** Legislative programming offers a versatile entry point for efforts to improve governance in the host of topics explored by these cases: shaping the political agenda to advance issues of common concern, advancing budget scrutiny, increasing financial accountability, and responding to conflict.

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

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

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

5. **Success is on a continuum.** The standards for program success should be understood as existing on a continuum rather than the binary achievement of a pre-determined goal which itself often stands in as a surrogate for a higher-level outcome. Joel Barkan wisely advised that the creation of sometimes small, functioning relationships is the pre-condition to achieving larger scale change. In the early stages of an activity, USAID should recognize and value discrete and incremental changes. Lindbom has pointed out that it is easier to get agreement on changes to fix discrete agreed upon problems than it is to challenge whole systems, a task that requires paying

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3 A frequent benchmark of financial management programs is, for example, the establishment of a budget office. It is used as a surrogate for evaluating the performance of budget support capacity building. As World Bank and E.U. experience with the establishment of functioning public financial management systems show, changing the law and creating institutions is still far away from the actual integrated scrutiny of budgeting required. For a discussion of the relationship between adopting formal change and changing behaviors, see Matt Andrews, The Limits of Institutional Reform in Development: Changing Rules for Realistic Solutions, Cambridge University Press, New York 2013
higher information costs and confronting more entrenched opponents.⁴ Matt Andrews has recently reformulated such an adaptive approach under the term “problem driven iterative adaptation.”⁵ Early and discrete changes can be accomplished quickly, with limited resources; they can go “under the radar” or “work the interstices” and thereby avoid the political and institutional cleavage issues that frustrate larger scale change; and specific successes will spur the spread of innovation through demonstration effects. For many purposes integrated functioning relationships and improved practices are superior to the meeting of some commonly used benchmarks (such as establishing a budget office or critical statutory changes) because they are about changing and integrating behaviors rather than simply changing institutional structures, or specifying rules/laws intended to govern behavior.

AREAS FOR FUTURE DEVELOPMENT

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

A Theory of Legislature-Centered Change

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

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

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

**Determining Appropriate Levels of Discretion in Program Design and Implementation**

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

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

SUNY/CID does not offer general guidance on optimal mixes of specification and discretion. We can, however, offer some starting points for an exploration of discretion. We observed three general levels of discretion in project plans: when both goals and means are highly specified in the form of specific results indicators and particular target groups (as in the budget office in Morocco); where goals are specific and means left to determination during implementation (as in Kenya PSP); where both goals and means are determined at the same time as implementation commences (in narrower instances within more specified programs as targets of opportunities emerged). In addition to project-specified sources of rigidity and flexibility, we saw the importance of the discretion provided by the USAID technical officers making decisions on the ground. These varied from “by the book” interpretations of what was required, to more flexible approaches in the form of broader interpretations of what was required and a willingness to amend awards in the face of changing circumstances.

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

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

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10 This issue finds parallels in the regulatory enforcement literature. See Eugene Bardach and Robert Kagan, Going By the Book; and Thomas Church and Robert Nakamura, Cleaning Up the Mess: The Implementation of Superfund (Washington: Brookings).
USAID and other donors have recently targeted efforts to improve policy results in specific sectors (including health, education, climate change, and corruption). While these approaches have been advanced as alternatives to the institutional capacity building associated with previous activities, our cases indicate that this is a false dichotomy. Legislative work has proved to be an important tool for “energizing the political ecology” in important sectors and through these efforts help to lay down the conditions for sectoral policy change and improved governance.

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

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

These programs can be conceptualized as efforts to “energize” a country’s existing political ecology of politicians and experts (sometimes including those in the bureaucracy) and linking them with the public through civil society groups and other means. The idea is to engage existing motivations while

12 Solving the assistance problem of connecting capacity building outputs to outcomes, donor programs seek to achieve societal change goals using very limited tools. They provide implementers with inputs of money that can be used by implementers to build capacity (through training, technical assistance, etc.) and to convene events. The bigger results that donors are interested in depend on how the resulting outputs are used by the autonomous participants. Action requires both capacity and motivation. In USAID’s Uganda LINKAGES program, the strategy was to stimulate/direct greater demands on Parliament so that they would both welcome and use the capacity building help on offer. DFID’s strategy of learning while doing—on which the Kenya program was based—also depended on the confluence of motivation to do what needed to be done while building the capacity to do so. Thus while DFID or USAID could help provide capacity and chances to meet, they had to use pre-existing actor motivations or to help to create new ones. The solution lay in identifying the distribution of existing motivations, and where they overlap with issues of donor interest, CSO concerns, and opportunities for legislators to make decisions.
13 The idea of good programs “energizing the political ecology” comes from Eugene Bardach. See The Implementation Game (MIT Press, 1977)
developing capacities to act and to orchestrate opportunities to work together by shaping the political agenda and stimulating interest through policy area focused activities. Working together they have great potential to improve governmental performance. Legislatures can offer public and potentially powerful venues for airing diverse interests, executive agencies have expertise and the power to act and civil society can represent the passions and articulate the needs of citizens.

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

Kenya STARCK

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

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

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

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

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

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

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

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

\textit{Lessons Learned}

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

\textsuperscript{15} Source: Hansard and project data sheets
Social capital is critical for rapid engagement. SUNY/CID’s ability to implement STARCK so quickly was because of its long history of prior support for the Kenya Parliament and the many strong relationships built up between project staff and parliamentary leadership.

Uganda LINKAGES

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

LINKAGES was a complex, ground-breaking program which embodied a systems approach to democratic strengthening. It incorporated components addressing the national Parliament, local government agencies and subnational deliberative bodies as well as civil society organizations in an integrated program to strengthen those institutions internally and, simultaneously, improve their respective outputs in terms of both policy formation and the distribution of goods and services.

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

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

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\(^{16}\) Through participatory means, local leaders identified and appraised local needs and investment priorities/projects in the various sectors, such as education, health, and production, which directly address poverty and empowered local people as they engaged with their respective local governments.
encouraged to develop horizontal and vertical linkages to enhance their voice and extend their reach from the local to the regional and national level.

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

Lessons Learned

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

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

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

Comparative Analysis

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

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

TOPIC 2: INSTITUTIONAL CAPACITY AND PARLIAMENTARY ADMINISTRATION –AFGHANISTAN PARLIAMENTARY ASSISTANCE PROGRAM (APAP) AND MOROCCO PARLIAMENT SUPPORT PROJECT (MPSP)

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

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

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

APAP and Capacity Development: Focusing on the Budget Process

The Afghanistan Parliamentary Assistance Project was implemented by SUNY/CID under a series of awards and contracts from 2004 through 2013 to support the development of the Afghan National

Assembly with a total ceiling of $44 million dollars. The National Assembly, a bicameral legislature, is composed of a lower or People’s House – the Wolesi Jirga (WJ) and an upper house – the Meshrano Jirga (MJ). While the activity was designed to support all aspects of legislative operations (law making, oversight, budget, representation/outreach and institutional capacity) it also provided support for the improved budget processes.

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

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

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

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

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

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

The immediate outputs of the project were that budget staff continued to receive training and the ability and expertise of the budget commission members increased. As noted by Mr. Ahmad Sadiq Osmani, Chairman of the Budget Committee (WJ) during the 1st Parliament, “I remember we were only 2 or 3 MPs who were interested in and put in some time to look at the draft budgets for 1385 and 1386 sent by the Ministry of Finance (MOF). But we were not experts in financial matters and had to rely on information sent by MOF and we did not have skills analyze it. After APAP started, its support to budget committee and other committees, the whole process has become interesting and we were able to analyze and conduct meetings with MOF and other ministries.” (Project records.) Moreover, the number of MPs receiving briefings on the budget increased to include not only the members of the budget commissions, but also 10 other commissions who sought briefings on how the budget affected their areas of interest.

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

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

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

Nonetheless, the intervention did result in substantive structural reforms that appear more long lasting. In response to negotiations between APAP and the NA with the Ministry of Finance, the MOF dramatically improved the quality and quantity of information provided to the Parliament with the budget. Over the four years from 2007 through 2011, the size of the budget documentation tripled with more detailed project and program information, improved budget classification and narratives. It encouraged the government to be more transparent and explicit in its budgeting. Prior to 2010, around 20-30 percent of the total operating budget was identified as special “emergency” funds directly controlled by the MOF and used at the discretion of the Presidential Palace. With the NA demanding that this be reduced to less than 10% by 2011 draft budget, these special emergency funds declined to 9.9 percent of the operating budget. Budget transparency was so dramatic that under the international Open Budget Index, Afghanistan went from a score of eight in 2008, to 21 in 2010 to 59 in 2012 (when it tied with Poland.)

(In 2015 the OBI score fell back to 43 and the rating of the strength of the legislature’s oversight fell from a ranking of moderate to weak. Given the continuance of USAID assistance by another implementer, this fall is difficult to explain.)

Lessons Learned

Financial autonomy and capacity remains crucial: The NA remains severely limited by the fact that it does not control its own budget and cannot recruit or retain high quality budget staff. As demonstrated in

SUNY/CID’s support for the Kenya Parliament, which facilitated a Parliamentary Budget Office and a system that integrated budget analysis into the legislative process well after Parliament had established control of its own budget and staff, financial and recruitment autonomy can be decisive.20

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

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

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

Morocco Parliamentary Support Project

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

In 2004, Morocco was a gradually liberalizing monarchy with a bicameral Parliament consisting of a directly elected 325 member lower House of Representatives and a 270 seat upper Chamber of Advisors, indirectly elected by an electoral college. Parliament could be dissolved at the will of the King who presided over all branches of government. The King also led a vast network of informal economic and political interests, balancing competing interests through patronage and privilege, while at the same time, encouraging some forms of political liberalization. Each legislative chamber had its own administration which was tightly controlled by the administrative and political leadership.

The project was explicitly designed to enhance Parliament’s three main functions through support to committees, budget oversight, and CSO advocacy and was to be evaluated on intermediate result indicators in each area.23 SUNY/CID commissioned independent research, resulting in over 100 briefings. Workshops, orientations for MPs and Staff, and dozens of manuals and reports were prepared to

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improve internal administration, bi-cameral coordination, committee management, advocacy and budget analysis. PSP approaches connected both houses with independent experts, think tanks CSOs, citizens, and ministries, the audit court, and with international institutions. Advocacy activities developed CSO skills, and via small grants, linked the resulting coalitions to MPs and committees, culminating in the successful passage of specific bills and amendments by human rights and NGO interest groups. Cross-cutting support aimed to enhance the Parliament’s legislative efficiency and transparency through ICT and equipment provision, most notably by procuring and training staff on using verbal transcription equipment, which to this day is still utilized by Parliament to produce real time and public records of parliamentary debates.

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

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

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

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

25 Ibid.

“At the beginning of the project it was very difficult to find a CSO that trusts the Parliament. Now, the advocacy processes in place reflect trust between both parts. New CSOs’ advocacy processes take place each session and this widely reflected in the national media. By the constitution of Morocco, CSOs can present draft legislation to Parliament and by the internal rules, the committee can organize hearings including CSOs.”

— Former COP, currently EU Team leader for Parliamentary Support Jordan (Ahmed Jazouli), July 2015
had been given new budget responsibilities, 66 of which had been trained in at least three project budget workshops. PSP improved MP access to budget information. BAB’s 35 reports were in high demand and were recognized by MPs as a reliable source of budgetary and fiscal information and sound analysis. Technical advice to the Finance Committees and briefings on the annual state budgets resulted in more informed debate and amendments. Support to reform the Organic Law of Finance led MPs to initiate a bill to give Parliament greater oversight of the budget implementation process. Project assistance and CSO advocacy also led to the adoption of the “Open Budget Approach,” which increased the amount of time Parliament has to discuss and ratify the annual budget from 70 days to six months.

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

Overall by the end of the project, MPs’ appeared to be interested in reforms, and discussions aimed at internal rules reforms and budget law reforms were underway between the two houses. The Project’s activities helped MPs and staff build a repertoire of knowledge and raise their skill level, driving a newfound confidence in the legislative body, referred to by an outside expert as a greater “parliamentary culture that transcends political divisions.”

The Project introduced the Parliament to international norms and standards for parliamentary work, thereby encouraging MPs and staffers to shed the armor that had been erected to shield the Parliament from external intervention. Ministers began to show more respect for the Parliament, and when surveyed, Ministers claimed to be spending more time than ever preparing for the Parliament’s question and answer sessions by the end of the project.

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

Lessons Learned

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

Activity design should include built in flexibility by using Cooperative Agreements, or explicit inception periods which allow for a collaborative planning with the Parliament, a thorough legislative needs assessment and design adjustments if needed. Parliamentary support projects require flexible implementation, which is politically astute and adaptive. Fidelity to good design can be counterproductive if it cuts off channels to effective change. PSP’s original design called for a budget office. However in spite of parliamentary leaders’ explicit advice that a general research office would better suit their needs for discrete approaches that did not openly challenge the executive (and because the research office was in another donor’s bailiwick) PSP maintained its focus on BAB which did not outlive the project.

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

Comparative Analysis

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

Lessons about institutionalizing legislative budget involvement: By comparing developments in Morocco and Afghanistan with those discussed elsewhere in Kenya, we can derive some useful lessons about how to conceptualize the broad goal of legislative budget involvement. (1) Budget involvement should be conceptualized as existing in continuum rather than as a goal that is either achieved or not according to binary indicators such as whether or not a budget office is formally established. In both places, for example, informed participation in budgeting was tried out and has been incorporated into the repertoire of legislative activities without a formal budget office. Conversely in some places, some have cited Korea, a large and expert legislative budget operation has not guaranteed substantial legislative involvement in budgeting. As Matt Andrews and others have pointed out, changing behavior rather than just changing the rules should be the goal of development efforts. (2) While the development literature

27 A former COP characterized the present situation in the following fashion: “Budget authority of parliament: The project invested in creating the budget analysis office and trained staff in both Houses. The staff are still working for budget committees in both houses, and the Lower House created the committee on public finance monitoring and engaged the staff trained by the project on budget analysis. This committee oversees spending within the national budget and discusses legislation on the budget oversight.”


and donor admonitions stress the importance of “political will” and “ownership,” the actual commitment of legislative development legislative partners varies considerably in character and meaning and it also varies with time and circumstances. In Morocco it meant a general commitment to modernization or the willingness to receive assistance, provided that assistance did not unduly or too rapidly capsize established interests; in Afghanistan it included the sometimes active support of some leaders, the passive support and indifference of others but in all cases was subject to the constraints of a parliamentary budget controlled by the executive. Important lessons from comparing these experiences with Kenya show how a committed and continuing coalition of supporters, with a vision of legislative budget activism, could meet the very challenges that sometimes forestalled the institutionalization of budget offices in Morocco and Afghanistan. For example, the program in Afghanistan encountered a personnel problem which in Kenya was met by paying higher salaries than those paid by the treasury and other employers; in Morocco a recalcitrant internal bureaucracy and a leadership mindful of monarchical preferences trimmed efforts while in Kenya legislative reformers made it clear to sometimes reluctant staff directors that they considered a functioning budget operation a major goal and Ministry of Finance and other executive preferences were overcome through assertiveness and compromise.

**TOPIC 3: ACCOUNTABILITY – BOSNIA AND HERZEGOVINA PARLIAMENTARY STRENGTHENING PROJECT (PSP) AND STRENGTHENING GOVERNING INSTITUTIONS AND PROCESSES (SGIP) AND BANGLADESH PROMOTING DEMOCRATIC INSTITUTIONS AND PRACTICES (PRODIP)**

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

USAID PARLIAMENTARY STRENGTHENING PROJECT
IN BOSNIA AND HERZEGOVINA (PSP IN BIH), 2009-2013;
USAID STRENGTHENING GOVERNING INSTITUTIONS AND PROCESSES

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

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

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

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

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

Twenty years after the 1992-1995 War of Yugoslav Succession, Bosnia and Herzegovina (BiH) remains deeply divided. The Dayton Peace Accords (DPA), which ended the war and which also serves as the national constitution, carved the country into two entities and one district which reflected territorial control at the time of the cessation of hostilities. These are the Federation of Bosnia and Herzegovina (FBiH), a Croat (Catholic) and Bosniak (Bosnian Muslim) alliance; the Republika Srpska (RS); and the Brcko District (BD). The DPA also created a BiH national or State government. The DPA assigned the majority of government functions to the FBiH and RS entities; State-level competencies comprise foreign and economic policy; justice competencies which include war crimes and corruption prosecutions at the State level, are disputed. Internationally-sponsored efforts to enact constitutional reforms failed in 2006 and in 2013-4. In the absence of consensus on the mandates of State and entity competencies, political parties, the strongest of which are formed along ethnic lines, have become power centers. Absent reforms
of public financial management and of the courts, parliamentary oversight offered the greatest perspective for curbing corruption and introducing accountability for the executive’s financial performance.

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

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

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

Lessons Learned

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

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

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

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

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

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

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

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

Bangladesh Promoting Democratic Institutions and Practices (PRODIP)

The political history of modern Bangladesh has been marked by periodic efforts to establish a western model parliamentary democracy interrupted by periods of violence and military rule. The parliamentary elections of 2008, among the least violent and corrupt in the country’s history, appeared to present an opening for democratic reform and, as a result, the period between 2008 and 2010 saw a commitment of more than $50 million on the part of international donors to support capacity development and reform in the Parliament of Bangladesh. All of these programs faced similar obstacles – lack of internal human
capacity, a culture of corruption and a political system dominated by two parties – the Awami League (AL) and the (BNP) - each of which is dominated by a single strong leader. In this context, with rigid party discipline, a zero sum mentality such that the opposition party is more likely to take to the streets than to engage in parliamentary debate and a political incentive system that rewards loyalty to the leadership rather than commitment to the electorate, “reform” is difficult to define, achieve and institutionalize. It is all the more remarkable, therefore, that the parliamentary component of the USAID Bangladesh PRODIP program, implemented by SUNY/CID in the period from June 2010 through February 2014, could, in the end, point to measurable and sustainable accomplishments, particularly in the area of increased accountability and oversight mechanisms. Three sets of activities, in particular, contributed to the evolution of Parliament as government watchdog and advocate for greater transparency.

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

In an effort to mitigate the effects of partisan politics in Parliament, PRODIP worked to establish issue-oriented cross party caucuses. These working groups, with their commitment to policy formation and effective implementation, represented a breakthrough in parliamentary politics in Bangladesh. To the extent that MPs can coalesce on issues, they move away from the strict party discipline that cripples Parliament’s capacity to oversee the executive branch. Increased participation in cross-party activities had a direct impact on attitudes and behavior and opened parliamentarians to greater citizen input and evidence based research which, in turn, strengthened efforts to hold the government accountable on a number of key issues. The All Party Caucus on Women, the All Party Caucus on Food Security and the All Party Parliamentary Caucus on Population Management and Development all conducted field consultations and produced policy briefs, presented findings to government ministries and agencies and advocated for improved policies and better implementation of existing laws and regulations. In addition, PRODIP supported the work of the Global Organization of Parliamentarians Against Corruption (GOPAC)\(^2\), an international group seeking to institute a local Bangladesh chapter, and the Thursday Group, a caucus comprised of backbenchers. The fact that PRODIP aided in the formation of three and

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32 GOPAC, a Canadian-based not-for-profit founded in 2002, has brought together over 170 parliamentarians and 400 observers dedicated to fighting corruption and improving good governance. Its members, current or former legislators or legislators who have been denied their right to take office, represent more than 50 countries in all regions of the world. Their collaboration is non-partisan.
supported a total of five such groups in a two year period is evidence of the untapped potential for this type of activity.

The Budget Analysis and Monitoring Unit (BAMU) provides Members of Parliament and staff with information about the fiscal operations of the Government of Bangladesh to facilitate their oversight of national budgets and monitoring of government expenditures. BAMU was formally launched in the Jatiya Sangsad premises on December 7, 2010. When PRODIP took over the support of this unit in August 2012 BAMU was barely functional and faced a number of challenges. The unit was managed by three economists, seconded from the Ministry of Finance, whose salary was underwritten by donor-funded programs. Nine additional members were full time parliamentary staff with no formal training in financial analysis, all of whom had additional duties and received no additional compensation for their work with the BAMU. In a word, the parliamentary BAMU members were underprepared, underqualified and under the radar in terms of visible contributions to the Secretariat. More than anything, what the BAMU lacked was a clear strategic vision of their role and the wherewithal to convey that vision to the Parliament so as to create a demand for their services and support for their work. To support this effort, PRODIP assisted BAMU to conduct a needs assessment of Standing Committees and MPs to better understand their needs for fiscal analysis for the upcoming budget session and to forge a link between Committee chairs and their staff and the BAMU staff. Additionally, the parliamentary BAMU members received needed training to enable them to be able to fulfill their mandate and support and recognition from the leadership of the secretariat to motivate them. By the end of the program, the BAMU had been formally incorporated into the Parliamentary Secretariat and was regularly contributing to the budget oversight process in Parliament through:

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

 Lessons Learned

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

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

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

Devise strategies that identify overarching interests. While it is obvious that programming should when possible avoid party cleavage issues, means for identifying areas of cooperation that are possible is less obvious. We found several. (a) Frame issues in procedural rather than partisan terms. In BiH, for example, committee members were encouraged to view processing audit reports as a problem of procedure that did not challenge party interests (no party would publicly defend sloppy accounting practices) and leant themselves to technical solutions. (b) Focus on getting improvements where feasible and emphasize the technical. In Bangladesh, providing technical help understanding the budget and in BiH to understand the audit reports presented a non-political entry point into both legislatures.

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

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

TOPIC 4: IMPLEMENTATION OF PROGRAMMING IN CONFLICT-RIDDEN ENVIRONMENTS – KENYA PARLIAMENTARY STRENGTHENING PROGRAM (PSP) AND BOLIVIA PROGRAM OF ASSISTANCE FOR A REPRESENTATIVE CONGRESS (PARC II)

A recent report from the Woodrow Wilson School enumerated the potential roles that legislatures can play in preventing, mitigating and peacefully channeling conflict:
“The legislature, as the representative body of government, has the potential to be an extremely effective institution for conflict management. Legislatures are the guarantors of pluralism and can play a significant role to ensure the proper workings of government while protecting the interests of minorities (Taylor 2005, 105) or disenfranchised groups. Stakeholders can transfer their grievances from the battlefield to the political sphere and power-sharing mechanisms can be adopted to bring all segments of society into the political framework (Sisk 2001, 789). In addition, stakeholders can pursue compromises and participate in making hard decisions on contentious issues of national policy through legislative and committee processes. Finally, an effective legislature can exercise oversight over the executive, acting as a check on an authority which, if unfettered, might ignore or abuse minority interests.”33

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

Kenya PSP/Conflict Mitigation

SUNY had been implementing USAID legislative strengthening activities in Kenya since 2001, in a programmed deemed effective by both inside and outside reviews.34 In 2008, USAID and DFID redirected resources to specifically support Parliament’s role in implementing the negotiated accords (known as the 2008 National Accord and Reconciliation Act or NARA) that ended the post-2007 election violence. This assistance enabled Parliament to become a body that could both represent a deeply divided society and achieve enough agreement to make decisions. SUNY PSP provided decision makers with technical advice, legislative review, and workshops, and facilitated CSO engagement. Parliamentary decision makers, under the leadership of the Speaker and through the committees and caucuses, contributed to the resolution of many contentious issues and passed the legislation required by NARA.

The 2007/2008 post-election violence that claimed over 1,000 lives and displaced thousands has been described as the “most widespread, destructive and dangerous that the country ever faced.”35 Kenyan analysts and the international community saw the immediate causes both in the Government’s handling of the election and its aftermath, and in long-term factors. These factors included politicians’ reliance on ethnicity to mobilize support and to distribute the benefits of power and citizens’ lack of trust in institutions seen as too weak or corrupt to govern, adjudicate conflicts, or represent the populace. The

2008 National Accord and Reconciliation Agreement was a power-sharing solution mediated by international efforts between the rival presidential candidates to produce a reform agenda intended to deal with the immediate and long term issues that triggered the violence.\textsuperscript{36} The Kenyan Parliament’s role in this process was (1) to pass the NARA schedule of legislation; (2) to become stronger in its capacity to represent differences and to check the historically strong executive; and (3) to become an arena in which explosive issues (including land reform) could be dealt with through compromise.\textsuperscript{37}

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


\textsuperscript{37} “The context for reform (in Kenya) is deeply problematic, as unity governments typically struggle to pass genuine reform packages that change the rules of the game. The challenges facing the donor community are compounded by problems of limited funds, donor co-ordination, and a question of where to focus scarce resources. Certain Agenda 4 items can only be dealt with in the long-term, most notably land reform. In the short-term, reducing the risk of conflict ahead of the 2012 elections requires a focus on electoral system reform, the re-integration of IDPs, conflict resolution, and the reform of the security sector. Supporting potential ‘constituencies for reform’ in the legislature, which plays a direct role in shaping government policy in a number of areas, may prove to be an efficient way to promote the reform agenda” Nick Cheeseman, Report, delivered at DFID Taking Governance Forward Ahead of 2012, Holiday Inn, Nairobi, 24-02-2009.
The USAID and DFID funded Parliamentary Strengthening Program (PSP) aimed to help the Kenya National Assembly (KNA) to improve its lawmaking, oversight and representation functions in a more democratic, effective, and transparent manner. From 2000 to 2015 the KNA matured from what was essentially a rubber stamp legislature to what is now regarded as one of the most significant legislatures in Africa, and the most independent in terms of the degree of formal and real autonomy it enjoys from the executive. It is fully capable of exercising its constitutional prerogatives of lawmaking, oversight, and representation. Over this same period, SUNY/CID assisted Parliament to introduce a series of institutional reforms, starting with the creation of a Parliamentary Service Commission which controls Parliament’s budget and the recruitment of its staff. This, in turn, led to procedural reforms which increased the effectiveness of its committees; developed in-house technical units; and increased its ability to amend and initiate legislation, its scrutiny of the Executive, and Parliament’s authority over the national budget. This process of institutional strengthening culminated in a series of constitutional reforms, approved in 2010, that further separated the executive and Parliament, decentralized power to County Assemblies, and created a Senate as a second parliamentary chamber.

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

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

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

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

Over the course of the next 24 months, SUNY/PSP supported Parliament’s lawmaking under the new political structure; the constitutional, electoral, land, and security reform agendas; national reconciliation;

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IDP and resettlement issues; and the relationship between Parliament and the Prime Minister (and their relationship to the rest of the executive branch) were focus issues.

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

Major outcomes from the activity included the development of a more effective and independent legislature, with the internal structures, capacity and formal rules needed to effectively participate in lawmaking, oversight and representation; the negotiation and passage of framework laws needed to implement NARA; and the preparation of Kenya’s new Constitution (which was drafted and passed in 2010). Most importantly, Parliament passed legislation to implement the NARA power-sharing agreement of February 28, 2008 that ended the post-election violence and laid the ground work for redesigning Kenya’s political system through a new constitution. Parliament first amended Kenya’s then-current constitution to create the office of Executive Prime Minister, a key component of the settlement. It then passed the Constitution of Kenya Review Act (2008) that established the Committee of Experts and specified the procedures to be followed to draft, deliberate and ratify a new Basic Law. Parliament also passed legislation establishing the Interim Electoral Commission of Kenya and the Interim Boundaries Commission to reestablish the electoral process on a sound basis and the Fiscal Management Act of 2009 which ensures Parliament’s authority to oversee executive budgeting and financial performance. Although the 10th Parliament did not agree on a politically viable formula for a local tribunal to try the alleged perpetrators of the post-election violence (so by default, cases are referred to The Hague), this legislative record was singularly responsive and impressive. The legislation was significant not only because it helped restore peace but also because it created the legal frameworks for robust oversight and for new governance structures meant to address historical grievances and drivers of conflict. Parliament’s leadership on maintaining the pace for reforms made it an increasingly a legitimate

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

— Crisis Group Africa Briefing Number 94, 15 May 2013

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— Crisis Group Africa Briefing Number 94, 15 May 2013
arena for negotiation around key national policy issues. Public satisfaction with Parliament’s performance rose from 24% in 2008 to 61% in 2010. 39

Lessons Learned

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

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

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

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

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

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

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

In the fall of 2003, Bolivia was experiencing social instability with gradual radicalization of popular movements and increasingly credible calls for insurrection. The Congress was controlled largely by regional elites that were not responsive to popular demands, particularly demands from powerful minority groups. To address this political upheaval and instability, USAID chose to work with the Bolivian Congress to encourage a) more intense and broader citizen participation, and b) representation of diverse interests and demands from national and local citizen groups. The activity was designed to offer support to the entire political spectrum and to be non-partisan and unbiased.

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

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

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

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

To this end, PARC II organized a large number of citizen forums, interactive radio programs, and public hearings. Activities also included working with departmental brigadas (regional caucuses) to formulate departmental Minimum Agendas and carry out regional meetings for uninominal deputies, congressional committees, and the brigadas. Despite this, the political situation remained unstable, the President resigned, and in December 2005 elections were held for a new president, vice president, Congress, and departmental prefects. Evo Morales, of the Movement for Socialism (MAS) Party, was elected President by an absolute majority with 54% of the vote, and his party gained nearly 54% of congressional seats.
In this tumultuous context, PARC II implemented a large number of diverse activities that reached members of Congress, political actors, and tens of thousands of Bolivian citizens. PARC II actions to support the legislative agenda included 1) a national referendum on the exportation of Bolivia’s gas reserves; 2) a new hydrocarbon law; 3) the convocation of a Constitutional Assembly to formulate a new Constitution for the country; 4) support for congressional research, bill-drafting, and consultations with civil society regarding the main parameters of the Special Law to Convene the Constituent Assembly; 5) training for new legislators elected in December 2005; and 6) simplifying the municipal and departmental planning instruments to encourage popular participation in the planning process. These activities strengthened democratic practices and helped increase confidence in democratic institutions and processes throughout Bolivia’s nine departments during critical times.

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

Lessons Learned

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

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

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

Comparative Analysis

In both Kenya and Bolivia, existing legislative development programs were quickly and successfully re-tasked to support to address and reduce conflict. In both countries, USAID was able to use the ready access to legislatures offered by their SUNY/CID-administered activities. By channeling these efforts through representative arenas, these and other efforts converted some of the more “winner take all” aspects of succession politics into legislative efforts where some compromise was possible.
While the Kenya and Bolivia cases differ considerably in circumstances and outcomes, both involved leadership succession, determining the legitimacy accorded to the resulting government. In both cases, legislatures passed laws aiming to resolve contentious issues, and both prepared frameworks for constitutional reviews to address historical grievances. And in both cases, USAID-supported legislative programs played important roles in supporting more participatory and informed processes.

**Lessons Learned**

*Leadership succession issues tend to put legislatures in central positions.*

Having a legislative engagement activity in place when conflict erupts provides ready access to address and mitigate conflict. Existing legislative programs provided access; their knowledge of political actors, circumstances and possibilities helped to inform the selection of available avenues to defuse social and political tensions.

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

40 Examples include the rise of legislatures as arenas in succession crisis following the deaths of executives in Malawi, India, and Israel, as well as disputed elections or negotiated peace agreements producing power-sharing agreements in various places.
TECHNICAL LEADERSHIP IN LEGISLATIVE STRENGTHENING
DESIGNING AND IMPLEMENTING LEGISLATIVE STRENGTHENING PROGRAMS

OCTOBER 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by Tetra Tech ARD.
Task Order Deliverable Submitted to the
United States Agency for International Development

TECHNICAL LEADERSHIP IN
LEGISLATIVE STRENGTHENING
AID-OAA-TO-15-00021

TASK ORDER DELIVERABLE—REFERENCE PAPER

Under USAID Contract No. AID-OAA-I-12-00001
Strengthening Deliberative Bodies IQC

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October 28, 2015
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1. INTRODUCTION

Tetra Tech ARD is pleased to participate in this task order request regarding Technical Leadership in Legislative Strengthening. This analytical assignment is in support of an effort to revise the USAID Handbook on Legislative Strengthening and, broadly, to help to distill lessons learned and provide guidance with regards to how best to design and implement dedicated legislative strengthening (LS) programs as well as sectoral or other programs that engage with legislatures and the legislative process.

Our paper begins with a brief overview of USAID approaches to legislative strengthening and highlights several significant trends in Democracy and Governance (D&G) technical assistance that are influencing new directions for legislative strengthening programming. Subsequently, we focus on four themes noted in the task order request, specifically: cross-sectoral programs, institutional capacity and parliamentary administration, accountability, and implementation and evaluation. For each theme, we provide discussions of case examples in order to reflect on and distill comparative lessons. Case examples are drawn from projects in Colombia, Bulgaria, Rwanda, West Bank and Gaza, Uganda, Guatemala, Kenya and Armenia.

2. OVERVIEW

As illustrated even 15 years ago by the case examples and programming guidance in the Handbook itself, USAID has a rich history of supporting LS programs worldwide. In many instances, USAID programs were distinct from the programming models adopted by multi-lateral donors, such as UNDP, or by other bi-lateral donors. Most prominently, USAID pioneered the design of comprehensive programs which sought to work with legislatures in strengthening activities across the functional purposes of executive oversight, representation and lawmaking.

This focus on comprehensive programming differed considerably, both from earlier forms of assistance the U.S. Government provided to legislatures, such as that provided by the Frost Task Force in support of Eastern European legislatures, as well as from that provided by other donors which tended to focus much more discretely on a limited set of tasks. Some USAID programs, such as in Kenya and Ukraine, have also had uniquely long life-spans, and this has enabled these programs to develop highly effective working relationships with Members and staff of these institutions which subsequently enabled programming in areas often considered quite sensitive, such as the strengthening of legislative review and amendment of the national budget or development of effective legislative capacities for executive oversight. As part and parcel of such unique programming approaches, USAID and its implementing partners have also developed a network of experienced LS practitioners, many of whom have participated in implementing LS projects as well as in forums, such as this analytical exercise, designed to cull lessons and further develop effective LS practices.

Several current trends in democracy and governance (D&G) and overall development assistance programming, however, are quite relevant for the future of LS programs. One trend is that with what Samuel Huntington called “the third wave of democratization” over the past three decades, many if not most of the world’s emerging democracies have now had significant support for legislative strengthening, particularly support for stronger institutional capacity and parliamentary administration. USAID itself has provided multiple rounds of LS assistance in many nations. Thus, the model of comprehensive assistance,
with exceptions such as post-conflict legislatures, may be less applicable in many instances than when the Handbook was written.

Another trend, as reflected in the new USAID Strategy on Democracy, Human Rights and Governance, is for D&G programming to be less “stove-piped” in the sense that programs often focused primarily on a single institution of branch of government and instead focus across institutions and branches of government. Thus, the new DRG strategy’s substantive development objectives focus on strengthening core democratic governance values -- human rights; government accountability; and political participation, representation and inclusiveness -- which may be achieved through programming that straddles multiple institutions and branches of government. Thus, for example, a program focused on government accountability may well be designed to work closely with a national legislature but it may also work closely with other government institutions, such as a supreme audit office, that are part of a broader horizontal accountability system. As well, such a program may also support vertical accountability systems by working with citizens and civil society organizations so they may better hold government officers and offices to account.

And a third trend is for LS and other D&G analysts and programming practitioners to reflect on what are the most effective strategies and designs for democracy programs, particularly given the reality that many of the third wave democracies have not evolved as anticipated. In fact, in many instances governments and political regimes may exhibit the trappings of democracy while nonetheless exhibiting a much more authoritarian reality. Larry Diamond, as just one example, has suggested a more complex typology of regimes which stretches from “electoral democracy” on one end through regimes classified as “ambiguous”, “competitive authoritarian”, and hegemonic electoral authoritarian” to “politically closed authoritarian” on the other end. All of these regimes, with the exception of the politically closed authoritarian ones, have many of the formal elements of democracy, including periodic elections (even if rigged) and at least minimally functioning legislatures, and yet at the same time are largely controlled by a single party, strongman ruler or crony group of one sort or another with political contestation often taking place behind the scenes as much as through formal democratic institutions.1

Thus, analysts such as Greg Power, have begun to diagnose how a LS or other D&G program operating in complex political environments, such as those described by Diamond, may be designed to actually take into account the political incentives and institutional behaviors of program stakeholders and counterparts.2 While experienced LS practitioners do, in fact, routinely consider incentives and institutional-driven behaviors when managing LS projects, such insights have not systematically guided the design, implementation and evaluation of LS and broader DG programs. It is to this end, of offering support for improved LS and related programming that we discuss the several themes and case studies to follow.

3. CROSS-SECTORAL PROGRAMS

The potential for legislative strengthening programs to not just focus on institutional strengthening but to also support socio-economic development objectives has long been understood by practitioners. For example, the Executive Summary to USAID’s now 15-year old LS Handbook is explicit, noting

“legislatures play—or in a democratic political system, should play—a central role in all areas of policymaking and governance. As a result, the potential for cross-sectoral linkages and programming is tremendous. Activities that strengthen the legislature can, in fact, principally aim toward results in other sectors” (p. 2). Moreover, in practice many LS programs have supported and developed synergies with programs developed by other USAID sector teams in support of socio-economic development objectives. For example, it is routine for LS programs that develop committee strengthening activities to seek to work with sector programs in areas that are relevant for various committees portfolios.

While the potential is clear, there has been less clarity as to how to design LS programs, how to design sectoral programs or how to co-design LS and sector programs to maximize the potential for programmatic synergies. In the 15 years since USAID drafted the LS Handbook several practices have emerged that support USAID Mission’s abilities to effectively design cross-sectoral programming. One practice has been the development of Country Development Cooperation Strategies (CDCSs) that include well-defined results frameworks. This makes it easier for programs that may principally seek to achieve results under different core development objectives to nonetheless simultaneously seek to achieve one or more of the same intermediate results. As well, there are often explicit cross-sectoral objectives identified in CDCSs. And when multiple programs are supporting the same intermediate or cross-sectoral result, it is much easier to identify programming synergies. A second practice some Missions have adopted, often noted in the CDCS, is one of more selectivity and focus across sectors. Thus, some missions adopt a geographic concentration for activities while others may preferentially target resources toward specific segments of the population. Again, such selectivity and focus helps facilitate cross-sectoral programming.

While clear results frameworks, selectivity and focus can assist Missions to better design cross-sectoral programs, significant obstacles exist. One obstacle is the bureaucratic challenges and rivalries that can exist when resources flow and are controlled by different Mission sector teams. This can too easily result in programming that is primarily responsive to the sector’s needs and to the imperatives of the earmarks or initiatives (e.g., Presidential Initiatives) for funds that are sector-based as opposed to programming fully responsive to cross-sectoral objectives identified in the CDCS. Another obstacle is the challenge for different sector teams to develop programs with explicit cross-sectoral designs when the different teams may operate with divergent sets of assumptions, theories of change and conceptual vocabularies from each other. An illustration of this may be seen in the Scope of Work for the Tanzania Public Sector Systems Strengthening (PS3) RFP from 2014. While this was a program which, on its face, resembled many D&G programs supporting public sector reform and improved service delivery at local levels, and while this program also was designed to achieve both D&G and sectoral intermediate results, the RFP referred prospective bidders to refer to and build on concepts, models and building blocks culled from the field of health systems strengthening which though were less relevant or useful for the D&G field.

Support for sectoral policy and legal reform is a programming area quite relevant for this discussion of cross-sectoral initiatives. Diverse sector programs as well as the resource flows associated with sectoral earmarks or Presidential Initiatives commonly support reforms in specific, substantive policy areas. Thus, these sectoral programs may fund research agendas, advocacy efforts by NGOs and support the executive and the legislature to revise laws, statutes and regulations. LS programs, for their part, commonly include the objective to strengthen the lawmaking function of legislatures. So, they may support committees to better review and revise draft bills and support capacity building for relevant legislative services, such as research and legislative drafting. As well, many LS programs further work with NGOs and private sector organizations to assist them to better understand and engage with the legislative lawmaking process.
Clearly, this intersection between programming for sectoral policy and legal reforms and programming to strengthen a legislature’s lawmaking function provides fertile ground for cross-sectoral programming. At the same time, to the extent that a programming focus is to support policy and legal reforms, then it is helpful to consider the overall process and systems through which policies and laws are reformed. In this, reform processes commonly straddle the executive and legislative branches, with draft bills (executive) and bills (legislature) going through multiple stages prior to becoming a law. Accordingly, programming that is most likely to be effective in supporting policy and legal reforms will focus technical assistance across these multiple stages, taking into account that institutional capacity issues or waning or waxing political support potentially may be found at any stage. Further, to the extent technical assistance also seeks to encourage public inputs into the policy and legal reform process, it is important to consider at what stages of the development of a draft bill (executive) and the consideration of a bill (legislature) that public input is possible as well as what kind of inputs are required. For example, when a policy idea is yet being formulated, broad public input will help ground what may become a draft bill in the broader policy and developmental context. By the time the idea is an actual bill before the legislature, public inputs are often effective when they are more narrowly focused and even presented in legal text as a possible revision to the bill.

One helpful way to organize programming—whether LS programming or sectoral programming—that is designed to support policy and legal reform is to organize the technical assistance in support of overall legislative coalitions that may straddle the governmental and non-governmental sectors. As illustrated in the case examples below, this may involve working with experts to help conceptualize a reform, executive and legislative officials who may have political interests or institutional authorities likely to shape reform outcomes, particular offices in the executive or legislature that may need capacity building support, and the myriad of private sector and non-governmental organizations that may have stakes in the outcome of a reform process. No doubt, in situations with hybrid regimes with greater authoritarian tendencies, the reform process may be tightly controlled by the executive with fewer opportunities for public inputs and with the legislature acting more like a rubber stamp. Nonetheless, even in such contexts, programming focused on broader legislative coalitions may model for executive officials and others the benefits of a more robust policy and reform process characterized by public inputs and independent legislative reviews.


In January of 2001, Tetra Tech ARD was awarded a 15-month contract by USAID/Colombia to implement the Colombia Democratic Local Governance (DLG) Project. The overall objective of the project was to “strengthen democratic local governance in the geographic areas that are the focus of USAID’s programs in the promotion of a more responsive, participatory, and accountable democracy in Colombia.” Project assistance was intended to respond to a general lack of a functioning state in the Colombian interior in two ways. First, it provided the tools needed to improve the administrative functioning of local governments, and second, it helped to link those governments to citizens through a participatory process built around transparency and accountability. In February 2002, Tetra Tech ARD was awarded the four-year, DLG II Project which significantly built on its predecessor, expanding it from two to eight regions of the country and from 26 municipalities to over 200. As well, DLG II incorporated a legislative strengthening component in response to a request from the Colombian congress.
The DLG project overall provided a broad array of technical assistance across seven programmatic components, which included development planning, municipal management, public services, finance and revenue, public information, and public policy. With respect to cross-sectoral programming, the DLG efforts in support of public policy reform illustrates an interesting example combining work at local, regional and national levels with both government and non-governmental actors. The combination of local governance strengthening with legislative strengthening programming enhanced the effectiveness of the DLG public policy reform efforts.3

DLG efforts in the public policy arena centered on policies in need of reform with a particular emphasis on those affecting Colombia’s smaller and most vulnerable municipalities. Initially, DLG consulted with local officials and civil society leaders about their perspectives on public policies associated with the provision of basic social public services. Subsequently, through a grant to the Instituto de Desarrollo Autogestionario (INDESA), DLG supported regional and thematic conversatorios (policy dialogue events) as a bottom-up approach that identified six critical sectoral policy issues -- municipal finance, health, education, municipal planning, security and illicit crops – that were broadly of interest as well to diverse USAID/Colombia sector teams. As a follow-up to these events, DLG disseminated information and sought to validate the importance of the various public policy proposals identified in the conversatorios, starting from the regional conversatorios to the thematic conversatorios and culminating at the national level. This approach was designed to ensure input from all levels of Colombian actors from public and civil society sectors.

Following this process for identifying critical policy issues, the program assisted in the formulation of specific reform proposals. Technical and logistical assistance was provided for dissemination of the proposals in order to garner the political support and institutional buy-in required for their approval and/or implementation. To facilitate widespread dissemination, understanding and promotion, technical proposals were prepared in user-friendly language and format, and discussed in workshops and practical exercises at the municipal level with local public officials and civil society organizations. Several of the policy proposals were also published in a magazine by the Federación Colombiana de Municipios (FCM) that is distributed to all mayors’ offices across the country. At a later stage, the FCM and other institutional actors agreed to take over the policy component and continue promoting policy reforms.

Complementing this bottom-up and consultative approach to supporting public policy reforms, DLG also undertook related initiatives at the national level. One key element was the DLG program of legislative strengthening assistance. DLG helped establish a Legislative Technical Assistance Office (LTAO) and a Constituent Services Office (CSO). DLG provided expertise for the Members and staff in the institutional design of these two new offices, the training of their personnel and the development and implementation of their initial work plans including performance monitoring mechanisms. The function of the LTAO is to provide high quality research and technical services on legislative issues to the various Congressional Commissions. The CSO establishes a more direct link between citizens and Congress by providing timely information on legislative issues, the status of draft bills and specific laws. The CSO also responds to citizens’ inquiries and requests for information as well as channels their opinions and comments on public issues. Citizens can access CSO services in person, by phone through a toll free number, e-mail, and over the internet.

3 The most comprehensive summary of the DLG project is contained in Final Report: Democratic Local Governance Program-Phase II, USAID/Colombia, February 2006.
In addition to the LS program component of DLG, the project also supported municipal associations to define strategies and activities to advance their common agendas. DLG provided grants to the Asociación de Municipios de la Provincia de Obando (ASOPROOBANDO), the Asociación de Municipios del Macizo Colombiano (ASOMAC), the Asociación de Municipios del Norte del Cauca (AMUNORCA); and the Federación de Municipios del Litoral Pacífico (FEDEMPACIFICO). These institutional strengthening grants allowed the municipal associations to prepare regional development agendas and consolidate their role as policy making intermediaries at the municipal, regional, departmental, and national levels. DLG also helped form the Asociación de Alcaldes de Municipios con Población Afrodescendiente (AMUNAFRO). AMUNAFRO was the direct result of the first Institutional Strengthening Conference sponsored by the Program, where Afro-Colombian representatives decided to create an organization that would work for the unification of Afro-Colombian organizations and the development of common goals for this community, as well as greater representation in the political arena.

Broadly, the results of the LS program component of the DLG project represented an important contribution toward improving the Congress’ credibility with the public and its technical capacity to fulfill its legislative role. At the same time, the DLG experience of working in and with the legislative branch in Colombia also assisted with the development of the policy reform proposals that emerged from the local and thematic conversatorios in association with the overall public policy activities of DLG.


Support for biodiversity conservation, ecosystem services and sustainable tourism in Bulgaria is considered a USAID showcase that demonstrates how consistent, long-term investments made substantial contributions to transformational development. While BECG was a project associated with the environment and natural resources sector, it illustrates effective cross-sectoral programming as the project worked closely with national policy-makers and legislators as well as helped activate broader legislative communities to achieve important legislative reforms. For this case study, we focus primarily on BCEG support for developing and implementing Bulgaria’s first national eco-tourism strategy and action plan.

USAID began investing in Bulgaria’s exceptional biodiversity in the early 1990s after the collapse of the former Soviet Union. The Agency began by supporting the development of a national strategy for the conservation of biological diversity through its Biodiversity Support Program. In 1995, USAID launched its second phase of support through a Global Environmental Fund (GEF) parallel funding mechanism for the GEF Biodiversity Project (1995–2000). Subsequently, under the Biodiversity and Sustainable Forestry (BIOFOR) IQC mechanism, Tetra Tech ARD was awarded two task orders (2000–2003 and 2003–2004) for the implementation of a third and fourth phase of biodiversity conservation in the country. In collaboration with the Ministry of Environment and Waters (MOEW), the BCEG I & II provided the leadership and technical assistance for a range of tasks.4 These included:

- **Natural Resources Management and Governance**: A public, transparent process for the development, review, and endorsement of that nation’s first protected area management plans.

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4 See Biodiversity Conservation and Economic Growth Project II, USAID/Bulgaria, April 2004 for a comprehensive summary of the BCEG II project.
• **Conflict Management and Mitigation and Property Rights:** A program that brokered a natural resources and biodiversity conservation management plan between the Bulgarian Orthodox Church and Government of Bulgaria for newly restituted Church lands within the nation’s largest national park.

• **Livelihood, Property Rights, and Disadvantaged Groups:** Sustainable NRM and income-generating mechanisms that supported the annual harvesting of wild natural resources from within protected areas with resulting benefits (secure resource collection rights and higher income) to ethnic minorities (Roma and Pomaks).

• **Enterprise Development:** A pioneering small enterprise development program focused on ecotourism in rural communities surrounding the USAID assisted parks. And,

• **Sustainable Finance:** Facilitation for Eastern Europe’s first Protected Areas Fund to support grants for biodiversity conservation, community tourism, and sustainable natural resources management inside and around Bulgaria’s protected areas.

BCEG support for the development of Bulgaria’s first national ecotourism strategy and action plan (NETSAP) was an additional task that helps to demonstrate an example of cross-sectoral programming. Essentially, BCEG helped to identify and mobilize diverse stakeholders at national and local levels while facilitating them to coalesce into a broader legislative community or coalition that, collectively had the political will and power to define and begin to implement the NETSAP. This legislative coalition straddled engaged local as well as national actors operating in both the governmental and non-governmental spheres.

An initial step BCEG undertook involved support for workshops and fora involving ecotourism practitioners associated with local and regional tourism clusters culminating in a first National Ecotourism Forum in 2002 that generated a draft National Ecotourism Action Plan. BCEG subsequently worked with key national-level policy makers as well as officials in three Ministries, Environment and Water, Economy and Agriculture and Forests, to formalize a Protocol for ecotourism policy development. This Protocol envisioned the engagement of multiple stakeholders at local and national levels, including local government authorities; national, regional and local ecotourism associations; and local communities.

In order to implement this Protocol and process for engagement of stakeholders, BCEG adopted several strategies. First, in order to solicit local-level inputs, BCEG engaged professional facilitators to coordinate and work with the partner organization, Foundation for Local Government, as well as with other donors supporting the process in support of the development of twelve Regional Ecotourism Action Plans. The development of the regional plans involved extensive consultations with inputs from over 400 meetings and workshops with experts and members of the public as well as engagement with 120 municipalities. And second, BCEG also coordinated an extensive series of thematic focus group discussions. Seventy-two specialists representing 45 institutions discussed, debated and provided recommendations for six key thematic areas relevant for the NETAP: 1) ecotourism and GIS for ecotourism development; 2) ecotourism enterprise development; 3) financial and financial mechanisms for ecotourism; 4) ecotourism product development and marketing; 5) institutional development; and 6) ecotourism and local governments. The NETAP was formally adopted at a national event involving the U.S. Ambassador in 2004 As well as guiding Bulgaria’s ecotourism planning, the NETAP also served to direct more than $11 million of multilateral and private monies into Bulgaria’s ecotourism development and promotion from
the UNDP, World Bank and Swiss Government via the Regional Environmental Center for Central and Eastern Europe.5

Lessons may be learned from examining some of the challenges BCEG faced throughout this process of helping to build a legislative community in support of a sustainable ecotourism policy. One challenge related to the incentives for some of the actors at local levels. Bulgaria traditionally had a strong tradition of mass tourism; while positive for tourism development overall, its success also generated a certain inertia within the tourism sector from the more successful service providers and communities. Given this, BCEG efforts through consultation processes and the development of Regional Ecotourism Action Plans helped give voice to diverse stakeholders – rural communities, local entrepreneurs and local governments -- otherwise not fully mobilized to support the ecotourism planning process. BCEG also had the challenge of supporting a bottom-up and participatory policy reform process in a country and context where this was innovative, and public policy was often defined by the executive with minimal public input. To address this, BCEG adopted multiple strategies to mobilize the ecotourism legislative coalition, such as the extensive thematic focus groups in addition to the community and local level meetings and workshops. These multiple strategies enabled BCEG to rapidly reach out to local service providers and community-based organizations, local and national government officials, and diverse experts and professionals to create a critical mass of information combined with engaged stakeholders to take on the task defining the NETAP.

4. INSTITUTIONAL CAPACITY AND PARLIAMENTARY ADMINISTRATION

LS programs commonly face significant challenges in seeking to deliver institutional capacity building support. A first one relates to the question of, what kinds of institutional capacities should the program seek to build in the first place? While the goals and objectives of the LS program can help answer this question, the priorities of the program may not fully coincide with those of the parliamentary administration or of other powerful actors in the legislature. As a result, the targeting of capacity building assistance is something that is commonly negotiated, both by the Mission initially as well as by the implementing partner when it is on the ground.

A recent innovation that is helpful for negotiating capacity building assistance has been the efforts by a number of respected organizations, including the Inter-Parliamentary Union (IPU), Commonwealth Parliamentary Association (CPA) and National Democratic Institute (NDI), to define standards and benchmarks for democratic legislatures.6 On the one hand, such standards and benchmarks help to define what may be considered minimum criteria for a democratic parliament to effectively function. On the other hand, standards and benchmarks also can assist a legislature and a LS program to more objectively or credibly assess capacity gaps or deficiencies which can then help guide negotiations over capacity building assistance.

Nonetheless, several factors can make the negotiating over and decisions regarding capacity building assistance quite complex. For example, in comparison to more hierarchical institutions, such as a

5 A more detailed summary of these activities is found in the BCEG II Final Report, April 2004.
6 A useful review of IPU, CPA and NDI efforts to define standards for legislatures may be found in Benchmarking for Parliaments: Self-Assessment or Minimum Criteria? European Parliament, Office for Promotion of Parliamentary Democracy. 2012.
Given such complexities, experienced LS practitioners understand that a LS program does well when it consults with, cultivates relationships across and seeks support from multiple centers of power, with the occasional example of a program being thwarted or even shut down by a single institutional gatekeeper being a powerful counter lesson. An additional factor is that legislatures evolve with elections and changes in leadership. As a result, the priorities for capacity building held by legislative leaders may also evolve and so LS programs will need to flexibly renegotiate the targeting of technical assistance over time and be alert and flexible to take advantage of opportunities that may arise unexpectedly. There is also the factor that, taking into account the life-cycle of a LS program, there may be an initial period of trust- and relationship-building before legislative leaders accept that the LS program is competent and credible enough to work with. Thus, experienced LS practitioners may strategically choose to focus on building less controversial capacities, such as enhancing the library, and only move on to tackle what may be more controversial capacities at a later period.

Beyond the question of what kinds of capacities should a LS program seek to build, is the equally challenging question of whether the capacity building assistance is actually contributing to the overall objectives of the program? In this, LS programs commonly have as higher-end objectives to strengthen the legislative oversight, budget review, lawmaking, and representation functions. But, as Greg Powers’ discussion in The Politics of Parliamentary Strengthening helps to explain, the incentives and institutional behaviors of Members and staff of legislatures are complex and multi-variate. Thus, for example, just because a LS program supports a professional parliamentary budget office, this does not mean that MPs or parliamentary staff will call on the enhanced information made available to them. In this context of complex incentives and institutional structures, LS practitioners often seek to be flexible by only or primarily supporting capacity building that, per their estimation of incentives and institutional behaviors, will actually be used in ways that are consistent with the higher-level program results. Perhaps the most common example of this relates to working with legislative committees. LS programs, often reflecting the sectoral interests of the Mission, are routinely designed to work with targeted committees with portfolios in areas such as health, education or the environment. However, in any given legislature, some committees are largely dysfunctional if led by a distracted Chair or, as in some cases, the Chair or a preponderance of committee members may, for whatever reasons, simply not desire to work with the LS program. In such circumstances, experienced LS practitioners find committees to work with that are likely to be more receptive to assistance. In some instances, as discussed in our case study of the Armenia Support to the National Assembly Program, a recalcitrant committee may come around if the program provides a demonstration effect of effective assistance to other committees.


USAID LS support in Rwanda initiated with a legislative needs assessment in 1999 that was requested by the Rwanda Transitional National Assembly (TNA). Subsequently, USAID/Rwanda contracted with
SUNY and Tetra Tech ARD to provide long-term technical assistance to support the institutional development of the TNA. Following the adoption of a new Constitution by national referendum in May 2003, and Presidential and legislative elections held in August and September/October, respectively, the mission subsequently contracted with Tetra Tech ARD to continue LS assistance to the new Rwandan National Assembly.\footnote{7 The \textit{Rwanda Parliament Support Project Final Report}, USAID/Rwanda, March 2005 provides the most comprehensive accounting of PSP activities. Similarly, the ARD/SUNY Rwanda National Assembly Support Project Final Report, USAID/Rwanda, October 2003 summarizes NSAP activities.}

The LS programmatic support for both the transitional and then elected National Assembly was envisioned as helping a fledgling legislative body develop basic institutional management and administration capacities as well as develop the traditional key legislative functions of executive oversight, representation and lawmaking. To this end, the NASP and PSP provided significant and diverse trainings for MPs and assembly staff, organized study tours to expose leadership to comparative legislative practices and sponsored a number of expert consultancies involving regional and international legislative strengthening experts who provided recommendations relevant to the constitutional powers and authorities for the assembly as well as for its overall institutional development. For example, assistance focused on:

- **Management and administration**: Assistance included guidance on staffing and organization; personnel guidelines; support for the Hansard and archiving of records; supply of key reference materials for the assembly’s library and research offices; experts support for internal rules reforms; assistance to professionalize the assembly’s website; and design and support for a new member orientation program.

- **Executive oversight**: Assistance involved extensive trainings for both MPs and staff focused on budget review and analysis, policy analysis for executive oversight, support for the Women’s Parliamentarian’s Forum for executive oversight and budget analysis and recommendations on legislative powers provided during the TNA’s deliberations on a new constitution.

- **Representation**: Assistance involved trainings for MPs and staff on effective representation; recommendations and support for public input into the legislative process, for example around assembly deliberations on a major land reform bill; development of a web-based NGO/Civil Society database for reference; trainings to support women MP’s media relations and communications skills; and support and recommendations for ways the assembly can better enable citizen visits and general public access.

- **Lawmaking**: support for committees on key policy issues and programmatic and fiscal oversight of Ministry activities (support primarily focused on committees in the Chamber of Deputies); study tour for the Secretaries General and other senior staff of the Chamber and Senate to the Kenya National Assembly to learn about public input into lawmaking, committee practices and legislative autonomy.

Having noted the breadth of LS assistance provided to the TNA and subsequently to the elected assembly in 2003-2004, it is instructive to consider how the overall context in Rwanda shaped and significantly limited the impacts of the NASP/PSP. In this, the role and authorities of the legislature in Rwanda have been profoundly shaped by the political framework that emerged following the genocide period in 2004 \footnote{The Rwanda Parliament Support Project Final Report, USAID/Rwanda, March 2005 provides the most comprehensive accounting of PSP activities. Similarly, the ARD/SUNY Rwanda National Assembly Support Project Final Report, USAID/Rwanda, October 2003 summarizes NSAP activities.}
and the triumph of the minority Tutsi-led Rwandan Patriotic Front (RPF). This political framework was one that was skewed toward a very strong executive.

It is notable that earlier peace negotiations culminating in the Arusha Accords had anticipated a relatively balanced relationship between the legislative and executive branches. According to Nakamura, these accords envisioned a political system in which “The Legislative-Executive relationship was calculated to balance powers between them so that they would have incentives to cooperate but could not easily dominate one over the other. The President could dissolve the Assembly, the Assembly could censure the government, and the Assembly also had to power to elect the President and Vice-President of the Supreme Court.” In practice, however, the initial Transitional National Assembly did not have the capacity to balance power with the executive, which was dominated by the RPF. Thus, while the TNA had a diverse set of appointed members representing minority Tutsi and majority Hutu parties and factions, many of the moderate Hutus—including ones who initially held high positions—ultimately resigned, went into exile or were jailed. Given the dominant position of the RPF in Rwandan politics, it is therefore not surprising that the new Constitution produced by the TNA in 2003 solidified in place a strong executive while also limiting the role of the legislative branch and closing down Rwanda’s political space in various ways. Thus, for example, certain parties and factions that were believed to have participated in some fashion in the genocide were outright banned and the new Constitution also placed significant limits on political parties.

In historical and comparative context, it is perhaps not surprising that the RPF, an organization with both military and political roots which was dominated by a minority tribal group, would prioritize political stability over political competition and design political institutions ensuring a strong executive which it would control, at least for a period long enough to stabilize the country and ethnic relationships following the catastrophic genocide. For the purposes of this case study, however, what this meant for USAID’s LS programming was the existence of significant constraints on what the project could accomplish. Thus, while both the TNA and elected Assembly welcomed USAID assistance, it also tightly controlled the timing and forms of assistance able to be provided. One consequence of this was that the NASP especially, but also the PSP, were steered toward providing assistance that was least controversial, such as support for the management and administrative systems of the Assembly as compared, for example, to assistance to significantly influence the Assembly’s capacity to conduct executive oversight or to significantly amend legislation.


The Palestinian Legislative Council Project is one of USAID’s early examples of a sustained, broad-based and comprehensive LS project. Furthermore, the PLC Project is one in which the USAID support commenced virtually with the formation of the Council. Thus, across successive USAID contracts, Tetra Tech ARD provided comprehensive assistance to the PLC to build and strengthen all of the key  

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legislative functions: oversight and budget analysis, legislative review and approval; and representation and enhancing ties between the Legislative Council and the electors.

If viewed from the narrower perspective of the effectiveness of the PLC project in building core elements of PLC institutional capacity, the project may be viewed as quite effective, as discussed below. At the same time, when viewed from a broader perspective, the effective delivery of technical assistance leading to improved institutional capacities was nonetheless only partially successful in supporting the PLC to evolve toward becoming an independent and democratic legislative body. This reflected the broader geopolitical and developmental contexts in which the PLC and the PLC Project operated. Such factors place boundaries or limits on what may be expected to be achieved through a LS program.

In reviewing the institutional capacity building effectiveness of the PLC Project, it is important to recall the context in which the project began. The PLC was first established in 1996 in a context where there was no tradition of a democratic government and the staff and elected Members of the PLC had few traditions or guidelines to guide them in their new roles and responsibilities. Compounding this was the reality that the PLC had very little by way of an established internal administration. Given this context, the PLC Project registered significant accomplishments in capacity building. Among these were the following:

- **Executive oversight and budget review**: PLC Project staff worked with PLC committees to develop the practice of public hearings and has familiarized both leaders and members with comparative techniques of oversight from around the world. The project worked extensively with the budget committee to facilitate the formation of a permanent Legislative Fiscal Unit, which provided the Parliament with detailed analyses of the national budget and public spending.

- **Legislative drafting and review**: PLC Project staff provided technical advice in drafting procedures and format, and trained the legal department lawyers in these skills. The project also made international expertise available to the PLC to facilitate their substantive review of key national laws, such as the law on the independence of the judiciary and national taxation laws. In addition to strengthening the legislative function within the PLC, the project also provided assistance to the Diwan al Fatwa (legislative review unit) in the Ministry of Justice.

- **Constituent relations**: PLC Project staff worked with both PLC members and staff to develop and create mechanisms for improved interaction between elected legislators and their constituents. The project team worked with each of the PLC’s 16 district offices to develop their ability to manage and respond to constituent inquiries. The project further significantly enhanced the national visibility of the PLC through such techniques as live television broadcasts of PLC sessions and the publication and dissemination of an Official Record. The project further designed and implemented a state-of-the-art video conferencing facility to link the Ramallah and Gaza Chambers.

Contrasting with such project accomplishments were the broader challenges—what amounted to a hostile operating environment—the PLC faced in establishing itself as an independent and democratic body. A key issue was that the executive, the Palestinian Authority, remained overly powerful vis a vis the PLC. In part, this reflected that the executive largely controlled the PLC’s budget. Additionally, however, the pattern emerged that even when the PLC exercised oversight, and sought to question or expose wasteful or corrupt use of public resources, there were rarely any consequences for President Arafat or his cabinet. As well, the PLC struggled to become a forum through which political contestation would actually occur.
Rather, following the Oslo process there continued to operate a “shadow state” involving senior leaders of Fatah, members of the Palestinian Liberation Organization’s Executive Committee and security officers. At the same time, across the life of the PLC Project there was growing political uncertainty and violence, including the break-out of the second intifada in September 2000. It is difficult if not impossible to develop democratic institutions and traditions, including a legislature, when basic law and order is periodically lacking. And finally, the overall peace process with Israel that had emerged from the Oslo process was progressively breaking down, and this dampened the belief among the general public that democratic institutions, including the PLC, were sufficiently credible to lead the Palestinian people effectively.

While this case illustrates that adaptive and flexible programming is particularly helpful in a conflict-prone and politically-sensitive environment, it also illustrates that a legislative strengthening program ultimately cannot proceed in the absence of sufficient political will from key domestic and international stakeholders to the overall development of independent and democratic institutions.

5. ACCOUNTABILITY

It is common for comprehensive LS projects to include a focus on strengthening the oversight function of the legislature. This reflects that effective legislative oversight via practices such as question time, committee hearings and investigations, budget review and debate and scrutiny of public spending can be key means to increase the transparency of government actions and to better hold government officers and offices to account.

Legislative oversight, however, may be understood as just one means, albeit a highly important one, of holding a government, particularly the executive authority, accountable. In this, USAID’s 2013 DRG Strategy conceptualizes accountability as “the systems, procedures and mechanisms that ensure public officials and institutions perform their stated duties and uphold their responsibilities while imposing constraints on their power and authority”\(^\text{11}\). Such a systems approach to thinking about accountability emphasizes not just that individual accountability institutions or offices must function well but also that the overall design of the system itself must be coherent.\(^\text{12}\) In this manner, Larry Diamond refers to a “comprehensive system of accountability” comprised of three inter-related elements.\(^\text{13}\)

- **Horizontal accountability** exists when different branches and offices of government oversee and impose sanctions on each other to compel better performance and compliance with the law;
- **Vertical accountability** exists when citizens and their organizations are able to vote, advocate, protest and otherwise choose leaders and influence government decisions;
- **External accountability** exists when external actors pressure governments to be accountable for the quality of their governance, including by adopting reforms to improve horizontal and vertical accountability mechanisms.

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\(^{10}\) This point is discussed in *The Palestinian Legislative Council and USAID Assistance: An Evaluation*, pp. 16-20.


\(^{12}\) *Accountability and Democratic Governance*, OECD, Development Assistance Committee. 2013.

This understanding of a comprehensive or systems approach to accountability has implications for the design of effective LS programs. Specifically, those LS programs that include a focus on legislative oversight are likely to be more effective when they also more broadly consider if and how to engage with the overall set of accountability institutions and their inter-linkages.

To focus on just one example, LS programs working with legislative bodies that are influenced by Westminster traditions often support Public Accounts Committees. These LS programs seek to strengthen the PACs to better scrutinize public spending patterns, identify wastage or corruption, and take actions to hold government officers or offices to account via hearings and investigations. Routinely, however, PACs depend for information on annual and other reports from the national audit agency. Thus, a focus on improving PAC performance can only go so far if the reports from the auditor are incomplete, inaccurate and untimely. In this instance, the LS program may be better designed to simultaneously support the national auditor as well as the PAC itself. Furthermore, comparative experience and INTOSAI (International Organization of Supreme Audit Institutions) standards both support that the auditor itself should be independent of the executive. This helps prevent “dirty tricks” by an executive seeking to avoid accountability, such as underfunding the national auditor or appointing officials to run the auditor who will seek to undermine the agency’s performance. Thus, the LS program may take actions to ensure MPs and legislative staff understand this issue of national auditor independence, such as workshops or carefully considered study tours, and support actions by the legislature, such as a Members Bill to increase the independence of the national auditor and support adequate funding for the auditor.

This understanding of a systems approach to accountability can also help in the design of broader D&G programs, not just those with a narrower, dedicated LS design. Thus, if one goal of a broader D&G program is to strengthen government accountability, an effective program design will focus on what is required to help strengthen and make more functional the system of accountability itself as opposed to focusing more narrowly on support for one or another accountability institution, whether this be parliament, the national auditor, the electoral commission or an anti-corruption agency. To this end, one important tool for program designers are USAID’s Democracy, Human rights and Governance Assessments. Commonly, DRG Assessments include discussions of the constitutional and legal design, including the accountability system, as well as evaluations of the capacity constraints or other performance issues of key accountability institutions. Utilizing DRG or similar assessments can enable program designers to focus assistance most strategically. Thus, there may be an institution or office that is a weak link in the accountability system which can be supported. Or there may be overall flaws in the design of the accountability system, in which case program support may focus on legislative or other reforms to the help the system function better overall.

5.1. UGANDA ANTI-CORRUPTION THRESHOLD (ACT) PROJECT, AUGUST 2007–FEBRUARY 2010

The Government of Uganda (GoU) and Ugandan CSOs recognize that corruption has led to significant losses of public funds through mishandled procurements and outright embezzlement. Despite recognition of the gravity of corruption and the creation of laws and institutions to reduce corruption, Uganda’s capacity to deal with it effectively had been hampered by an inability to implement and enforce existing laws and policies. The Ministry of Finance, anti-corruption agencies, and members of CSOs worked closely with U.S. Government representatives in Uganda to develop a Threshold Country Plan (TCP) proposal for the Millennium Challenge Corporation (MCC) in 2006 to address these gaps. A major
component for implementing the TCP was the Anti-Corruption Country Threshold (ACT) Project implemented by Tetra Tech ARD.  

On the one hand, Uganda’s TCP outlined technical assistance activities and equipment needed to build the capacities of government agencies and CSOs at national and local levels to combat corruption. This involved efforts to modernize procurement and audit practices, strengthen investigations and prosecutions, and enhance the capacity of civil society to demand greater transparency and accountability. On the other hand, the TCP adopted a systemic approach in focusing as well on the inter-linkages among government agencies and between these agencies and CSOs based on the understanding that battling corruption, and strengthening accountability altogether, relied on the multiple agencies working together. The Figure 1 graphically illustrates this systemic interaction among and between GoU accountability agencies and Ugandan CSOs.

Given the complexity of Uganda’s so-called “accountability sector, the ACT Project counterpart agencies included the Directorate of Ethics and Integrity (DEI), Office of the Auditor General (OAG), the Local Government Public Accounts Committee (LGPAC) in Parliament, the Public Procurement and Disposal of Public Assets Authority (PPDA), the Directorate of Public Prosecutions (DPP), the Police Criminal Investigations Directorate (CID) Anti-corruption and Fraud Units, the Inspector General of Government (IGG), the Anti-corruption Division (ACD) of the High Court, and District Local Government Parliamentary Accounts Committees.

The ACT Project implemented activities in association with three component areas. These were:

- **Component One: Preventing Corruption Related to Public Procurement in Uganda**: ACT focused on developing the capacities of the Public Procurement and Disposal of Assets Authority and the Office of the Auditor General to conduct better audits, prepare better procurement reports, and communicate this work more effectively to civil society and the public. As well, ACT provided training and technical assistance to the Public Accounts Committees of Parliament, Government Accounting Officers, Public Service Commissioners and Local Government Officials with a focus on Local Government Parliamentary Accounts Committees.

- **Component Two: Increasing the Rate of Successful Prosecutions** - The ACT project worked to strengthen the GoU’s ability to investigate and prosecute corrupt individuals. ACT worked alongside the U.S. Department of Justice International Criminal Investigative Training Assistance Program (ICITAP) and Overseas Prosecutorial Development and Training (OPDAT) resident

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advisors to provide technical assistance and hands-on mentoring to the Criminal Investigations Department, the Directorate of Public Prosecution (DPP), the Inspector General of Government (IGG), and the High Court’s new Anti-Corruption Division (ACD). This assistance increased these organizations’ capacity to detect, investigate, prosecute, and adjudicate corruption cases.

- **Component Three: Strengthening the Role of Civil Society in the Fight against Corruption** - The objective of this component was to build the capacity of Ugandan CSOs to increase public awareness of corruption, enhance CSO and citizen capacity to fight corruption, and participate more effectively in both anti-corruption forums and activities. ACT used a small grants program to support anti-corruption activities of a total of 15 national-level CSOs as well as CSOs operating at regional- and community-levels.

One area of noteworthy programmatic activity ACT undertook was support for actual prosecutions of persons who had committed corruption-related crimes. In this, LS and other development practitioners too commonly observe a pattern whereby *a de facto* impunity seems to exist for high government officials or connected business persons. Thus, even when oversight bodies, such as a parliamentary Public Accounts Committee and the national auditor, or the media and CSO anti-corruption watchdogs, uncover and make public compelling evidence of corruption, this does not lead to criminal punishment. Considered from the perspective of the effectiveness of overall accountability systems, the capacity to actually prosecute offenders seems to regularly be a weak link.

To help tackle this problem, the ACT Program provided extensive training for around 1,087 government investigators and prosecutors in anti-corruption and economic crime topics and further assisted the Ugandan government to review and restructure key agencies, such as the Inspector General of Government, to better tackle corruption-related criminal activities. Further, the Criminal Investigations Department Anti-corruption and Economic Crime Squad Units expanded with ACT support so as to be able to cover all central and local government ministries and departments, as well as corporate, banking, and private sector fraud. And the Anti-corruption Division of the High Court was supported to become the primary forum for hearing corruption cases thereby enabling larger case loads, speedier case disposals and ensuring that politically sensitive cases were handled by judges with specific anti-corruption expertise. Indicative of the effectiveness of the ACT approach, by early 2010 the Anti-Corruption Division had been able to register 306 cases (all categories) and had disposed of 255 of them, leading to an impressive disposal rate of 83.3%. Moreover, even with high-profile cases, such as the infamous Global Fund Saga, convictions have been secured by investigators and prosecutors trained under the ACT Program.

### 5.2. GUATEMALA TRANSPARENCY AND INTEGRITY (GTIP) PROJECT, AUGUST 2009–DECEMBER 2013

The Guatemala Transparency and Integrity Project (GTIP) was a continuation of previous USAID investments in transparency- and anti-corruption related interventions, which began in 2003. In accordance with its goal to promote anti-corruption efforts, the project delivered technical assistance and training to strengthen the institutional capacity of civil society organizations, media outlets and the private sector, as well as the linkages between them, to fight against and report on instances of corruption.  

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15 See the final project report for a summary of activities, *Transparency and Integrity Project Final Report*, USAID/Guatemala, February 2014.
In order to encourage a more active role of key oversight entities, the project supported the implementation of an anti-corruption agenda in Congress. Thus, the project supported various initiatives of the parliamentary agenda, such as the Anti-Corruption Law enacted by Congress (November 2012). It also strengthened the anti-corruption unit at the Attorney General’s Office and built the capacity of the Comptroller General’s Office in the functions of investigation and prosecution. The project also provided technical assistance to implement the Freedom of Information Law and to support the Government of Guatemala with the implementation and compliance of various anti-corruption initiatives, while strengthening mechanisms for lodging allegations of corruption. In all, GTIP supported 16 transparency/anticorruption bills promoted by Congress and worked with diverse accountability and oversight entities to implement 18 anti-corruption measures.

One strategy the project adopted was to help build a legislative coalition in support of anti-corruption legislation as well as helping ensure more and accurate information was available to the public. GTIP provided technical support to a group of civil society organizations that organized themselves into a unified Transparency Alliance (Alianza Por la Transparencia) referred to as AporT. This body was able to address issues and advocate on behalf of civil society with a non-partisan, consistent voice. GTIP also provided important technical support to journalists to increase coverage of transparency issues thereby increasing the accountability of the Congress as they drafted and passed legislation on transparency. GTIP conducted daily monitoring of the communication media in Guatemala to assess coverage on transparency and corruption issues and reported that coverage increased exponentially over the life of the Project, both in regard to the number of journalism articles, as well as to the content of editorial columns.

As a complementary strategy, GTIP engaged with specific committees within the Guatemalan Congress, including the Integrity and Transparency committees, to promote, analyze and pass important transparency-related legislation including the Anticorruption Law in 2012 and three transparency laws known as the transparency package. Over the life of the project, GTIP supported 16 transparency/anticorruption bills promoted by Congress and worked with oversight entities (such as the Public Ministry and the Attorney General’s Office) to implement 18 anti-corruption measures. In addition to this engagement, GTIP provided training to public officials on the implementation of the Anticorruption Law and Access to Public Information Law. These officials included legislators, members of the office of the comptroller general, public ministry, among others.

GTIP support to AporT was particularly effective. It centered on initial organizational strengthening activities, including helping to define key principles and critical path documents, as approved by the organization’s General Assembly. The project assisted in defining the organizational structure, including a technical committee to define permanent strategic guidelines and short-term plans for AporT. GTIP financial assistance to hire the Executive Secretariat ensured impartiality and political objectivity in decision making, while also facilitating administrative procedures to get AporT successfully off the ground. With GTIP’s support, AporT’s initial advocacy activities include high level meetings with public officials such as the President of the National Congress, individuals chairing congressional working groups, the Attorney General, and the Presidential Secretary for Public Planning. As well, GTIP and AporT supported broad-based social auditing at the national level, with a total of 49 social auditing activities organized between 2009 and 2013.

The fact that the private sector joined efforts with the organized civil society sector also bears mentioning. The two sectors worked together on several transparency issues such as participating in preparing the shadow reports for follow up to international anti-corruption conventions, participating in the monitoring processes for the nomination committees through an alliance known as the Guatemalan Forum.
Guatemala), promoting passage of transparency bills (such as the proposal on electronic voting boards or the transparency package comprised of Bills 4661 and 4662). There is no doubt that the Project succeeded in engaging the organized private sector to take on a more active role in the fight against corruption.

The twin GTIP strategies of working with engaged stakeholders in the non-governmental sphere while simultaneously working inside the Congress further enabled the project to assist in opening the Congress up to more direct engagement with the public. Most notably, this occurred following a March 28, 2012 letter from Congress requesting that GTIP provide “…support to the Congressional Committees on Legislation and Constitutional Issues and the Congressional Committee on Integrity, as well as to the National Special Committee on Tax Collection in their roles of reviewing, analyzing and deciding on the relevant bills proposed on transparency and anti-corruption…” In response, the Project provided the Congressional Committees with opportunities to engage with civil society and the media to discuss and debate the issues. An excellent example of this collaboration is the Technical Working Group on Security and Justice, which brought together representatives from civil society, even those from opposing ideological fronts, to discuss the text of the proposed regulations and achieve a consensus on pushing the measure forward. These suggestions were included by the Committee in the text submitted to the floor for debate and subsequently enacted under Congressional Decree No. 31-2012 on November 22, 2012. The method used by the Congressional Committee to debate and reach consensus with civil society produced a high level of political participation during which the will of citizens was heard and included as part of a legislative decision.

GTIP additionally provided direct technical assistance both to the executive branch and to several horizontal accountability agencies. While institutional instability in the executive was a source of continuing concern throughout the life of the Project, GTIP nonetheless helped foster constructive relations between the executive and legislative branches in-and-around support for the various anti-corruption laws that were enacted. Otherwise, GTIP’s support to strengthen accountability systems included working with the Office of the Comptroller General and the Public Ministry to help implement the new transparency and accountability laws once the legislation came into effect.

In April 2015 the UN Commissioner for the International Commission against Impunity in Guatemala (CICIG) alleged that the Vice President and President of the Republic of Guatemala were engaged in a complex corruption case related to customs fraud. The ensuing civil society movement has been historic. Peaceful protests by citizens of all ages have been facilitated and supported by civil society organizations, the media and the private sector, many of which were GTIP counterparts during the life of the project. Pressure from this citizen movement culminated on August 27, 2015 with a daylong protest called el paro nacional during which many private sector companies closed for the day in solidarity with the citizen movement. On September 1, the Congress voted (100 in favor, 0 against, with 32 abstaining) to revoke President Otto Perez’s presidential immunity. On September 2, 2015 President Perez resigned and on September 3 Congress unanimously accepted his resignation and he was arrested. Though these historic events cannot be attributed to GTIP’s work, the joint responsibility of civil society, media, and private sector actors for demanding accountability of the executive and legislative branches was unquestionably strengthened by GTIP. Though two years have passed since GTIP ended, the important spaces for dialogue created by the project laid the foundation for collaboration that proved crucial for the achievement of recent historic events.
5.3. KENYA PARLIAMENTARY STRENGTHENING PROGRAM (PSP), 2000–2012

The Kenya PSP was one of USAID’s longest-running LS program, and one generally evaluated as being successful. The PSP also benefitted from support from the U.K.’s DFID as well as from a Ford Foundation Grant. For this discussion of accountability, we will focus on a several-year period early on in the program, roughly 2002-2005, when the Parliament of Kenya with PSP support significantly enhanced its oversight capacities.

The PSP began work with the 8th Parliament in Kenya in 2000 during the waning years of the authoritarian government of Danial arap Moi. PSP was successful in gaining access to parliament and initiated several activity streams while Moi’s KANU was yet the ruling party in Parliament. However, it was only after the election of President Mwai Kibaki and the inauguration of the 9th Parliament in 2003 that Kenya’s legislature seriously began to rebuild itself and emerge from being a rubber stamp for the executive. In this context, one of the Kenya PSP’s most successful initiatives was to work closely with the Office of the Clerk and key MP leaders across several different technical assistance activity areas to strengthen Parliament’s oversight and budget review and amendment capacities.

Key assistance activities to strengthen parliamentary oversight included:

Sectoral Committee Strengthening Program

With the elections of the 9th Parliament in December 2002 the PSP undertook to reintroduce the program to the new parliamentary leadership. Previously, PSP had established effective working relationships with the Office of the Clerk as well as with certain legislative reform champions among the Members. However, in 2003 the PSP was able to cultivate a strong working relationship with the new Deputy Speaker, Hon. David Musila. One of the roles of the Deputy Speaker was to Chair the Parliamentary Liaison Committee, which was essentially the committee of committee chairs. PSP undertook with the Liaison Committee to mount a comprehensive committee strengthening program which included trainings and workshops for committee chairs, support for individual committees to develop strategic plans and trainings for committee clerks. A key theme across the committee strengthening program activities was to ensure MPs and staff fully understood the significant oversight authorities available to committees per legislation and Parliament’s Standing Orders as well as to support specific committee oversight activities on a demand-driven basis by providing external experts. The PSP worked particularly closely with several committees most desiring of support. Among these was the Kenyan Public Accounts Committee. Indicating its willingness and capacity to conduct oversight was the leading role the PAC played in investigating the now-infamous Anglo Leasing Scandal. Ultimately, the Finance Minister and a number of other high-level officials were forced to resign following the release of the PACs detailed report and related parliamentary inquiries into the matter.

Comparative Study Tours

The PSP also supported the strengthening of Parliament’s oversight function through a series of study tours organized for senior staff from the Office of the Clerk and Members from key committees in which they learned about comparative legislative practices. For example, PSP supported a Kenyan delegation to attend a Manila Conference on Legislative Oversight and another one to attend a Seoul conference on Anti-Corruption. Perhaps the most influential of the various tours was a two-week tour for the Liaison Committee (i.e., for the chairs of Kenya’s sectoral committees), to the Parliament of Canada and the New York State Legislature in September 2003. The tour itself was challenging to organize as one the Chairs was Hon. Gideon Moi, son of the former authoritarian president. The U.S. Embassy was initially opposed to the LSP sponsoring Moi as he was known to have been involved in significant corruption scandals. However, PSP worked with the USAID Director to present the argument to the Embassy that the tour was for all chairs, and that it would damage the program to be seen as picking and choosing who would participate. The week the delegation spent in Ottawa proved particularly helpful. The Canadian Parliament, while derived from the Westminster tradition, has innovated a particularly strong committee system. Understanding this, the PSP in partnership with the Canadian Parliamentary Centre, organized a number of meetings for the Kenyan delegation with committees and former committee chairs. Among these meetings was one with the Hon. John Williams, former Chair of Canada’s Parliamentary Accounts Committee and also the head of GOPAC (Global Organization of Parliamentarians against Corruption). Williams was particularly persuasive with the Kenyan delegation regarding the need for the Kenyan PAC to be receiving audit reports from an independent auditor. Yet in Kenya, the national auditor reported to the executive. Following the study tour, Kenyan MPs introduced a Private Members Bill to have the auditor report to parliament rather than the executive.

Pre- and Post-Budget Workshops

The PSP organized semi-annual high-level workshops for MPs from key committees on the budget and finance bill. Typically these were 2-3 day events held in Mombasa or elsewhere outside of Nairobi in order to ensure the MPs were able to concentrate on the proceedings. A key PSP strategy was to engage outstanding Kenyan experts as resource persons from institutions such as the Nairobi Stock Exchange, Institute of Certified Public Accountants, Institute of Economic Affairs, Kenya Manufacturers Association, etc., who had both the knowledge and stature to discuss the broader implications of the Kenyan budget with the MPs. Over time, as MPs learned better how to understand the budget, they also became more engaged in debate on the budget in Parliament and, by the middle of the 9th Parliament, had turned to proposing amendments to provisions in the budget. As a result, the PSP Budget Workshops also became fora in which the Kenyan executive participated, with the Permanent Secretary of the Ministry of Finance regularly attending as well as high-ranking officials from the Central Bank and Ministry of Planning. It was at one of these workshops that key MPs debated and informally decided that Parliament needed a dedicated Budget Office. Despite the opposition of the executive to this idea, Parliament authorized and funded a Parliamentary Budget Office via a Private Members Bill.

Regional Public Account Committees Activities

The Kenyan Parliament was not the only one in East Africa in the early 2000’s that sought to strengthen itself and become more independent of the executive. For example, the Ugandan Parliament formed a Parliamentary Service Commission and took control of its calendar and budget earlier than did the Kenyan Parliament. The PSP both leveraged and contributed to building this regional legislative strengthening trend. One reason PSP could accomplish this was with the support of a Ford Foundation
grant supporting regional legislative initiatives. The PSP helped sponsor and led two significant regional legislative initiatives. The first was a series of planning meetings followed by a major conference in Arusha, Tanzania in late 2004 involving parliament staff and key MPs from regional parliaments to plan an *East African Parliamentary Institute*. The EAPI is now institutionalized as a unit within the East African Legislative Assembly and provides a training forum and base through which legislative staff and MPs can develop legislative skills and better address regional issues. The second regional initiative PSP sponsored was the formation of the *Eastern African Association of Public Accounts Committees*. PSP had been working closely with the Kenyan Public Accounts and Public Investments Committees and, through them, with the National Audit Office (NAO), and worked with them to sponsor a conference for the regions PACs and national audit agencies in 2004. With representatives present from Kenya, Uganda, Rwanda, Burundi and Sudan, the conference focused on comparative practices of the PACs and auditors with special emphasis on strengthening oversight of public finances following periods of authoritarian rule. The EAAPAC continues to meet regularly.

The PSP experience during 2002-2005 in strengthening legislative oversight illustrates the utility of adopting a systems approach to accountability. Thus, while most of the PSP technical assistance focused on the institution of parliament itself, the programmatic approach took into account Kenya’s broader accountability systems. Thus, the PSP helped strengthen horizontal accountability in Kenya by better connecting the PAC and the NAO. As the NAO strengthened over time, including reducing its backlog on financial reports and building capacity to conduct special audits, this enabled the PAC to better do its job in holding government officials accountable. The PSP helped to strengthen vertical accountability by working to better connect parliamentary committees to NGOs and the Kenya public. As experts and diverse organizations better learned how to advocate or provide expert opinions to committees, the committees became more informed and better able to debate and revise legislation and the budget. And the PSP helped to strengthen external accountability, in Kenya and regionally, by assisting the region’s legislatures to share information and experiences and to develop regional standards to help guide the activities of parliamentary PACs and national audit agencies.

### 6. IMPLEMENTATION AND EVALUATION

The theme of how best to implement and evaluate LS programs is quite complex and one which has been considered by a number of analysts. The Scope of Work for this task order, for example, referred to recent, insightful studies by Rachel Kleinfeld and David Booth as to how to better improve the design, implementation and evaluation of development assistance programs, including complex D&G ones. However, USAID itself has supported significant reflection on these themes for the past 20 years. For example, the pithy CIDE report authored by Hal Lippman and Jan Emmert in 1998, *Assisting Legislatures in Developing Countries: A Framework for Program Planning and Implementation*, provides insights and guidance in many ways consistent with that from Kleinfeld and Booth. As well, the *USAID Handbook on Legislative Strengthening* itself offers significant insight and guidance into these issues, including 17 distinct “Implementation Considerations” as part of the concluding section (pp. 57-59).


Moreover, experienced LS practitioners are fully aware and regularly discuss and reflect on with each other the challenges posed by the divergence between their implicit understanding of what it will actually take to deliver an effective LS or D&G program versus the often rigid SOWs, unrealistic timelines and questionable performance metrics of M&E frameworks. Summing up this disjuncture nicely is a discussion to be found in an International IDEA paper on challenges of political programming assistance - - “A comment made by one interviewee resonated with every other person we spoke to: that the best projects were those that diverged significantly from the original program plans”.  

Given the existence of considerable commentary on the unique challenges associated with designing sensible M&E frameworks for LS and D&G programming, we will focus under this theme on teasing out newer implications for programmatic design, implementation and evaluation of LS and related D&G programs that flow from the June 2013 USAID Strategy on Democracy, Human Rights and Governance. Of particular interest is that the new DRG Strategy presents a strategic framework that seeks to “articulate, refocus and reframe” programming away from “traditional” assistance frameworks associated with the “sub-sectors of governance, civil society, rule of law, and elections and political processes” (p. 13). As Mission officers as well as LS and D&G practitioners know, much programming and key funding mechanisms, such as Indefinite Quantity Contracts, have traditionally supported project SOWs that fall within rather than reach across such sub-sectors. In contrast, the new DRG Strategy focuses on supporting development objectives (DOs), systems and processes that straddle these sub-sectors, and so straddle the particular institutions generally associated with each sub-sector.

It will help to provide specifics. For example, the DRG Strategy’s Development Objective (DO) 1: Promote participatory, representative and inclusive political processes and institutions, has sub-objectives that straddle the governance sub-sector (i.e., 1.3: Support the implementation of participatory political processes by state institutions, including at the sub-national level) as well as the civil society sub-sector (i.e., 1.2: Promote politically engaged and informed citizenries, active civil society organizations, organized labor, independent and open media, and representative political parties) among others. Similarly, the DO2: Foster greater accountability of institutions and leaders to citizens and to the law, has sub-objectives that straddle the elections and political processes sub-sector (i.e., 2.1: Provide electoral assistance that enables citizens to exercise their right to select and replace their leaders through periodic, free and fair elections) as well as the rule of law sub-sector (i.e., 2.3: Strengthen institutions and systems that enable the rule of law, and checks and balances among branches of government) among others.

There are implications of this new DRG Strategy for the design of LS and D&G programs, and for their evaluation. Regarding program design, the new strategy logically encourages Missions and officers to present SOWs that focus on supporting institutions, systems and processes across the traditional sub-sectors. For instance, a SOW that is oriented toward supporting the DO2, with its focus on accountability of institutions and leaders, may certainly include technical assistance for the national legislature. However, the SOW may engage with the legislature narrowly to strengthen the oversight function, as opposed to a more comprehensive engagement with multiple legislative functions as would be seen in a more traditional LS program design. As well, the SOW will likely also support other institutions, such as a supreme audit authority or an anti-corruption agency, as well as support processes and systems, such as for public financial management, which link between and among different institutions. Put otherwise, the SOW will seek to strengthen the “comprehensive system of accountability” in the phrase of Larry

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Diamond as noted above in Section 5.0, as opposed to strengthening just the national legislature or just any particular sub-sectoral institution alone.

Recent RFPs have presented SOWs consistent with the new DRG Strategy’s systems and processes orientation. One example is the Georgia Good Governance Initiative (GGI) currently being implemented by Tetra Tech ARD. The SOW for the 5-year program envisions technical assistance to support improvements in selected systems and processes in Georgia in 4 result areas, each of which straddles several of the sub-sectors of more traditional D&G programs. The GGI Result Areas are 1) Improved administrative and financial management of public institutions at all levels, 2) Increased civic engagement and improved access to independent, reliable and balanced information, 3) strengthened policy development and lawmaking processes, and 4) strengthening institutional oversight of government. Thus, while GGI works with the Parliament of Georgia, it does so selectively in-and-around efforts to improve public administration and financial management, civic engagement and freedom of information, policy and lawmaking, and executive oversight. At the same time, GGI also works selectively with other key counterpart institutions, such as the Prime Minister’s Office, State Audit Office, several ministries, several local governments and diverse civil society organizations as part of the overall effort to strengthen systems and processes identified in the GGI Result Areas.

This reorientation and reframing of the DRG Strategy towards development objectives, systems and processes that straddle traditional sub-sectors and individual institutions has significant implications for program evaluation. Most key is that the goal of programs is shifting away from institutional strengthening and towards systems and processes strengthening. Again taking the example of accountability of institutions and leaders, an evaluation of the effectiveness of a program would need to be based on measures of the effectiveness of the system of accountability and not just on measures of the effectiveness of particular institutions, such as a national legislature. To make this concrete, many LS programs support legislative committees, such as PACs, to better conduct executive oversight through, for example, assisting committees to better conduct public hearings or interrogate ministry or other executive officials regarding misuses of public funds. A traditional LS program may, measurably, succeed in supporting committees in such fashions without, however, this having a measurable impact on overall accountability if corrupt executive officials essentially enjoy impunity from either being removed from office or from being prosecuted. Alternatively, a program following the new DRG Strategy might measurably strengthen accountability overall through combining support for legislative oversight with activities to encourage the removal from office and prosecution of corrupt public servants.

The new DRG Strategy sensibly encourages Missions and officers to refer to DRG Assessments in designing the SOWs for D&G programs. The logic of this is that such comprehensive country assessments provide insight not just into the strengths and weaknesses of individual institutions but also into the characteristics, strengths and weaknesses of democratic systems and processes in individual countries. As a result, program designers are better able to target technical assistance toward the gaps or bottlenecks in accountability systems or in other political processes as opposed to providing assistance that may strengthen particular institutions but not necessarily produce much impact on the broader systems of governance.
6.1. SUPPORT TO THE ARMENIAN NATIONAL ASSEMBLY PROJECT (SANAP), SEPTEMBER 2012–ONGOING

In Armenia, efforts at democratic governance and reform have been stymied by a potent combination of a dominant executive branch and persistent informal ties among economic, social, and political elites who tend to skew public policy dialogue and policies. Despite the increased polarization between parties in the wake of the 2008 presidential and 2012 legislative elections, informal ties persist between opposition party members and governing structures. Parliamentary representation is often viewed to follow business interests, not constituent interests. These forces combine to dilute the potential of the Armenian National Assembly to help shape policy debate and rightfully represent the interests of the country’s citizens.

As a corrective measure to this imbalance, Tetra Tech ARD is implementing the Support to the Armenian National Assembly Program (SANAP), which supports reforms to the NA, particularly with respect to the committee system, in order to strengthen its institutional capacity and effectiveness. This four-year program has the following objectives:

- Representation of citizens’ interests by selected committees increased.
- Oversight of the executive branch by selected committees improved.
- Analytical capacity of selected committees improved.
- Rules and procedures governing selected committees made clearer and institutional capacity increased.

By seeking to reinforce a more integral role for the Assembly and its stakeholders in the broader political and policy-making process, SANAP seeks to provide greater engagement of citizens and representation of their interests at the national level.\(^\text{21}\)

Given executive branch dominance combined with the extensive informal ties among vested interests, a key challenge for SANAP has been to negotiate working relationships with Members and staff of parliament that permit the delivery of effective technical assistance, rather than the blockage of such assistance. That is, the enabling environment for SANAP has been one in which some MPs and staff do not welcome assistance and the SANAP team has had to work diplomatically and maintain a relatively low profile as part of the implementation strategy.

In this context, the history of USAID/Armenia support for the NA is quite instructive. During 2002-2006, the Mission supported the Armenian Legislative Strengthening Program Phases I and II. While ALSP succeeded in delivering useful assistance in areas such as the parliamentary website, the Citizen Information Center, the Research Department and the Budget Committee, the program ultimately floundered as it was unable to solve the challenge of negotiating working relationships with key interlocutors. Per USAID’s evaluation of the program, ALSP struggled to develop an effective working relationship with the Chief of Staff of the NA and, ultimately, following the election of a new Speaker in June 2006, the NA asked for an early termination of the APSP.\(^\text{22}\)

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\(^{21}\) Note that despite the SANAP programmatic progress, severe budget cuts for USAID/Armenia in FY15 and an anticipated negative funding trend in coming years led the Mission to narrow its D&G portfolio, including shortening the SANAP life-of-project by about 9 months.

In order to develop and sustain effective working relationships with MPs and staff, SANAP adopted a number of inter-linked implementation strategies. These included:

- **Parliament-Led:** SANAP works within the framework of parliament’s own structures and procedures, and assists in meeting the institutional strengthening goals of its members.

- **Armenia First:** SANAP takes an “Armenia First” approach to providing supplementary analytical expertise, by seeking local experts before considering international support.

- **Collaborative:** SANAP works in partnership with MPs and staff, playing a consultative role offering guidance on international best practices and effective implementation techniques.

- **Stakeholder Ownership:** SANAP encourages stakeholder ownership from MPs and their staff to expand civil society participation.

- **Demand-Driven, Results-Focused Capacity Development:** SANAP works to assist parliament—with a focus on committees—to meet their legislative and administrative tasks as the foundation of a “learning by doing” capacity development strategy.

- **Sustainable:** SANAP takes the view that all assistance should lead to the goal of a vibrant, independent, self-sustaining legislative institution where committees serve as the nexus between citizens and elected officials in formulating policy.

Despite operating with such implementation principles, like the predecessor ALSP program, SANAP has also encountered challenges in its efforts in negotiating working relationships. Most significant was when SANAP had to adjust its work plan to work with different committees than originally anticipated. Specifically, SANAP had followed a competitive methodology to select four portfolio committees with which to work. These were: Financial - Credit and Budgetary Affairs; Protection of Human Rights and Public Affairs; State and Legal Affairs; and the Territorial Affairs and Local Self Government committees. In addition, the project selected the newly-formed Standing Committee on Ethics. During Year 1 of the program, however, SANAP learned that the proposed assistance for the Financial – Credit and Budgetary Affairs Committee was largely unwelcomed. On the one hand, the committee was already working with the German GIZ. On the other hand, the committee Chairman effectively said “no” to USAID assistance.

Given that the SANAP work plan had included an emphasis on budget review, the problem with the key Financial – Credit and Budgetary Affairs Committee initially looked to be a significant setback. However, the tactic of SANAP, with the support of the Mission, was to carry on with those committees which welcomed assistance while seeking out possible other options to achieve SANAP goals and objectives. Interestingly, SANAP’s work with other committees led to the introduction of a program budgeting methodology that strengthened committee’s oversight activities. As this methodology and the SANAP effective working relationships with other committees became known with the NA, it then led back to the reestablishment of a more productive working relationship with the Financial – Credit and Budgetary Affairs Committee, and the Chairman. In this, it is instructive that although the SANAP work plan had not considered activities associated with program budgeting methods, these methods were consistent with the overarching program goals and the program flexibility ultimately helped get SANAP back on track in terms of budget-related work with a key committee.
IRI’s Approach to Governance Programming

The International Republican Institute’s (IRI) technical approach to program design and implementation is informed by the Institute’s more than 30 years of global experience in democracy and governance programming. Viewing governance projects as one element within the entirety of a country’s political system and cycle, IRI assesses the political economy of countries, looking to understand fully the political system and context. This includes the structure of institutions—not only their formal hierarchy but also informal norms, traditional centers of power and external influences—as well as the range of stakeholder interest groups and the inclusivity of processes.

Even in countries where IRI has been present for more than 20 years, it conducts ongoing assessments of the political landscape to chart both unexpected and gradual changes over time or because of elections, natural disasters, structural policy shifts or other disruptive events. This evidence-based, holistic view allows the Institute to recommend and pursue program activities that best fit the environment and existing power structures in order to achieve development objectives.

IRI’s vast experience in conducting global programming has shaped its unique approach to governance programming, an approach that includes a dual focus on supporting both the citizenry as well as the government. Citizen confidence in government institutions is critical for a strong, sustainable democracy; where governments are unable or unwilling to fulfill citizen needs, the democratic process is undermined and risks becoming a democratic façade.

The following equation sums up this approach:

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ACCOUNTABLE, RESPONSIVE AND TRANSPARENT INSTITUTIONS
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DEMAND SIDE
Citizens & Civil Society
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SUPPLY SIDE
Elected Officials & Government Bureaucracy
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Through IRI’s governance programs, the ability of citizens to participate meaningfully in government planning and decision-making is strengthened, while IRI simultaneously helps those in office respond to citizen needs in an accountable and transparent way. The ideal expression of this equation would be a virtuous cycle and feedback loop, with citizens and civil society groups on the “demand” side and elected officials and government bureaucracy on the “supply” side.

**Legislative Change Agents: Multi-Partisan Caucuses**

At the core of IRI’s work to strengthen democratic governance are its efforts to ensure that governments listen to and consider citizens’ voices, and that legislators understand their role as representatives of citizens. Legislative initiatives responsive to citizen priorities significantly improve the democratic culture and process in their country. To this end, IRI programs equip both legislators and their staff with the capacity to conduct their official roles and responsibilities and foster direct engagement with their constituents as a necessary means to fulfilling their mandates. Simultaneously, IRI programs support inclusive civil society networks and coalitions that represent citizens and enable them to “demand” effective, responsive legislation by communicating their views and needs to their elected officials. Further, IRI provides legislators and their staff with timely public opinion survey research, which informs awareness of key issues facing their constituents and their corresponding legislative responses.

IRI’s approach to legislative strengthening contributes to the long-term institution building of legislatures through programs which strengthen not only the capacity of legislators to carry out their duties effectively and transparently, but also strengthen legislative operations such as independent research services, committees, and caucuses. IRI has found particular success in supporting the creation and operation of multi-partisan
legislative caucuses, which can serve as effective agents for change, especially in newly formed democratic legislative bodies, or in highly fractious bodies when partisan identities thwart cross-party consensus during the legislative process. Multi-partisan caucuses are often an effective solution to effecting change when partisan identities prove a distraction to policy development, such as when parties exhibit a weak ideology or undeveloped policy agenda.

Case Study: Somaliland

Formation of Caucuses

Somaliland, the self-declared independent but not internationally recognized region located in north-west Somalia, “has emerged as the most stable polity within the territory of the former Somali Republic, and indeed, since 1996, [has been] one of the most peaceful places within the Horn of Africa.”1 IRI’s work in Somaliland from 2002-2014, provided support in the areas of civil society capacity building and advocacy, political party development, electoral processes and legislative strengthening. From late 2010, IRI’s USAID-funded Legislative Strengthening and Elections and Political Processes program sought, among other objectives, to “enhance the ability of Somaliland’s Parliament to develop effective and informed policies that address top national issues.” One of the avenues pursued to achieve this goal was to support the development of multi-partisan, issue-based caucuses in the Somaliland House of Representatives.

Prior to the work of these caucuses (and eventually committees) supported by IRI, Somaliland’s parliament could be characterized as a “rubber stamp” for legislation drafted and promoted by the Executive. Members of, and structures within, the lower house had little to no capacity for legislative research, drafting or debate, and lacked the ability to coalesce members around policy issues; in addition, parliamentary committees did not originate legislation.

In July 2011, IRI held initial meetings with the members of parliament (MPs) to explore the possibility of introducing multi-partisan, issue-based caucuses in the Somaliland House of Representatives as a vehicle for issue-based policy development by the legislature. IRI specifically explained the difference between legislative caucuses and committees and the use of caucuses to unite MPs around common issue priorities—regardless of party or clan. To ensure buy-in for the program, the MPs determined the issue areas covered by the caucuses. It is also important to note that in the formative stages of the caucuses, IRI focused on meeting with key committee leaders in the House of Representatives to ensure that they understood that the caucuses would complement committee work—not compete with it—and to secure their buy-in and participation in the caucuses. Similarly, IRI kept the secretary general of the House of Representatives updated on developments and garnered his support for the development of the issue-based caucuses so that there would be no political or institutional barriers to caucus work. By late 2011, MPs officially launched the “Green Caucus” and “Health Caucus” as the first multi-partisan, issue-based caucuses ever formed in Somaliland.

Just six months later, in early 2012, both caucuses were meeting regularly to review pending legislation in the House (introduced by the executive). However, the caucuses lacked a mechanism through which to review and develop policies that incorporated input and feedback from citizens and topical experts. In response to this identified gap, Green Caucus member and Environmental Committee Chair, Honorable Saed Mohamed Elmi, approached IRI for assistance with enabling caucus members to engage with citizens in the six regions of Somaliland on environmental issues. At the time of this request, IRI was in the process of working with USAID to align its existing program with USAID-Somalia’s new stabilization strategy. IRI saw an opportunity to link its work with the parliamentary caucuses directly to its work with Somaliland civil society and reinforce a USAID-identified driver of stability, partnerships between civil society, the public sector, and government. IRI worked with the Green Caucus to develop a plan for a series of site visits and field hearings in all six regions of Somaliland. These activities would give caucus members an opportunity to observe and engage with ordinary citizens on environmental issues through site visits, conduct field hearings to present policy proposals, and facilitate feedback on these proposals from local civil society organizations and citizens.

Preparation for Site Visits and Field Hearings
Prior to each site visit and field hearing, IRI held pre-trip briefings for each participating MP and staff member. IRI tailored the briefings to outline the goals of the trip and, recognizing that this kind of citizen interaction was new for MPs in Somaliland, emphasized the importance of collecting and documenting how environmental or health issues directly affected ordinary Somalilanders. IRI reiterated to the MPs that the purpose of the site visits and field hearings was to gather information on citizen concerns and not to campaign for votes or for other personal business. IRI also reiterated that listening and engaging with citizens is an effective way to earn votes without asking for them directly, and offered expertise on how to most effectively listen to and engage with citizens.

In advance of the site visits and field hearings with MPs, IRI also worked with local CSOs (selected due to their issue-focus which aligned with the topics to be discussed at the field hearings) to prepare them for participation in the field hearings with members of the caucuses. During the preparatory sessions, CSO representatives discussed the top concerns facing their communities and developed lists of official recommendations to share with MPs during the field hearings. Additionally, for Green Caucus hearings, IRI briefed the CSOs on three pieces of pending environmental legislation that MPs would likely discuss during the field hearings, the National Environmental Policy, the Forestry and Wildlife Act and the Solid Waste Management Act. With that knowledge, the CSOs then prepared an analysis of and recommendations for all three pieces of legislation based on the priorities and concerns of their communities.

Site Visits and Public Hearings
IRI conducted the series of site visits and field hearings with the Green Caucus from March to December 2012 and, given the success of the project, replicated it with the Health

2 Objective 3: Civil society influences decision-making and political processes.
Caucus from March to July 2013. Breaking the norm of interaction, MPs met with ordinary Somalilanders, not just clan leaders or elders, to record their stories during the site visits to each region. They also took photos to document evidence relating to any of the issues raised. A member of the Parliament's communications team accompanied the MPs as they travelled through the regions to assist in recording stories and notes.

Every site visit to the regions concluded with a public hearing. During each hearing, MPs spoke to constituents, demonstrating an understanding of the environment and health issues they learned about during their site visits, while providing them with an overview of how parliament works to address constituent needs through the drafting of bills, passage of laws and appropriation of funding. A “presentation team” of CSOs and academics followed the MPs and responded with recommendations and comments on pending legislation, and a formal presentation of their list of priorities to the parliamentary delegation. The MPs opened the hearing for comments from the public to allow ordinary citizens another opportunity to participate in the discussion. At each field hearing, those who did not get a chance to speak were invited to complete and submit official comment cards; which proved to be a very popular aspect of the field hearings. Community members overwhelmingly welcomed the rare opportunity to meet their representatives within the parliament and to engage in an open discussion about environment, health and other problems in their communities. When possible, parliamentary staff also recorded citizen feedback on audio equipment in order to preserve constituent stories. In most cases, the parliamentary communications secretariat staff who participated in the site visits and field hearings posted reports of the trips on the Somaliland parliament website (www.somalilandparliament.net) which was created with IRI support.

In this initial phase of support to the multi-partisan, issue-based caucuses, IRI began to see members directly engage in legislative debate on pending legislation introduced by the executive, and to coordinate efforts between caucuses. Following visits by the Health Caucus to government-funded health facilities in Hargeisa, members of the caucus agreed to advocate for the passage of the National Health Professional’s Act, which fell under the jurisdiction of the Environmental Committee. The Chairman of the Environmental Committee, also an active member of the Health Caucus, worked with Health Caucus members to promote the Act’s passage. Of the 37 MPs who voted in favor of the Act, 15 were members of the Health Caucus, and four of those had participated in the Hargeisa region health site visits. In late October, the Chairman of the Environmental Committee praised the Caucus, noting that “without the support of the Health Caucus MPs, the bill would not have been passed.”

**Joint Civil Society-Parliamentary Working Groups**

Based on the success of the regional field hearings, and recognizing the benefits of gathering input from stakeholders, caucus members committed to drafting new pieces of legislation in an attempt to address priority issues. Because the parliament lacked the
capacity to fully research and draft such legislation internally, IRI supported the creation of joint civil society-parliamentary working groups which would bring together MPs with experts in civil society who could contribute to the legislative research and drafting process. IRI identified civil society organizations based in Hargeisa who were able and willing to provide expert input on environmental and health legislation. IRI held initial workshops with each caucus and their respective civil society partners to initiate dialogue between MPs and civil society to formally establish joint civil society-parliamentary legislative drafting working groups; the first of their kind in Somaliland. Each working group was formally established through a cooperation agreement that was drafted and signed by the group members; the agreements detailed the objectives of the group, and outlined the division of labor, reporting requirements and guidelines for interacting with the media. Participants were then divided into working groups for each piece of legislation to be drafted, identified coordinators and distributed research responsibilities.

In total, six working groups were formed to research and draft legislation:

1. Wildlife and Forestry Act Working Group
2. National Environmental Act Working Group
3. Waste Management Act Working Group
4. Rape Prevention Act Working Group
5. Prevention of HIV/AIDS Act Working Group
6. Prevention of Female Genital Mutilation (FGM) Act Working Group

The working groups held regular meetings to discuss and come to consensus on proposed legislation. The working groups then drafted initial bills that were submitted to an attorney provided by IRI, who reviewed the drafts and put it into the proper legal format necessary for legislation. IRI then assisted the working groups to thoroughly review the draft bills received from the attorney and, as needed, resubmitted the draft with edits. Once agreement on a particular draft bill was made, IRI facilitated meetings between the working groups and the relevant parliamentary committees to present the draft legislation to garner support before official submission to the parliament for review and vote.

As of the close of the IRI program in Somaliland in September 2014, three of the six working groups had officially submitted their bills to parliament for review and vote. On January 5, 2015, the first bill to come out of the caucuses, the Wildlife and Forestry Act, was passed with overwhelming support in the Somaliland House of Representatives. More than a year after the end of IRI’s legislative strengthening program, these working groups still exist and are successfully developing and passing legislation:

3 Many of these groups were umbrella organizations with their local affiliates having participated in the field hearings in each of Somaliland’s six regions.
### Caucus Working Group | Legislation | Status
---|---|---
Wildlife and Forestry Act Working Group | Wildlife and Forestry Act | Passed in 2015
Waste Management Act Working Group | Waste Management Act | Submitted to Parliament in 2015
Rape Prevention Act Working Group | Act was revised to "Anti Sexual and Gender Based Violence Prevention Act" | Submitted to Parliament in 2015
Prevention of Female Genital Mutilation (FGM) Act Working Group | Prevention of Female Genital Mutilation (FGM) Act | Draft Law is completed; Working Group is currently advocating for support from religious and cultural leaders before it is officially submitted for vote in the Parliament.

In addition to the legislation developed by the six working groups, coordination between the Parliament’s Environmental Committee and Health Caucus led to the passage of the National Health Professional’s Act. The success of the joint civil society-parliamentary working groups created and led by the issue-based caucuses led to the parliamentary committees in Somaliland replicating the model. In late 2013, the chairman of the Internal Affairs, Security and Defense Committee requested IRI support to replicate the working group model to draft needed amendments to Somaliland’s election law in advance of local elections. IRI worked with the committee to establish a working group, referred to as the Election Task Force, which drafted and submitted amendments to the Voter Registration Law, all of which were passed by parliament.

### Case Study: Peru

**Formation of the Caucus**

Peru is a diverse, multi-ethnic country encompassing a variety of semi-autonomous regional governing bodies within a federal model of government. In 2001, Peru returned to a path of democratization after 10 years of authoritarianism under the Fujimori regime, one of the most corrupt in Latin America. Under Fujimori’s rule, representatives of democratic institutions such as political parties had been severely weakened. In addition, while national political parties have deep roots in Peruvian history, the growth of regional movements resulted in a backlash against traditional parties’ inabilities to act on constituent concerns at the national level. IRI began programming in Peru in 2002, building the capacity of political parties to advance democratic political reform and strengthen their grassroots organizations. IRI also began supporting Peru’s efforts to increase women’s representation in political life and elected office. IRI worked with women legislators from a wide spectrum of political parties who found a common identity in their commitment to eradicate all forms of social, ethnic, and gender discrimination, and sought a mechanism to build consensus around key issues facing women and children.
In 2006, in an effort to mobilize support around these key issues and to promote gender equality and equal opportunities for all people, as fundamental conditions to achieve development, strengthen democracy and respect for human rights, 22 women legislators (63 percent of the total number of women legislators) across five parliamentary blocs\(^4\) formed the Women’s Peruvian Parliamentary Caucus (MMPP).\(^5\) Formation of this caucus was supported in part by IRI with funding through the National Endowment for Democracy. With the support of the President of the Congress of Peru, Mercedes Cabanillas, the official establishment of the MMPP took place in 2006 with the signing of an agreement committing to create a multi-partisan space for dialogue and consensus on gender equity and the achievement of an inclusive and democratic society.

*Designing a Gender-based Legislative Agenda*

Through the MMPP, women legislators from a wide spectrum of political parties found a common identity in their commitment to eradicate all forms of social, ethnic and gender discrimination. According to the MMPP,

> "Laws, as any public policy or act of government, have an impact on the lives of men and women; therefore, we must ensure that the legislation does not adversely affect women; we also need to prioritize the analysis of those measures required to bridge the gaps of inequality that persist and negatively affect the full exercise of women's fundamental rights."

One of the most important actions taken by the MMPP after its formation was the adoption, by consensus, of a gender-based legislative agenda for the Congressional mandate of 2006 – 2011. To allow for the full exercise of the fundamental rights of women and girls in Peru and, in particular, to expand women’s political participation, the MMPP’s legislative agenda outlined these main issues required to ensure adequate legal frameworks:

1. Recognition of sexual and reproductive rights;
2. Elimination of all forms of discrimination;
3. Ensuring inclusive and equal education opportunities;
4. Elimination of violence against women and children;
5. Revision of the Citizen’s Participation and Control Law to incorporate gender focus;
6. Revision of the Integral Health System in order to provide assistance to women who suffer from AIDS, cancer and chronic malnutrition;
7. Documentation of national, regional and local statistics with gender variables; and
8. Preservation of the use of native living languages.

*Site Visits and Town Hall Meetings*

In the spring of 2009, IRI together with the MMPP began holding town hall meetings throughout Loreto, Piura, Cusco, Lima and Arequipa in order to engage in direct conversation with citizens to identify their most pressing concerns. Domestic violence was overwhelmingly identified across

\(^4\) Alianza Parlamentaria, Partido Aprista Peruano, Partido Nacionalista, Unión Por el Perú and Unidad Nacional

the five regions as adversely affecting Peruvian women. Women expressed not only the occurrence of violence in their homes, but the difficulty in reporting such crimes to local authorities. At the conclusion of these town halls, members of the MMPP presented the issue to Congress which as a result resolved to form the Special Committee to Revise the Domestic Violence Law.

Collaboration between Caucus and Committees
Following elections in April 2011, IRI encouraged the re-establishment of the MMPP for the 2011-2016 Congress and in early November 2011, women of the new Congress gathered to elect officers and re-establish the MMPP. After MMPP’s officers were internally elected, IRI provided key support to the Caucus to recreate the successful town hall program from the previous Congressional term. IRI facilitated opportunities for MMPP members to travel to the regions to meet with constituents, which led to the formulation of the MMPP’s legislative agenda for the 2011-2016 congressional term.

As the MMPP did not have the legislative mandate to introduce legislation, it was imperative that it worked with the legislative committees to encourage the advancement of MMPP’s legislative agenda within Congress. IRI worked with MMPP to connect with legislative committees to seek collaborative opportunities. In June 2012, IRI hosted a collaborative meeting between MMPP and the Women and Family Committee. IRI provided specific advice on how each group could advance their legislative agendas and offered suggestions for areas of cooperation. Both groups discussed their common goals and the Women and Family Committee agreed to prioritize legislative initiatives offered by MMPP, while working jointly on projects designed to empower women to participate in politics and strengthen an existing law to enforce the payment of child support and alimony.

Women’s Peruvian Parliamentary Caucus Achievements
While IRI’s USAID funded program ended in 2012, the MMPP continues to effectively function, propose and pass legislation in Peru’s Congress. The MMPP’s ability to build a consensus around key issues led to the adoption of a myriad of laws during the 2006-2011 congressional term:

<table>
<thead>
<tr>
<th>Equal Opportunity</th>
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<tbody>
<tr>
<td><strong>Law No. 28983</strong> <em>(March 16, 2007)</em></td>
</tr>
<tr>
<td><strong>Law No. 29083</strong> <em>(September 12, 2007)</em></td>
</tr>
<tr>
<td><strong>Access to Justice for Women and Their Families</strong></td>
</tr>
<tr>
<td><strong>Law No. 28970</strong> <em>(February 27, 2007)</em></td>
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<tr>
<td>Law No. 29032</td>
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<tr>
<td>Law No. 29462</td>
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<tr>
<td>Law No. 29222</td>
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<td>Law No. 29269</td>
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<td>Law No. 29274</td>
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</tbody>
</table>

**Divorce and de facto Unions**

| Law No. 29227 | Regulates the non-litigated conventional separation and subsequent divorce in municipalities and notary offices, in those cases where such a decision only involves or affects both partners. |

**Increased Women's Political Participation**

| Law No. 29470 | Amends several articles of Law 27683, Regional Elections Act, reiterating mandatory gender-based, youth, and indigenous representation quotas. |
| Law No. 29490 | Amends the Political Party Act, thus strengthening several aspects of democracy within the political parties. |

**Health Care**

| Law No. 29430 | Amends Law 27942: Law on Prevention and Punishment of Sexual Harassment. |
| Law No. 29414 | Establishes the rights of health services users. |
| Law No. 29344 | Establishes framework of the Law on Universal Health Insurance. |

**Eradication of Violence Against Women and Children**

<p>| Law No. 28950 | Trafficking in persons and smuggling of migrants. |
| Law No. 28963 | Amends Article 170 of the Criminal Code, relating to rape perpetrated against persons who are subordinate to the aggressor as a result of an employment relationship, work contract, or in the case the victim serves as a domestic worker. |
| Law No. 29139 | Amends Law No. 28119, which prohibits minors’ access to pornographic websites. |
| Law No. 29194 | Establishes the aggravated cases of parental rights loss when the parents are responsible for intentional crimes against their minor children. |
| Law No. 29282 | Amends the Organized Single Text of the Protection against Family Violence Act. |</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(November 27, 2008)</td>
<td>Violence Act, Law No. 26260 and the Criminal Code regarding the crime of domestic violence.</td>
</tr>
<tr>
<td>Law No. 29340</td>
<td>Establishes a special committee to revise the Organized Single Text of the Protection against Family Violence Act.</td>
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<tr>
<td>(March 31, 2009)</td>
<td></td>
</tr>
<tr>
<td>Law No. 29360</td>
<td>Counsel Service Act for victims of family violence, sexual violence, physical and moral neglect, attention to children, and senior citizens who are victims of crimes against life, body, health, freedom, family, as well as for low income citizens in civil and family law matters.</td>
</tr>
<tr>
<td>(May 14, 2009)</td>
<td></td>
</tr>
<tr>
<td>Law No. 29570</td>
<td>Extends the inapplicability of prison benefits of semi-freedom and parole in cases of rape of minors.</td>
</tr>
<tr>
<td>(August 25, 2010)</td>
<td></td>
</tr>
<tr>
<td><strong>Women’s Economic Integration: Access to Credit, Property, and Jobs</strong></td>
<td></td>
</tr>
<tr>
<td>Law No. 29409</td>
<td>Grants the right to paternity leave to public and private employees.</td>
</tr>
<tr>
<td>(September 20, 2009)</td>
<td></td>
</tr>
<tr>
<td>Law No. 29700</td>
<td>Includes unpaid domestic work in the national accounts in order to achieve greater effectiveness and efficiency in budget implementation.</td>
</tr>
<tr>
<td>(June 4, 2011)</td>
<td></td>
</tr>
<tr>
<td><strong>National, Regional, and Local Budgets Under a Gender-based Approach</strong></td>
<td></td>
</tr>
<tr>
<td>Law No. 28927</td>
<td>Includes topics to meet the Millennium Development Goals (MDGs) in the Public Sector Budget for Fiscal Year 2007.</td>
</tr>
<tr>
<td>(December 12, 2006)</td>
<td></td>
</tr>
<tr>
<td>Law No. 28929</td>
<td>Contains topics to meet the Millennium Development Goals (MDGs) in the Law on Financial Balancing of the Public Sector Budget for 2007.</td>
</tr>
<tr>
<td>(December 12, 2006)</td>
<td></td>
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**Conclusions**

IRI believes that programs designed to support the capacity of multi-partisan, issue-based legislative caucuses is an important aspect of strengthening legislatures that yields demonstrated outcomes. Caucuses by their very nature unite MPs first and foremost around specific issues which builds the consensus necessary to develop policies and pass legislation. Ideally, legislative strengthening programs should support issue-based caucuses at all levels of government (national and sub-national).

Multi-partisan caucuses, particularly when they are built around a core set of priority issues such as the environment or women’s rights, can serve several purposes. First, caucuses help resolve differences in the positions of various legislative political factions on specific issues, allowing for broader consensus on legislative goals, and ultimately lead to the passage of legislation which tackles keys issues, improving the lives of citizens. In both case studies, committees within the parliaments suffered from a lack of cohesion on developing either a legislative agenda or draft legislation. In Peru, while MPs were assigned to committees by their party leadership, in Somaliland, MPs were assigned by the speaker of the parliament. Committee operations also suffered from stagnation due to control being tightly vested in individual committee chairs. Conversely, in both countries, since membership to the caucuses was based on individual initiative, or self-selection, members were readily willing to work across party lines in order to positively affect the issue they were passionate about addressing. Draft legislation originated in the caucuses was supported by a critical mass of legislators—representing multiple parties—committed to its success. This support was important to move the draft legislation through committees and to the chambers for voting.
Second, caucuses allow for direct interaction between citizens and legislators on issues of mutual interest; a useful tool in raising citizen confidence in the ability of their legislators to advance the interests of the people. This in turn can build greater support for democratic institutions among the population as legislators effectively carry out their roles as representatives of citizens and legislatures function more effectively. This interaction between supply and demand stakeholders reflects the foundational principles of IRI’s governance programming. While passage of legislation that directly reflected the needs of citizens was an important and intended outcome of both case studies, a key success of the program was the unification of efforts between citizens, civil society and MPs, and the relationship and respect which grew between these two stakeholder groups. In the case of Somaliland, these two groups did not previously engage with each other, and in Peru, interaction especially in the rural regions of the country were extremely limited. Both sides recognized the advantage of coalescing efforts in order to effectively address shared issues of concern.

Finally, it is important to note that supporting caucuses or committees should not be considered a zero sum game in legislative strengthening programs. Both are important mechanisms to affect change, and exert influence on the legislative process when they work in concert. In Somaliland, the caucuses’ successful public field visits and joint civil society-parliamentary working groups became best practices adopted by the committees. After witnessing the success of these caucus initiatives, parliamentary committees asked IRI for support to replicate both processes to improve their own legislative functions.

**Designing Successful Legislative Strengthening Programs**

IRI’s approach to supporting democratic, transparent and accountable governance is based on an awareness that while there are accepted models and generalizable norms related to the democratization process, the establishment of democratic institutions and the emergence of a democratic culture are deeply connected to the broader socio-economic and socio-political systems unique to a country. Thus, IRI’s programs are informed by models and norms, but demonstrate a keen awareness of how the actors, relationships and behaviors that determine democratic trajectories are defined by that country’s economic, social, historical and cultural conditions. By deeply understanding the political context in which it works, IRI is able to seek out and develop consultative relationships with power holders and political influencers key to achieving results. A key component of IRI’s successful programs in both Somaliland and Peru was a result of IRI’s long-term relationships with all stakeholders (political parties, CSOs and elected officials) in the political process and the resulting trust this had built over time. This type of trust allows IRI to recommend and pursue program activities that best fit the environment and existing power structures in order to achieve programmatic objectives.

Demand driven interventions that are developed in consultation with partners is also key to the success of programs and ensuring outcomes are sustainable in the future. Engaging with political actors as more than just program beneficiaries encourages and ensures local ownership and buy-in for specific program activities and overall program objectives. The success of the programs in Somaliland and Peru stemmed from the design of IRI programs.
which prioritized stakeholder/beneficiary ownership in program design, implementation and evaluation; commitment of the time and resources necessary to achieving long-term and lasting outcomes and impacts; flexibility to ensure that program approaches keep pace with the complex, emergent nature of socio-political and socio-economic systems; and holistic engagement of the broad spectrum of actors and sectors that influence democratic institutions, processes and culture. For example, the creation of joint civil society-parliamentary working groups in Somaliland was in response to a request from an MP for assistance in researching and drafting a particular piece of legislation, and as noted, even after the end of IRI’s grant, the civil society-parliamentary working groups continue to effectively operate.

Engaging the executive branch and parliamentary leadership is also an important component of legislation strengthening programs to ensure their support of legislation and implementation once the law is passed. For example, in Somaliland, a member of the parliament’s Secretariat Communications staff was invited to attend each site visit and field hearing. This led to increased transparency of parliament activities and benefited the parliament in multiple ways through one activity. In addition, representatives of respective ministries were invited and included in the joint civil society-parliamentary working groups; having them as part of the discussion lead to their buy-in and support once the legislation came to parliament for review. In addition, two ministries—the Ministry of Environment and Ministry of Interior—sought IRI’s assistance in replicating this practice of inclusive working groups to assist with their own initiatives to draft legislation. In Peru, support from the President of the Congress was vital to ensuring that the MMPP obtained formal recognition and support within the Congress. It also led to organizational strengthening as it resulted in the MMPP being assigned office space within the Congress, and a secretary and legislative staff. In addition, the MMPP worked closely with the Ministry of Justice to develop revisions to the Domestic Violence Law, as the town hall meetings identified the lack of proper education among police officers on the issue, as well as the reluctance of victims to address the issues through the criminal courts versus family courts.

Monitoring and Evaluation
As is the case with many democracy and governance programs, when working with multi-partisan caucuses, the results that are most tangible and easily identifiable are those at the lowest (outputs – such as participation by MPs in IRI-supported caucus meetings) and highest levels (impact – passage of legislation). However, in tracking the progress and successes of these interventions, it is the results that occur in the middle – often changing perceptions and motivations - that are the most telling and most difficult to capture through traditional evaluation methods. To measure this, in Somaliland, IRI implemented a comprehensive monitoring initiative alongside the implementation of its work with issue-based caucuses in the House of Representatives, which involved the development of two scorecards – one for MPs and one for civil society organizations. The scorecards mirrored each other in many ways, looking at aspects of policy engagement and relationship building between MPs and CSOs from the perspectives of each actor. The scorecard monitoring initiative allowed IRI to measure indicators of progress in the development of mutually beneficial relationships in policy development between MPs and civil society organizations.
which was vital to informing program implementation and assessing critical results that yielded tangible impact.

**IRI’s Organizational Structure and Mission**

Established in April 1983, IRI is a nonprofit, nonpartisan organization committed to advancing freedom and democracy worldwide by helping political parties to become more issue-based and responsive, assisting citizens to participate in government planning, and working to increase the role of marginalized groups in the political process – including women and youth.

IRI encourages democracy in places where it is absent, helps democracy become more effective where it is in danger and shares best practices where democracy is flourishing. IRI has conducted programs in more than 100 countries and, along with its global Women’s Democracy Network, is currently active more than 85 countries.

IRI’s network of field offices and long standing relationships with local partners enables the Institute to rapidly design and implement programs that respond to a multitude of political environments, including post-conflict contexts, around the world. IRI’s staff—based in Washington, DC and in more than 30 offices worldwide—brings extensive expertise to programs and enables the Institute to respond in a timely and cost-effective manner to democratic development needs around the globe.

IRI brings extensive experience managing U.S. Agency for International Development (USAID) grants and cooperative agreements, complex projects in countries in transition, and large sub-grant portfolios. IRI has managed hundreds of large-scale programs with values of more than $100 million, led programs with dozens of sub-recipients and has overseen individual sub-awards ranging from $500 to $2 million. Currently, IRI is administering more than 100 federal grant projects.

The Institute receives funding through grants from the USAID, the National Endowment for Democracy, a number of European foundations and aid agencies such as the United Kingdom’s Department for International Development (DFID) and Foreign Affairs, Trade and Development Canada (DFATD), and the United Nations.

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SUPPORTING LEGISLATIVE REFORM MOVEMENTS
NATIONAL DEMOCRATIC INSTITUTE
Supporting Legislative Reform Movements

The Changing Landscape for Legislative Strengthening

Trust in political institutions is in global decline. Only 17 percent of the public feel that their governments listen to them.¹ Parliaments feel the brunt of this decline more than perhaps any other institution, as noted in the Global Parliamentary Report published by the Inter-Parliamentary Union (IPU) and United Nations Development Programme (UNDP).² Despite their critical role as the cornerstone of democratic government, parliaments and, in turn, legislative strengthening actors, are facing new challenges.

One element of this decreasing trust in parliaments can be traced to fundamental shifts in citizen expectations in the digital age. A frequently repeated (and retweeted) observation is that: “citizens are using 21st century tools to talk, governments are using 20th century tools to listen, and 19th century processes to respond.”³ Legislatures tend to value tradition and stability, so they often struggle to adapt to new technologies and social trends. This can widen the gap between ordinary citizens and their elected representatives even further. A number of commentators have noted how technological innovation has fundamentally changed most aspects of our lives, except for how we govern ourselves.⁴ The question is whether governments and representative institutions will be able to adapt fast enough to harness rapid social and technological changes -- or whether they will be overwhelmed by these changes. In a number of contexts, the public is increasingly expressing its frustration with parliaments that are viewed that viewed as expending more energy on factional bickering than responding to citizen concerns.

At the same time that democratic institutions need to adapt to increased citizen expectations, they also confront a new political reality. Politics is changing: it is becoming more fractious, polarized, and gridlocked. Traditional models of representative democracy, in which citizens elect representatives of strong, ideologically differentiated political parties to represent them, appear to be weakening in the face of citizens’ desire for more direct, ongoing engagement in governance.

The rise of protest movements and populist parties speaks to frustrations with traditional political elites. In the United States, frustration with the political class has been reflected in the Tea Party and Occupy Wall Street protest movements, as well as in the historically low approval ratings of Congress.⁵ In Spain, austerity measures and frustrations with traditional political parties have propelled the Podemos movement to national prominence.⁶ Mass protests in Ukraine, Burkina Faso, Greece, and elsewhere have reflected growing frustration with political systems that are perceived as unresponsive.

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4 See, for example, Naim (2013, 238–43): “Restoring trust, reinventing political parties, finding new ways in which average citizens can meaningfully participate in the political process, creating new mechanisms of effective governance, limiting the worst impact of checks and balance while averting excessive concentration of unaccountable power, and enhancing the capacity of nation-states to work together should be the central political goals of our time…. In short, disruptive innovation has not arrived in politics, government, and political participation. But it will.”
5 A New York Times/CBS News Poll, released September 16, 2011, found that just 12 percent of Americans approved of the way Congress was handling its job, tying historic lows (Kopitcki 2011).
In dealing with these challenges, parliaments and members of parliament (MPs) have not always performed at their best. Even if they impact only a relatively small percentage of elected representatives, corruption scandals over parliamentary expenses, accusations of bribery and fraud, inappropriate personal conduct, and polarized political discourse have served to fuel popular frustration in many countries. The perceived growing role of money in politics further contributes to a view that MPs have incentives to place party or private interests ahead of the interests of the country or their constituents. While the role of money in politics is by no means a new phenomenon, the increased transparency of the modern digital age has meant that corruption and bad behavior are, in many contexts, more visible than ever before. With increased scrutiny of money in politics, many citizens have come to believe that elected officials weigh private interests more heavily than citizen concerns.

In this evolving political landscape, how must parliamentary strengthening initiatives adapt? These shifting challenges demand next generation approaches for such next generation problems. Increasingly, the successful responses are looking outside the traditional donor-beneficiary model, which has previously focused narrowly on institutional strengthening of parliament. Instead, new approaches focus more holistically on supporting an evolution of the existing political culture in a more democratic direction. If the problem is not simply a lack of technical knowledge by parliamentary members and staff—but a dysfunctional political culture with misaligned political incentives, the solution requires more than technical capacity building. Increasingly, parliamentary development organizations must engage a broader range of actors to build support for parliamentary reform, including reform-minded parliamentarians, political leaders, and civil society activists.

Next Generation Approaches: The Rise of International Standards and Parliamentary Monitoring Organizations

As aid organizations increasingly recognize the need to “think and act politically,” lessons learned from other areas of democratic development can also inform next generation legislative strengthening programming. For example, Rachel Kleinfeld offers several lessons learned from the field of rule of law that are applicable to the parliamentary strengthening field. In her book, Advancing the Rule of Law Abroad: Next Generation Reform, Kleinfeld makes the case that “effective reform efforts require planning for and measuring change that is nonlinear and non-incremental.” Writing elsewhere, she challenges practitioners to plan for “sailboats, not trains” -- i.e. to maintain flexibility in program design and implementation tacking in response to shifting political winds, and to be responsive to “counter-reforms and multiple battles.” Applying this axiom to the parliamentary development context, we can

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7 Senator Mark Hanna, a political boss from Ohio who served in the Senate from 1896 to 1904, is quoted as noting that, “there are two things that are important in politics. The first is money and I can't remember what the second one is.”

8 Transparency International’s Global Corruption Barometer found in 2013 (the last year for which it is available), that 53 percent of respondents globally thought that corruption had increased or increased a lot over the prior two years.

perhaps see why ambitious, centralized parliamentary strengthening programs often fall short in implementation. Reforms that are adopted are rarely “best practices,” but rather those that amass the most political support. It is important therefore to recognize the levers that will enable partners to amass coalitions for legislative or parliamentary reform. This requires not only flexibility in implementation, (e.g., taking advantage of political momentum for reform arising from a political scandal), but also a focus on supporting broader shifts in political culture, rather than only changes in formal rules (which may or may not be implemented).

There are also lessons to be learned for parliamentary development from the field of election observation. International election observation missions, traditionally driven by multilateral organizations, international nongovernmental organizations (NGOs), or other external groups, play a useful role in monitoring the integrity of an electoral process. However, in many contexts, international support to build local citizen-led domestic monitoring organizations has perhaps, over the long run, proved far more sustainable. Such a model strengthens local ownership in the process, builds domestic capacity to monitor elections in the future absent external assistance, and may ultimately be more effective and sustainable. The international community has supported (domestic) citizen election observers in numerous ways—by helping to facilitate the creation of clear international principles and rules of conduct that can guide the work of domestic observers, by providing technical assistance to domestic monitoring groups, and by curating the development of an international community of domestic election monitors that are able to share experience and solidarity as they work to deepen electoral integrity. Global norms and standards on election observation are an important tool in codifying best practice; they also deepen international credibility, professionalism, and the legitimacy of citizen-led election monitoring efforts, further empowering domestic actors. The evidence base amassed by citizen election monitors is extremely important in informing, and in advocating for, democratic electoral reform.

In the field of parliamentary development, we have begun to see the emergence of a similar model, with international norms and standards providing support for local parliamentary monitoring organizations as they push for parliamentary reform. Even the most enlightened and democratic executive rarely welcomes enhanced parliamentary oversight powers. Given the far greater resources of the executive branch, parliaments often face an uphill battle in claiming the institutional independence and power necessary to play the robust role envisioned in a democratic constitution. The ability of parliamentary reformers to reference international norms and standards can make it easier for parliaments to claim the independence and authority needed to fulfill their constitutional role.

The National Democratic Institute (NDI) developed a discussion document in 2006, entitled, “Toward the Development of International Standards for Democratic Legislatures: A Discussion Document for Review by Interested Legislatures, Donors and International Organizations.” Since that time, benchmarks for democratic legislatures have been adopted by the Commonwealth Parliamentary Association, the Assemblée National de la Francophonie, and the Confederation of Parliaments of the Americas, among others. A series of self-assessment tools have also been developed for parliaments against emerging international norms and standards. These frameworks show a high degree of convergence on many aspects of what a democratic legislature looks like.
International norms and standards also have shown potential value with respect to donor assistance. Just as there has been a growth in international norms and standards for democratic parliaments, there is an increasing recognition that effective parliamentary support programs should also adhere to a common set of principles. For those parliaments that receive international technical assistance, these international norms help ensure that this assistance supports a parliament’s efforts to meet international democratic norms and standards, rather than supporting the replication of any one particular model. At the same time, benchmarks protect the right of parliaments to give and receive technical assistance and to share expertise with their peers around the world—recognizing the common bonds that exist among democratic institutions and those who have the privilege to serve in them.

In 2015, NDI joined the IPU, the UNDP, the European Parliament, and the French National Assembly in an initiative to codify good practice and develop shared standards for legislative strengthening. The resulting Common Principles for Support to Parliaments were formally launched at the 132nd IPU Assembly on March 28-April 1, 2015. Since its launch, the Common Principles has received 102 endorsements by 80 national parliaments, five parliamentary assemblies and 17 international and legislative strengthening organizations. The Common Principles for Support to Parliaments stress that support should be implemented with a nuanced understanding of the local political and social context, as well as grounded in emerging international democratic norms and standards for parliaments. The Principles provide a framework for parliaments to share experiences with each other to better meet these challenges and serve the interests of the citizens they represent. The Principles aims to ensure that parliamentary support is gender-sensitive, transparent, and avoids potential conflicts of interest. For example, the Principles provides that parliamentary support should not be used to advance commercial interests or be motivated by profit. The Principles also aims to eliminate specific bad practices, such as organizations hiring talented staff away from the parliamentary institutions that they are otherwise working to support. Recognizing that democratic parliaments are diverse institutions with members representing different constituencies and ideologies, the Principles requires that parliamentary support must be inclusive of all political tendencies.

There is also increasing recognition that domestic civil society groups play an invaluable role not only in advocating for legislative reform, but also providing the legislature with much needed support and capacity. Given the valuable role of domestic civil society groups in parliamentary reform, the international parliamentary development community must more fully engage these actors in the development of international standards and in parliamentary development more generally. Collaboration between parliamentary monitoring organizations (PMOs) and the international parliamentary community can have mutually reinforcing benefits that strengthen representative democracy.

13 https://www.ndi.org/common_principles_parliamentary_support
At present, well over 200 parliamentary monitoring organizations monitor more than 100 national parliaments worldwide, in addition to a number of regional and subnational legislatures. PMOs contribute to several foundational elements of democratic governance, including the accountability of parliaments to the electorate, citizen engagement in the legislative process, and access to information about parliaments and their work. Many of these groups are also demonstrating an increasing capacity to advocate for and support parliamentary reform generally. A number of these groups are increasingly coordinating their work. For example, many collaborated in the development of the Declaration on Parliamentary Openness, which has since been translated into 24 languages and endorsed by an increasingly broad array of PMOs and parliaments around the world.¹⁴ These organizations share an active Google group and blog, accessible at OpeningParliament.org, for sharing information on topics as diverse as data visualization, monitoring of political finance, recruitment and management of volunteers, and collaboration on software. The formation of Poplus represents another aspect of cooperation among PMOs, as these groups collaborate in the development of modular shared tech components for visualizing and analyzing parliamentary data.¹⁵

When civil society groups or PMOs work with the legislature, they can encourage innovation and transform the relationship between legislators and the public. One way that civil society groups can support a healthy relationship between parliament and the public is by sharing information and contributing to public education. The below quote from Mónica Pachón, former director of Colombian parliamentary monitoring organization Congreso Visible, succinctly illustrates this point.

“In many countries, parliaments are not exactly popular, if the discourse of parliamentary monitoring organizations doesn’t question the negative image that people sometimes have about Congress - then we are not doing much. If citizens don’t realize that Congress is a very important branch for a political system to work, then we’re not improving the quality of our democracies.”

In many countries, parliamentary monitoring groups support the parliament’s efforts to educate and engage the public on the work of the legislature. For instance, a Serbian PMO, the Center for Research, Transparency and Accountability (CRTA), regularly holds an Open Parliament Week. The event, which is organized with participation from members and parliamentary staff, features seminars, discussions, street demonstrations, and other activities that seek to illuminate the important role that parliament plays in Serbian democracy. Beyond public education, Open Parliament Week is an opportunity to engage a wider range of voices and actors in the legislative reform conversation, helping to ensure that reform initiatives represent broadly held public positions. Vukasava Crnjanski, Executive Director of CRTA, has said: “Building partnerships and ties with different institutions and organizations during this week, when public focus will fall on parliamentary democracy, will make the citizens’ voice be heard and establish better communication between the Parliament and the citizens.”

Many of these parliamentary organizations are playing a vital role in helping legislatures connect with citizens in new ways through the use of technology. For example, in Ghana, civic technologists are helping to close the communication gap that exists between lawmakers and the public. The Government Assurances Committee in the Parliament of Ghana worked with the civil society group Penplusbytes to create a web platform and mobile app that

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¹⁴ To date, The Declaration on Parliamentary Openness has been endorsed by more than 180 organizations in more than 80 countries. The Declaration can be viewed at: http://www.openingparliament.org/declaration

¹⁵ “A global federation for civic tech,” Poplus provides a space for activists to share technological tools to help civic and democratic projects worldwide: http://poplus.org/
connects citizens to members of the committee. Citizens can use the app to report on whether government projects are being implemented, which assists the Committee in fulfilling its oversight role. In Brazil, the Chamber of Deputies hosted a hackathon and then created a permanent HackerLab inside the parliament to engage the technology community on an ongoing basis and find tech solutions to institutional challenges.

An additional forum for this parliament-civil society collaboration is the Open Government Partnership (OGP). Launched in 2011, OGP brings together governments and civil society groups in the 69 member countries to develop and monitor national action plans to advance openness and accountability. OGP now includes a Legislative Openness Working Group, which was launched at the 2013 London OGP Summit, which is tasked with engaging the parliamentary community. To date, parliaments and civil society representatives from over 40 of the OGP countries have engaged with the Legislative Openness Working Group. In some countries, parliaments and civil society have jointly developed a parliamentary openness action plan, setting out a list of agreed upon reforms to advance legislative openness and transparency. For instance, the Parliament of Georgia developed a multi-party group that worked with domestic civil society and international organizations to develop an action plan on openness and citizen participation reform. The plan, which was launched in summer 2015, is currently being implemented, and the parliament receives ongoing technical support from the domestic civil society groups that played a role in drafting the plan. Such examples demonstrate the supportive, constructive role that domestic civil society, and specifically parliamentary monitoring groups, can play in supporting legislative modernization and reform. The international community would be wise to deepen engagement with these groups and more fully incorporate them into legislative strengthening work.

Lessons for the Parliamentary Strengthening Community

These developments suggest a number of lessons for the parliamentary strengthening community as it works to support parliamentary reform and to help parliaments rebuild trust with their citizens:

- **Recognize the political nature of reform:** There has been a significant amount of lip service given to “thinking and acting politically.” It is now widely accepted that parliamentary reform is a political rather than technocratic enterprise. Yet, in many cases, the programmatic response from donors and practitioners has not fully reflected this learning. For example, reforms often occur in response to domestic political scandal, when there is a window of opportunity for reform. These windows are often not captured in the long-term institutional development planning that remains part of the standard model of large-scale institutional parliamentary strengthening programs.
• **Continue to build and update normative standards for legislatures**: Standards empower legislatures in the face of often dominant executives, generate legitimacy for legislative strengthening and support efforts, and allow for sharing of best among parliaments. This includes ensuring that democracy organizations themselves adhere to international norms. As addressed in the Common Principles for Support to Parliaments, parliamentary support activities should not be used to advance commercial interests or be motivated by profit. Parliamentary strengthening organizations should refrain from hiring talented staff away from the parliamentary institutions that they are otherwise working to support. Finally, recognizing that democratic parliaments are diverse institutions with members representing different constituencies and ideologies, parliamentary support must be inclusive of all political tendencies.

• **More deeply engage and support domestic parliamentary monitoring groups**: Engaging domestic parliamentary monitoring groups ensures that parliamentary reform movements are locally owned and builds sustainable capacity in civil society to push for continued parliamentary reform over time. Domestic civil society can also provide valuable support to parliament in terms of technological innovation, communications and public engagement, and numerous other areas.

• **Embrace “democratic leapfroging”**: Some of the most path breaking innovations in democracy over the coming decades may come from new, restored, or emerging democracies. Parliaments in established democracies are often heavily encumbered by tradition and historical precedent; legislatures in more nascent contexts may have greater freedom to experiment new tech-enabled practices. Parliamentary development practitioners should be wary of solely relying on the experience of or advocating a development path similar to that of consolidated democracies. Innovative examples should be captured and shared for greater “South-South” learning. \(^ {16} \)

• **Work with sub-national legislatures and municipal councils**: To bring about democratic change, implementers should look beyond a sole focus on national level institutions. UN projections estimate that by 2050, two-thirds of the world’s population will live in cities. Representatives who are responsible for setting policy in municipal, state, and provincial legislatures will not only shape public perceptions of the democratic legitimacy of their governments, but often provide a pipeline of candidates for national-level institutions. Moreover, local governments and assemblies often have a greater scope for innovation.

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The National Democratic Institute (NDI) is a nonprofit organization working to strengthen and expand democracy worldwide. Calling on a global network of volunteer experts, NDI provides practical assistance to civic and political leaders advancing democratic values, practices, and institutions. NDI works with democrats in every region of the world to build political and civic organizations, safeguard elections, and promote citizen participation, openness, and accountability in government.
Legislatures serve vital functions. In a democratic or democratizing context, legislatures link citizens to the state through providing representation. Legislatures are agents for their constituents, so to speak, articulating and aggregating the concerns and preferences of their publics. They are also a check on executive power holding institutions accountable for implementing policies responsibly. This critical linkage lends legitimacy to legislatures. Ultimately, legislatures are expected to engage in collective decision making with the aim of adopting policies and laws that reflect public preferences. Such laws and the process of deliberation that accompanies decision making are often guided by a constitution.

Equally important is the educational role of the individual members of legislatures, the legislators. In their capacity as lawmakers, legislators condense and simplify information for their publics as they articulate complex information and narrow down the vast universe of policy choices in ways that are comprehensible and easily accessible to constituents. The breadth of government activity has broadened rapidly in ways that complicate the policy-making process. The provision of information, particularly in environments where information is more easily available, is vital for legislators. One the one hand, this educational function can be used to inform constituents. On the other, however, it can be used to strategically shape preferences to the advantages or disadvantage of legislators.

Given such critical roles, legislatures can be vital for promoting governance, socio-economic growth and accountability, issues-areas of significant interest to the international development community. In the past, international development approaches to issues of accountability, governance, and economic growth have focused on the executive branches of governments. That is, the international community has crafted development programs for countries to implement, and legislatures have figured less prominently and consistently in these international development schemes. Newer methods, however, represent a shift in approach, as countries are now expected to take more of a lead in formulating development strategies that address governmental, financial, economic, and social concerns. Thus how legislators develop capacity in key functions, such as legislative oversight of budgets, the ability to implement policies that encourage democratization, and socio-economic growth have become more important – not only because they influence the success of development efforts, but also because their functioning capacity can bear on country stability.

It is with these thoughts in mind that a closer assessment of legislative strengthening programs (LSPs) is warranted. The three research papers that follow examine the role of legislative strengthening programs in three countries. The papers are concerned with legislative capacity-strengthening programs in three broad issue areas: democratization and human rights; social and economic development; and accountability and oversight. Each area is examined in carefully chosen case study countries -- Ukraine, Uganda, and Indonesia --with more limited research (using remote interview techniques) in Poland, Nigeria and Viet Nam. Though the categories are not entirely mutually exclusive, there are some general patterns that are distinct in the case study countries. Key research questions include the following: How have legislative strengthening program approaches impacted legislative outputs in the areas of human rights, social and economic development and accountability and oversight? Which approaches have worked well and which have worked less well? Which actors have been key drivers of change? And, finally, what are the necessary and sufficient conditions for successful legislative oversight programming?
The choice of case studies was based on geographic location; USAID engagement in the country; the degree of substantive and sustained LSP programming in the country; and variation in LSP program outcomes. Findings from Ukraine, Uganda, and Indonesia are based on on-site fieldwork. Results from Poland, Nigeria and Viet Nam are based on remote interviews conducted via telephone, Skype, or email. Interview protocols were developed for each country prior to fieldwork, with common themes included in each questionnaire and with country- and issue-specific questions.

The research employed a field network approach that involved interviews among select categories of local actors, such as implementers, academics, civil society organizations, and government officials. Common findings across all countries speak to the importance of the involvement of civil society actors and their ability to articulate and advocate for policy change. Another common theme is the political will of key legislative bodies. Here the role of incentives is key: LSP programs are more likely to be successful (as Uganda and Nigeria demonstrate) if incentives for legislators are properly aligned in programs. In addition, the relationship between legislatures and the executive branch must be well understood. Complementary programs that contribute to sustainability of program outcomes, such as continued training, are also vital. The case study of Ukraine underscores the challenges facing LSPs in countries shaped by systemic corruption. The findings from Ukraine suggest that training legislators will go a long way towards building capacity.
LEGISLATIVE STRENGTHENING PROGRAMS IN UGANDA & NIGERIA
DRG LEARNING, EVALUATION AND RESEARCH ACTIVITY

OCTOBER 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by NORC at the University of Chicago. The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
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I. INTRODUCTION

United Nations Secretary General Ban Ki-moon recently called parliament a “beacon of democracy” that plays a critical role in the establishment and enforcement of human rights. Without respect for human rights, he said, peace, development and security are not possible. Commitments to these connected, or perhaps overlapping goals, are visible in US policy. As one of its four principle development objectives, the United States Agency for International Development’s (USAID) says it will “protect and promote universally recognized human rights” as part of its efforts to enhance institutions that provide checks and balances. In the 2012 White House Africa Strategy, the US pledges to “strengthen checks on executive power” and promote human rights. But how are human rights, democracy, and legislative strength connected? Though the relationship seems obvious, clear causal paths or sequences remain unclear. “Human rights and fundamental freedoms should not only be seen as one of the foundations of democracy,” says one legal scholar. “They also have to be, and are indeed being, interpreted in such a manner that they reinforce democracy, emphasizing democratic principles and values.”

The impact of legislatures on human rights and democracy is an important topic because donors often incorporate legislative strengthening programs (LSPs) in their aid repertoires, embracing the pursuit of democratization and protection of human rights as complementary – if not redundant – objectives. At the same time, there is little agreement on how to strengthen legislatures to pursue these goals, leading to the adoption of different LSP strategies, with mixed results. While such experimentation may allow for creative programming in response to different contexts or challenges, it also makes it difficult to identify replicable approaches. One study of Africa praises the “democracy enhancing potential” of legislatures but identifies a stark disconnect between this donor support for LSPs on the one hand, and theory and evidence concerning legislative strengthening, on the other. It is beyond any doubt that there is an urgent need for parliamentarians to enhance their human rights capacity,” concludes another study, before noting that the Inter-Parliamentary Union only published its first global comparative data about how parliaments might be able to do so in 2012.

There is new evidence linking legislative strength to robust democracy, which would seem to provide an empirical basis for LSPs as a targeted tool for democracy promotion. But the compelling (if colloquial) logic that “all good things go together,” has also coincided with illiberal trends in global politics, including functional legislatures in surprisingly persistent authoritarian regimes, as well as “hybrid” regimes that formally embrace democratic principles while routinely undermining them. If the above policy rhetoric about checks and balances is sincere, the slide toward hybrid regimes will be difficult to reverse without a more robust commitment to LSPs. Unfortunately LSPs have “long been regarded as...”

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one of the weakest parts of international governance work.” For example only £22.5 million out of DFID’s £10 billion aid budget is spent on LSPs.7

This paper explores connections among legislative capacity, democracy and human rights with the goal of untangling their complex interdependence and their potential for divergence. The larger goal is to inform future USAID legislative strengthening programs. Like the other papers associated with the larger project on legislative strengthening, we do not evaluate the success or monitor the specific impact of USAID’s programs. Instead, the analysis provides intellectual context by situating programmatic work within academic research. To this end we seek to clarify conceptual connections, hypothesize potential causal links and identify some of the confounding factors that are likely to interfere with such links. While this means we do not test our hypotheses, we do probe our insights through interviews and primary research on Uganda and Nigeria, two important recipients of LSPs. The result is an analytical overview of probable direct and indirect effects of LSPs, as well as some pragmatic recommendations.

OVERVIEW

The core of this paper is a review of the literature on legislatures, human rights and democracy, broken down into two stages. First, to examine connections between legislatures and democracy, we briefly summarize research reflecting on legislatures’ roles in oversight, legislation, representation, and constituent service. We then contrast this functional approach to legislatures, which has been accentuated by recent behavioral research on elite attitudes, with an institutional approach. While each has its advantages, institutionalism offers an important implicit critique to “issue-based” democracy promotion that seeks to enhance capacity through thematic competence rather than institutional strength, and we suggest that it provides a more reliable guide to contextual characteristics of aid recipients. Broadly speaking, legislative strength impacts democracy by reducing the discretionary power of executives, shaping the viability of parties, reducing the risk of coups, and improving accountability across governments. Perceptions of legislatures are negative in many parts of the world, even where people show strong preferences for democracy and/or limited executive power; this complicates efforts by LSPs to obtain public buy-in.

The second stage of the literature review examines connections between legislatures and human rights. It starts by explaining how the effective performance of legislatures’ different functions does not impact human rights and democracy in entirely congruent ways. This is important since LSPs variously promote capacity building for each of these functions. Legislators’ motivations for accountability with other parts of the government are different from their motivations for accountability driven by citizens “from below.” These incentives appear to be more likely to converge in post-conflict contexts. They diverge in instances where political rights are democratically exercised to promote violations of civil rights. This is increasingly a concern with the spread of counter-terrorism laws, legislation against sexual minorities, and in other areas. For purposes of LSPs, this makes “issue-based” approaches arguably less effective than “institutional” approaches that seek to enhance institutional capacity overall. Following a brief discussion about principles for assessing legislatures’ human rights capacities, and the role of human rights committees, the paper discusses “judicial substitution,” whereby courts fill weak legislative voids in order to protect human rights. This emphasizes the importance of a holistic donor approach to democracy and governance (D&G) assistance.

A brief discussion about the ways in which policy guidance for D&G links human rights and democracy then integrates key insights from the literature review with selected evaluation material. While many studies raise concerns about executive bias in donor programs (thus undermining legislative capacity building), this appears to be less common in the Middle East and North Africa, where D&G programming has grown the most over the last decade. This could be promising for human rights capacity building. Another lesson relates to programs’ time horizons: most studies conclude that for LSPs to work, they need to be longer. This likely means that assistance must be committed to continue beyond the next election cycle in order to demonstrate a commitment to the legislature as an institution rather than a commitment to the incumbent party. Recent lessons from civil–military endeavors in several West African countries emphasize the further need for legislative oversight capacities in order to deter coups, defend democracy, and promote human rights. Overall, this section serves to synthesize programmatic goals with scholarly research in order to identify complications with studying human rights and democracy either separately or as intertwined outcomes. We reference examples from different LSPs beyond our case studies, and we attempt to identify intervening variables shaping both desirable and adverse outcomes.

Finally, the paper turns to two case studies in order to probe the issues raised by the literature review and the D&G. We implement a desk study of Nigeria alongside field work in Uganda. As case studies, these countries share some similarities in their continental experience, their import to US foreign policy, and their recurring legislative capacity support from USAID programs. They differ in a few important ways too, including civil-military relations, foreign aid dependence, and history of party development. This research design differs from typical comparative approaches that seek to isolate causal variables by either maximizing or minimizing similarities between cases; our goals here are more modest than explicit causal conclusions. Still, the research does highlight links between legislative capacity and both outcomes of interest: research on human rights suggests that Uganda’s ruling party’s agenda control on budgets and legislation limits the scope of commissions and parliamentary committees; in Nigeria, the National Assembly faces weak oversight incentives and a fragmented committee system. The cases differ in their record of limiting executive tenure, with Uganda’s president modifying the constitution in order to run for a successful re-election in 2010, while in Nigeria the legislature prevented the president from doing so. In neither case did LSPs appear to have had a notable impact on tenure extension outcomes.

The conclusion moves from some of these challenges to recommendations, including observations related to duration and potentially hidden sources of donor bias. We also list emerging challenges to legislatures, including experiments in direct participation, legislative failures to equitably allocate resources, under-representation of constituencies who otherwise have rights-based claims to political voice, and the sometimes surprising relevance of legislatures within regimes with poor human rights records.

**LIMITS ON RESEARCH DESIGN**

This research project faced resource and time constraints. Unlike other thematic areas of the broader project for USAID, this particular paper examines two outcomes – democratization and human rights – that can (and perhaps should) be measured separately. This means that a full analysis attempting to identify the causal effects of legislative strengthening would require a large number of cases and most likely a quantitative analysis, taking into consideration a broad range of control variables regressed against parallel hypotheses on the dependent variable, and then perhaps additional tests interacting key variables. A classic paired analysis from comparative politics utilizing “most different” or “least different” systems design would analyze cases based on either (a) similarity of most features yielding different outcomes, or (b) key differences on some features resulting in similar outcomes, respectively.
This, however, is not feasible, at least in a straightforward way that serves the purpose of the consultation, with two dependent variables.

Another strategy would be to establish some basic trend data on the two outcomes in all of the countries that have received USAID legislative strengthening programs (LSPs). This generates a universe of 39 countries between 1985 and 2015. Ideally, the next step would be to employ a measure of legislative capacity, such as Fish and Kroenig (2009). Their data, however, suffer from a number of flaws that make it unworkable for time series.

Our approach affords us some limited ability to generalize about potential impacts of legislative engagement programs without more formal statistical models. More importantly, it will help us identify important secondary cases worthy of additional analysis as well as the necessary components of more fully elaborated causal processes that will hopefully be empirically explored in future research.

II. LITERATURE REVIEW ON LEGISLATURES AND DEMOCRACY

One classic portrayal of legislatures that remains influential begins with functional descriptions. For example, Barkan’s path breaking analysis of African legislatures begins by explaining that legislatures engage in representation, lawmaking, constituent relations, and oversight.8 The premise throughout the book is that these core functions are often in tension with one another, and this shapes the efficacy and power of legislatures. Survey data from the World Bank’s African Legislature’s Project embraces this functional approach, uncovering important conflicts of how legislators might see lawmaking as most important, but they enjoy constituent relations more (and spend more time doing the latter). In few countries covered by the survey do legislators feel rewarded by oversight. Fish’s equally influential study attempts to objectively measure legislative strength itself, rather than elite attitudes. Despite different theoretical orientations and methods, both studies decisively conclude that strong legislatures are good for democracy, with Fish concluding that “the presence of a powerful legislature is an unmixed blessing for democratization.”9

A little noticed implication of this apparent agreement is the departure it marks from research on the so-called Third Wave of democratization in the 1990s that very often emphasized the centrality of popular pressures for liberalization. In the former Soviet Union, Africa, and among late democraters in Latin America, popular pressure seemed to be especially important.10 The pivot to legislatures meant that institutions mattered for outcomes, processes, and for modalities of participation – claims articulated by a distinct research field of “institutionalism.”11 By empirically linking legislative strength to the level of democracy, Fish and Barkan’s findings carried important implications for democracy promotion: they suggested that broader democratic conditions rose and fell to a large extent, based on the capacity of a specific institution that could be targeted for assistance.

If Fish and Barkan’s conclusions raise the question of why legislative strength would improve democracy though, the literature provides at least four broad answers. First, as Sing puts it, strong legislatures counter-balance discretionary powers of presidents. This raises the costs executives face if they seek to weaken democracy or maximize their institutional authority. Strong legislatures therefore make it harder to undermine democracy, and a number of examples from post-communist countries, including Russia, highlight the hazards of democratic reversals due to powerful presidents. Evidence from Africa arrives at similar conclusions. Nijzink et al. argue that strong executives mean weak legislatures. They make a critical point for democracy assistance programs: legislative weakness is largely a result of misaligned institutional incentives, rather than simply capacity. For example, legislators may face high barriers for censuring the president or removing cabinet ministers, executive may have the ability to dissolve parliament, and in many countries members of the legislature can simultaneously serve as cabinet members, “fusing” executive and legislative power. They find that “pure presidential” regimes – those without parliamentary features such as a confidence relationship or indirect election of the executive – have lower levels of democracy than parliamentary regimes; hybrid regimes mixing features of executive selection are not associated with any outcome.

In general, executives in Africa have a significant amount of power despite de jure power of legislatures, and the fusion of power in hybrid regimes especially undermines democracy. Cranenburgh argues that fusion “ensures that the government has an almost ‘automatic’ base of support in parliament, which in turns strengthens executive dominance.” Other factors that increase presidential power include concurrent presidential and legislative elections, limited constitutional authority to amend budget proposals, high thresholds to override a veto or impeach a president, and procedures for making judicial appointments or bureaucratic changes.

Party research forms a second important link in the institutional chain connecting legislatures to democracy. As Cranenburgh point out, presidential systems favor large parties; at least some large parties are necessary in order for executives to win in a direct election (i.e, not chosen by the legislature). However, parties then have reduced power over the executive post election, according to Samuels and Shugart, because of the president’s survival is “separate” from that of the legislature. In effect, weak legislatures and strong presidents lead to weak parties. In Eastern Europe, party building and lively interparty competition co-varied with the power of the legislature. In Morocco, Sing notes that a relatively powerful legislature generated incentives for political parties to monitor executive behavior and cultivate leadership. Without strong parties, the link between citizens and politicians is weaker because

16 Fish 2006.
citizens lack a key mechanism for interest aggregation and interest articulation (though some research questions the applicability of this classic characterization of parties in the developing world\textsuperscript{17}).

Third, strong and effective legislatures enhance democracy by improving civilian control over the military, thus reducing the risk of coups. Fully democratic regimes are about 7.5 times less likely to be subjected to attempted military interventions than illiberal regimes that hold elections, and, as a result, they are almost 18 times less likely to be victims of actual regime breakdown.\textsuperscript{18} Such positive effects take time and repeated iterations, however, leaving a lingering uncertainty surrounding institutions. Legislative control over security services is important for democracy, but such oversight presents a complex set of risks for donors and domestic human rights advocates (Crawshaw et al. 2007; Baker 2004). Sing analyzes case studies from Asia, Latin America, and Eastern Europe providing evidence that legislatures deterred coups or increased the likelihood of their failure. He then statistically supports this research, attributing coups to “the failure for a strong and popularly elected legislature to exercise civilian oversight over military.”\textsuperscript{19} In the post-Soviet states, communism arguably contributed to effective civilian control over the military. It was thus a small leap for the expertise and the ethic of military professionalism and the experience of competent civilian monitoring to transcend the transition from communism to democracy.\textsuperscript{20} Legislatures in this region quickly implemented “first generation institutional reforms” in the 1990s. These reforms codified defense policy-making procedures and parliamentary oversight powers and set up institutions to carry out such duties. A second generation of reforms, centered on state capacity, has since stalled: “there has been a relative lack of parliamentary interest in defense and security issues, limited access to information, and a reluctance on the part of the executive, the bureaucracy, and/or the armed forces to provide that information, a lack of resources to support the oversight function of legislatures and a lack of expertise among parliamentarians,” argue Cottey and Forster.\textsuperscript{21} Thus despite the institutional basis for oversight, parliamentary scrutiny of defense policy remains limited in most of post-communist Europe; while this does not appear to present coup risks, they point out it does undermine the democratic legitimacy of defense policy.

Africa unfortunately faces a more fragile predicament compared to these other regions, as “first generation” reforms either never took hold or were never really implemented in the first place. The risk of coups remains endemic: including Egypt, there have been at least seven military coups in Africa since 2008; suspension the legislature is often a junta’s first step after taking power.\textsuperscript{22} The 15 countries in the Economic Organization of West African States (ECOWAS) have experienced three waves of large scale insecurity, according to a recent study funded by the Ford Foundation arguing for “an intimate link between security, public welfare, democracy, and development.” Yet existing strategies have focused on stopping violence rather than strengthening accountability and a civilian control of security services. In

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\textsuperscript{22} The others were in Mauritania (2008), Guinea (2008), Niger (2010), Mali (2012), Central African Republic (2013), and Burkina Faso (2015).
\end{flushleft}
both post-conflict and democratizing countries, “democratic control of the security sector is a sine qua non for future progress; it is an issue that can no longer be safely ignored” the report claims. Liberia’s legislature did not pass laws for civilian control of the security services until 2010, creating a vacuum often filled by ad hoc committees that undermine the development of expertise or worse, special presidential committees. Mali has had parliamentary oversight committees since 1991, but they are weak, focused heavily on counter-terrorism, and they oversee an organizationally fragmented security sector. Niger’s parliamentary committees operate in a more coherent legal framework for oversight, but they oversee a similarly fragmented security sector, and none of the members has military experience. Oversight since Niger’s 2010 coup has often meant cutting defense spending – precisely the opposite strategy pursued in neighboring Nigeria, which also has a history of coups. Statistical tests using a new global dataset covering all coups between 1961 and 2000 suggests that neither military cuts (risking anger) nor spoiling the military (arguably increasing its capacity) significantly influences the risk of coups. Nigeria’s restoration of democracy in 1999 included civilian constitutional control over the military and de-politicization of the officer corps, but it also left room for conflicting institutional responsibilities and embraced the militarization of routine public safety. Democratization there has thus coincided with a rise of violence through informal groups.

Like the research on presidentialism mentioned earlier, these various studies on civilian control of the military helpfully redirect some of the casual associations between executive regime type and democratic instability. Whereas classic work in the early 1990s argued that presidential regimes were inherently more prone to coups, research since then has generated compelling alternative explanations. Cheibub finds a robust statistical relationship between previous legacies of military rule and coups, thus accounting for Latin America’s democratic failures. Historical context, including choice of parliamentary executives that might have provided different incentives for civilian control of the military, is what matters. This trumps economic context as a driver of regime instability, and in his view it also rebuts modernization theory’s claims about the impracticality of democracy in low-income countries. One recent cross-national study challenging Cheibub’s argument about historical institutional legacies is that of Sing. He statistically tests 1,425 parliamentary regime years and 849 presidential years and finds a less effective legislature and (interestingly) an unfavorable US foreign policy toward the country increase the probabilities of a coup more than previous military legacy. Another challenge comes from a recent cross-national test of Samuels and Shugart’s intuitions linking parties and executives – but then turns their theory on its head by only examining these institutions in authoritarian regimes. Between 1975 and 2012, legislatures had a significant and systematic impact on the likelihood of coups depending on the type of executive selection process for the dictatorship (and accounting for differences with monarchies): Parliamentary regimes, where the legislature picks the executive, have more constraints on the executive

25 Though regional organizations are beyond the scope of this study, it is worth mentioning that there is evidence that organizations such as ECOWAS have generally helped deter coups in Africa. See for example, Cowell, Frederick. “Preventing Coups in Africa: attempts at the Protection of Human Rights and Constitutions,” The International Journal of Human Rights, 15, 5 (June 2011): 749–764.
because party members in the legislature have more power and stronger incentives to cooperate with each other. This not only results in more effective legislatures, it also reduces the frequency of major cabinet changes, contributes to higher economic growth, and lowers the risk of military coups, compared to presidential (undemocratic) regimes.  

Fourth, legislative capacity enhances what O’Donnell calls “horizontal accountability,” referring to the ability of state agencies to monitor other state agencies along the lines of the oversight functions described above, and in contrast to “vertical accountability” between voters and elected politicians. Efforts to strengthen the legislature, by increasing oversight skills or resources, quickly become sensitive since more robust checks and balances places limits on executive power. Thus, even more than the other functions of representation, including constituent services or legislating, which entail interaction and agreement with the executive, oversight interventions are especially sensitive for their potential to recalibrate the balance of power. Impeachment is one dramatic forms of oversight in presidential regimes. Though there is little comparative research in this area, Kim finds that legislators in developing democracies tend to advance impeachment charges against presidents when they are implicated in a major political scandal, when their powers are strong, and when they face a hostile civil society, which may mean that the president is the target of popular protest. Presidents are more likely to survive impeachment attempts when their party commands a large share of seats. Term limits are a second, ultimate form of oversight, which are “an almost universal and enduring part of presidential democracy,” according to Ginsburg and Elkins’ analysis of all constitutions since 1789. Terms are almost always limited to two, and executives in developed democracies almost always obey them. Recent efforts by presidents to stay in office in cases such as Uganda, Honduras, and the Philippines therefore stand in contrast to older democracies.  

Impeachment and tenure extension struggles, as the ultimate tests of horizontal accountability, may appear to bring democracy to the brink, making donors risk averse to programs that educate legislators about them. But both procedures signal an important domestic shift in developing democracies derived from new international norms for intra-governmental conflict resolution through existing legal channels rather than blatant extra-constitutional means. Term limits do have their skeptics, who argue that presidents can simply turn to “informal institutions” to defy the formal rules. But there is increasing normative and empirical support for them, especially in Africa where presidents have been particularly defiant.

PERCEPTIONS OF PARLIAMENTS

Even though such legislative assertiveness advances democracy in the long run, citizens in countries transitioning to democracy typically have little patience for clashing branches of government. “The temptation to concentrate power in the executive is immense,” argues Sing. As a result “the public frequently mixes up concentrated power with effective power, and the president usually benefits as a result.”

Survey data bear this out in several ways. Citizens in Africa, Asia and Latin America are strongly committed to choosing their leaders through free and fair elections but are often frustrated once those politicians clash through their different institutions. For example, in East Asia citizens show little confidence in government institutions, especially compared to other parts of Asia; this holds true across a range of 12 democratic and less-democratic regimes. In Africa, legislatures face weak institutional capacity, little autonomy from the executive, and low public confidence. Extensive cross-national survey data reports that Africans support independent legislatures but presidents enjoy higher approval ratings. African legislatures also have little capacity to promote democratization due to resource limitations and the small number of legislators per capita negatively impacts interaction with constituents.

Another study of Africa similarly highlights the coexistence of strong support for democracy alongside a divergence in confidence levels for different branches: citizens tend to support the president over the parliament and to express cynicism about legislative-executive relations. Survey data from 18 African countries claims that parliaments are institutionalized yet they often lack independence. In 15 out of 18 countries the president enjoys higher levels of trust compared to parliament. In short, respondents tend to trust the executive more than parliament, yet they see the importance of legislatures. While public opinion may thus be shifting against “big man” rule by valuing legislatures’ role, the authors argue that donors subvert legislatures when they go through the executive for implementer agreements.

A second type of challenge shaped by public perceptions arises from legislative-executive relations. Latin American Public Opinion Project surveys for example report that people do not really believe legislatures “obstruct” or “hinder” the power of the executive; this is especially true among younger and more educated individuals, who are more likely to believe that legislatures do not limit the power of the president. However, perceptions of the legislature do vary based on other citizen evaluations of institutional performance: “the greater the satisfaction with the performance of the current president, the lower the belief that the legislature hinders his/her power. In the same vein, as satisfaction with the performance of legislators increases, agreement with the idea that they hinder the president decreases.”

Citizens who believe the economy is doing well are similarly less likely to see the legislature as “hindering” the president. The author concludes that Latin America has entered a new political era, “where parliaments are seen as necessary to democracy and not as obstructionist and inefficient

institutions as they were viewed in the past.” But if sympathies for authoritarianism return or economic performance declines, behavioral support for legislatures’ assertiveness could also decline.\(^{39}\)

Rolef’s meta-study finds that trust in legislatures is low across 21 Western democracies too. Legislators tend to attribute their institutions’ unpopularity to problems related to information, education, and a negative media. As of 2006, institutional trust was the highest in East Asia, followed by Africa, the European Union, Latin America, and then Eastern Europe. In general, efforts to improve trust in different contexts have resulted in marginal improvements, at best. Low levels of trust in legislatures are important because they impede public buy in for the work of LSPs. Why train legislators who are corrupt, or lazy? Such charges can easily seem validated when legislators’ training entails extensive travel overseas or similar perks. At the same time, one could consider low trust as a proxy for healthy democratic skepticism, a conclusion suggested by some survey research in Africa. Rolof’s conclusions conform to this possibility: “the lack of trust in government institutions does not necessarily prove that the status of democracy has been undermined,” since many countries with high levels of cynicism also have high levels of satisfaction with democracy.\(^{40}\)

### III. LITERATURE REVIEW ON LEGISLATURES AND HUMAN RIGHTS

Do strong legislatures deepen democracy? The second stage of this literature review explores this question first from a logical and conceptual perspective, identifying contemporary examples where democratic demands and human rights commitments conflict. Importantly, in contrast to the functional perspective mentioned at the outset of the literature review, the tensions here originate in incentives rather than in the inherent roles of legislatures. Second, we summarize relevant research on the capacity of legislatures and emerging tools for measuring it. Third, we discuss the relationship between legislatures and human rights commissions. Notable, there are international standards for commissions and how they relate to legislatures, but as far as we know, there are essentially no comparable international standards for gauging legislatives’ obligations to such commissions. Finally, we discuss “judicial substitution,” whereby the courts in developing worlds step in to compensate for weak legislative capacity or an unwillingness to protect civil or political rights.

#### MAJORITARIANISM AND HUMAN RIGHTS

If human rights are an integral part of democracy as Ki-moon argues, and strong legislatures mean strong democracy, as Fish claims, then do strong legislatures mean greater respect for human rights? It is very tempting to apply a logical law of transitivity here: if A \(\rightarrow\) B and if B \(\rightarrow\) C, then also A \(\rightarrow\) C. But there is little empirical evidence so far suggesting such a clear causal path, and there are several reasons why such a simple causal two step relationship could be led astray. The institutional relationship between the legislature and the executive differs from the legislature’s relationship to the public. In the case of horizontal interactions across government branches, legislators may enjoy rewards from the party, possibilities for career advancement, or (certainly in the American case) fundraising opportunities based on vigorous oversight. The vertical connections to the public entails are different though. Citizens

\(^{39}\) Ibid.

delegate authority to legislators, presenting various opportunities for “agency loss” as good intentions are dilated, progress on an issue is misrepresented, or citizen monitoring is inadequate due to inadequate information. These different axes of accountability can align or misalign in a variety of circumstances.

Post-conflict settings, where many LSPs operate, seem to align interests along these different axes similarly. These situations tend to reinforce legislatures’ positive human rights roles due to a demand for crisis prevention and peacebuilding. According to the United Nations Development Programme (UNDP), legislatures in these contexts enable diverse societal groups to share their views and have them formally incorporated into dialogue, reconstruction and conflict resolution processes such as truth commissions. One in four legislatures in the world receives legislative strengthening assistance from UNDP. This includes security sector reform training and educating legislators on international treaties, the arms trade, and how legislatures can contribute to small arms control through negotiations, legislation and oversight.41

Outside of post-conflict contexts, some countries have a strong electoral constituency for human rights, which we take as an indication that vertical connections between citizens and government are strong, giving politicians incentives to respond. Recent evidence from Mexico suggests that voters actually evaluate incumbents based on their commitment to human rights – not simply traditional issues like economic conditions. Survey data from 2003 and 2010 suggest that citizens are more likely to support their president, their government and democratization in general when they believe that human rights are respected.42 Mexico’s Chamber of Deputies is one of the few legislatures in the world where politicians have been limited to a single term, but reforms taking effect in 2018 will end that and deputies will be elected during presidential mid-term elections. This will increase the incentives for politicians to be responsive on human rights demands or other issues if they seek re-election (and it will also give the opposition party a chance to make gains against the president’s party.)

However, politicians’ motivations for strong vertical ties can differ from those conducive to horizontal accountability. This means that legislators could seek to protect human rights along one axis of accountability and to weaken them on the other. James Madison feared the public’s “passions” were a poor guide to reasoned policy, and Thomas Jefferson worried that minority rights would get trampled by the majority. If transgressions on minorities are popular, than the democratic constituency for human rights may shrink, and elected politicians – especially in newer democracies – may follow the flow of public opinion. Sexual minority rights offer one salient example.43 Support for gay rights is unpopular in Africa, so one could say that “good” representation fails human rights if there are constituencies for legislating against these minorities.44 If human rights commissions defend sexual minority rights as human rights, they risk clashing with legislators (and influential religious leaders). There can thus be a disconnect between governments’ professed generalized obligations to human rights and effective interest aggregation. The effective democratic exercise of political rights undermines civil rights.

Counter-terrorism laws offer another example. Following the passage of sweeping counter-terrorism legislation in the United States after 9/11, countries such as Kenya, Uganda and Mauritania followed suit, shrinking space for political opposition or civil society. Governments around the world have argued that “restricting human rights is a necessary if unfortunate cost of preventing terrorism.” However one of the few studies to empirically test whether respect for human rights deters terrorism or enables it finds that such tradeoffs miss the point: abuses by the state aggravate political grievances that motivate terrorists; they also impede security strategy by reducing the government’s access to useful intelligence about terrorists. For elected legislators, this is a difficult argument to make in the face of popular demands to fight terrorism. As security declines, so too may public and political support for human rights. Various laws around the world also limit civil society space by playing a nationalist card and suggesting that dissidence in general has foreign rather than domestic sources. A bill in Uganda to limit freedom of association by regulating NGOs (discussed in greater detail in the case study) sailed through Parliament. Ethiopia passed a similar law in 2009, one that prohibited NGOs who received more than 10 percent of their funding from outside of the country from engaging in political issues, such as democracy and human rights.

It is important to emphasize that gay rights in Africa and the instrumentalization of counter-terrorism law for domestic political gain are not isolated examples. When 12 out of Nigeria’s 36 states adopted Sharia Law in 1999-2000, governors, state assemblies, and many citizens in the country’s predominantly Islamic north argued that democracy is about the will of the majority. Nigeria already permitted Sharia law in civil matters, if both parties consented to that option. But the secular nature of criminal law ultimately prevailed. Had it not, this critical and enduring compromise, enshrined in every constitution since the 1950s, popular preference would have jeopardized the civil rights of millions of Christians and ethnic minorities living in the North. Another example arises from an emerging “ethno-populism” in Africa, whereby opposition parties bring together traditional ethnic mobilization and economic grievances through populist mechanisms. In short, there are many contemporary examples where the incentives of electoral politics can conflict with liberal components of democratization.

**LEGISLATIVE CAPACITY FOR PROMOTING HUMAN RIGHTS**

To help legislators face any apparent (and possibly false) dilemmas between obligations generated by representation and legal commitments to fundamental rights, donors first need to assess the human rights capacities of legislatures. The most common approaches include expert evaluations, quantitative indicators, self-assessments, and qualitative measures. Evans and Evans argue that expert evaluations,
such as those of Freedom House, that use a country ranking system built on the average scores of experts miss nuance that more in-depth and small-N approaches capture. Qualitative approaches are difficult to compare over time and across cases. Also, there are often gaps between what indicators capture and the actual protection of a right. Self-assessments refer to questionnaires, noting that the ability of the general public to assess the institutional efficacy of legislatures and human rights may be imperfect. Given the pros and cons of the aforementioned approaches, Evans and Evans propose starting by mapping out all the legislative processes that pertain to human rights, aided by a desk and a field study. Then researchers should analyze the impact of the processes on the human rights legislation, using both quantitative and qualitative metrics. Finally, researchers should utilize case studies of legislation that capture diversity in the efficacy of legislatures.\footnote{Evans, Carolyn and Simon Evans. “Evaluating the Human Rights Performance of Legislatures.” Human Rights Law Review 6, no. 3 (2006): 545-569.}

Following a successful assessment, Dias and Taylor suggest there are two different donor approaches to empowering legislatures to promote and protect human rights. Increasingly common “issue-based” approaches train and educate legislators on a thematic basis. In response to our examples above, donors could highlight minority rights as human rights and therefore deflect popular causes that undermine liberal freedoms. However this could also limit programming to less controversial topics: not only would gay rights be quickly ruled out, so too would impeachment. The preferred approach remains an “institutional” one. This involves strengthening staff capacity or providing resources. In this approach, they argue support for a human rights committee is a critical avenue for enhancing capacity.\footnote{Dias and Taylor 2008. Primer on Parliament and Human Rights. United Nations Development Programme.}

One important area in this regard relates to whether legislatures should have dedicated human rights committees as a component of this capacity. Somewhat surprisingly, there is no consensus among human rights scholars on this question, which is debated in several chapters in Parliaments and Human Rights: Redressing the Democratic Deficit (Hart Publishing, 2015). A dedicated committee does help coordinate the work of other committees with related jurisdictions, and it can give legislators a stake in human rights protections. Perhaps equally surprising, few legislatures appear to adopt this structure. In its legislative strengthening activities, the Westminster Foundation for Democracy found that only Georgia’s parliament had a dedicated committee. Ukraine, where the committee had other significant duties, and Uganda, where jurisdiction over human rights is fragmented across multiple committees, are more common models. Since the state and non-state actors alike can be culpable for human rights violations, civil society organizations (CSOs) are critical for bringing relevant information to light and providing “political cover” for interested legislators. Still, the Foundation found high levels of mutual distrust between CSOs and legislators in its programs; in some countries, for example, politicians used such stereotypes to discredit critical information brought to light by CSOs.\footnote{Kunnath, G. & Patrick, A. 2015. ‘The World of the Westminster Foundation for Democracy’, in: Hunt, M., Hooper, H. J. & Yowell, P. (eds.), Parliaments and Human Rights: Redressing the Democratic Deficit. Oxford: Hart Publishing, 339-362.} It also seems important for any committee with a focused human rights jurisdiction to be more than merely advisory. For example, the Northern Ireland Human Rights Commission arose out of the impotency of its predecessor, the Standing Advisory Commission on Human Rights. Not only did the Standing Commission lack meaningful investigative powers, but unionists saw its composition as slanted, giving critical NGOs disproportionate attention, a charge capitalized on by more conservative political parties.\footnote{Munce, Peter. “Unionism and the Northern Ireland Human Rights Commission 1999-2005: Hostility, Hubris and Hesitancy.” Irish Political Studies 29, no. 2 (2014): 194-214.}

The work of legislatures is also closely tied to the responsibilities and powers of human rights commissions. The Paris Principles, established in 1993 by the United Nations, serve as the guiding principles for human rights commissions and their institutional links to legislatures. The Principles raise an array of issues including commissions’ mandates, independence, pluralism and quasi-judicial status. Under the Principles, National Human Rights Institutions (NHRI) are required to protect human rights, including by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities. In addition, they must promote human rights, through education, outreach, the media, publications, training and capacity-building, as well as by advising and assisting Governments. A UN accreditation body assesses the functionality of NHRI according to six criteria: (1) general competence and a broad mandate based on universal human rights and competence, (2) autonomy from government, (3) independence guaranteed by statute or constitution; (4) pluralism, including through membership and/or effective cooperation, in order to avoid the types of problems encountered in the Northern Ireland case, (5) adequate resources; and (6) adequate powers of investigation. The Paris Principles gauge the autonomy of NHRIIs based on the independence of the appointees, adequate funding and resources, and commissioners’ protection from arbitrary removal.

The Principles also guide institutions’ relations with legislatures, as elaborated in a 2004 summit known as The Abuja Guidelines. NHRIIs are expected to provide parliamentarians with regular expert, independent advice on national, regional and international human rights issues, provide ongoing training for legislators, advise the legislatures on the human rights implications of laws, propose legislation and constitutional amendments, and advise parliaments on the creation of parliamentary human rights committees. Arguably neither the Principles nor the Abuja Guidelines provide adequate guidance for what legislatures themselves are supposed to do. The Principles note that the process of receiving human rights information “should be transparent, visible and consultative,” and if it isn’t this “may lead the general public and, where appropriate, international treaty bodies to question their willingness to promote human rights nationally.” Even though over one hundred NHRIIs have been accredited by the UN according to Principles’ criteria, there is tremendous variation in the commissions’ impact on human rights conditions, especially where legislatures themselves suffer from limited capacity or autonomy. Many of the commissions, in fact, operate in regimes otherwise classified as authoritarian.

**JUDICIAL SUBSTITUTION**

In the face of a weak legislature, or one reluctant to proactively protect minority rights, judiciaries sometimes step in. We call this “judicial substitution,” because competent courts can remedy failures of representation – oppressive majoritarian views – that undermine human rights. This is important because it demonstrates the interdependence of Democracy and Governance programming. When designing an

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www.ohchr.org/EN/NewsEvents/Pages/ParisPrinciples20yearsguidingtheworkofNHRI.aspx


LSP, implementers need to take into consideration a variety of institutional considerations, including sectors where training may not be possible or where other donors are active.

Several cases illustrate the interdependence of legislatures and the judiciary in human rights enforcement. One study from Nigeria argues that judicial systems are better positioned to protect minority rights under international human rights law, especially on matters relating to the protection of sexual minorities. When faced with a dilemma between their constituents’ views and minority rights, electoral politics prevail. This makes the process of judicial review an essential tool for checking legislative excesses, including “momentary interests” such as the current anti-homosexuality fervor. Judicial independence and general public education about human rights are both important. Hashimonshony and Meydani call this turn to the courts the “judicialization of politics” because citizens turn to the courts to influence politics more so than normal. This happens, they say, amidst cynicism about democracy such as the sort mentioned earlier in Latin America.

When courts embrace a counter-majoritarian role, legislatures respond to this sort of judicial activism in two possible ways, says Veneziani. The legislature either pursues “detachment,” meaning legislators recognize they cannot compete with the courts in the protection of human rights and the institution adopts a reactive stance, or “engagement,” whereby the legislature embraces human rights and positions itself to complement the courts’ role. The principal sign of an engaged legislature is a permanent committee with a dedicated human rights focus. While the committee can become a “lightening rod” for controversy, this arrangement facilitates specialization by members. Older democracies with “a liberal-democratic culture” are actually less likely to have such a committee; only about half of Europe’s legislatures, for example, have one. By contrast, new democracies are twice as likely to have one. They see human rights committees as an institutional path to demonstrate their place in the international community, burnish their credentials as democracies, and improve their chances of gaining membership to international organizations such as the European Union. Membership in such bodies creates international obligations to human rights with which legislatures and courts have to grapple. Membership creates expectations that international law will be domestically implemented, potentially reducing the latitude of national governments and legislators. Recent controversies around the International Criminal Court’s investigations in Africa are one such example of such tensions, but they have been longstanding issues for the European Court of Human Rights as well. While this literature review has not focused extensively on institutional ties between domestic institutions and international bodies, it is important to acknowledge these issues and the breadth of this research.

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III. HUMAN RIGHTS AND DEMOCRACY IN USAID’S MISSION

Democracy and human rights are core principles of USAID’s mission, so tracing the evolution of its legislative programming with regard to these principles would be a significant undertaking, especially in light of some information from implementers’ work that has gone missing over the years. Nor was the mandate of this project to evaluate the efficacy of such programming. This section instead reflects on current USAID policy and practice with regard to these principles. It then integrates this analysis with key insights from the literature reviews above in order to identify thematic areas of opportunity as well as emerging challenges for LSPs. It concludes by outlining three plausible causal effects of LSPs on human rights, keeping in mind the complex interdependent relationship with democracy mentioned earlier.

The USAID Strategy on Democracy, Human Rights, and Governance (DRG) currently guides its policies to advance democratization and development through foreign assistance. DRG’s main goal “is to support the establishment and consolidation of inclusive and accountable democracies.” The Strategy highlights human rights as an objective integral to its broader development agenda, emphasizing more country-specific approaches and timelines for support and post-support plans. It notes that this new approach is a response to emerging challenges such as increased globalization and communications, barriers to democratization such as conflict and hybrid political systems, pervasive corruption, and barriers to participation and inclusion. By explicitly linking human rights to its development mission, USAID’s objectives reflect a broader trend among donors, known as Human Rights Based Approaches that treat human rights improvements as a primary goal of development.64

To achieve these broader goals, USAID commits to four development objectives (DOs) and attendant sub-objectives: First, “promote participatory, representative, and inclusive political process and government institutions.” This entails assisting development partners in promoting freedom of expression, promoting a “politically engaged and informed citizenry,” and supporting “participatory political processes.” Second, foster greater accountability of institutions and leaders to citizens and to the law. This DO entails a range of issues ranging from electoral assistance enhancing institutions’ ability to strengthen checks and balances. Third, “protect and promote universally recognized human rights,” including supporting mechanisms and institutions that promote this critical right. Fourth, “improve development outcomes through the integration of DRG principles and practices across USAID” by improving marginalized groups’ access to public service delivery. Legislatures play a significant role in each of these areas and in terms of USAID’s understanding of the context in which assistance takes place. The transition to more country-tailored DRG approaches shows a momentous change in thinking.65

Legislative training programs have certain advantages over other types of capacity building. There are a finite number of legislators, meaning that it is possible (and cost effective) to interact with a large share of the institution overall rather than merely a small but representative sample. This means that selection decisions are simplified ex ante, as opposed to development assistance or civil society training, where donors typically must choose from among hundreds, or even thousands, of potential recipients and

partners. Barkan, in his study of African cases, suggested that legislatures contribute the most to democratization where there is a “coalition of reformers” within the legislature. This may submit donors to suggestions of bias by implicitly excluding some legislators, but the existence of such subsets clearly simplifies the tasks of targeting and assessing D&G work, and if Barkan’s hunch is right, advances democracy as well.

LESSONS LEARNED

Prior to a seminal academic study in 2007, hardly any empirical research attempted to disaggregate international assistance by discrete sectors; rather, broad categories such as health or education were analyzed. Finkel et al.’s research, using unique data from USAID, focused on D&G, determining that narrowly targeted assistance at the “micro level” such as organizing an election or training parliament is more effective. A shortcoming of the study is its use of Freedom House data to measure democracy, as well as its limited use of variables to control for intervening factors that could impact such targeted aid, which as noted earlier is typically small. More controversially, the study identified an inverse relationship between D&G assistance and human rights protections—a surprising finding that the authors reasonably speculate could be the result of increases in human rights reporting in recipient countries. Since the Finkel et al. study, a burgeoning literature has considered the international drivers of democratization, more fully situating aid within broader diffusion effects such as cultural exchange, communication density, and trade ties. Most prominently, Levitsky and Way conclude that these “linkages” are more likely to contribute to democratization than “leverage” exercised through sanctions or military force. Their study focuses only on illiberal hybrid regimes in the post-Cold War era, and legislatures are scarcely mentioned. But the study has constructively challenged previous analyses focused on either domestic elite splits or protest movements as sources of democratization, and it offers an empirical approach to studying the sort of international diffusion effects that captured the world’s imagination after Tunisia’s liberalization. A recent study of the Arab Spring concludes that thus far that this diffusion “has yielded a depressingly modest harvest.”

In this sense, the limited success of diffusion effects during Arab Spring should moderate hopes that targeted D&G assistance can drive further democratization. Some accounts of the Arab Spring argue that the elite impetus for reform—even in the midst of popular uprisings such as Tunisia’s—remains relevant. For USAID the issue is that an LSP could miss the mark by improperly assessing where the locus, and the momentum, for reform resides.

Several other important critiques and debates emerge from the literature on LSPs and D&G assistance. Is aid better directed toward institutions or education on issues? Burnell argues for issue-based support, suggesting that it is less politically sensitive than institutional support aiding political parties. Issue-based support may make legislators competent on the issues, enabling them to hold the government accountable while “subverting” their clientelistic dependency on the executive. Civil society linkages can also play a

constructive role for legislators with this task. Dias and Taylor argue that such approaches are especially appropriate for enhancing human rights capacity.

Dias and Taylor also identify the duration of assistance as a second important concern impacting the efficacy of LSPs. Australia’s state legislatures, which formally partner with Pacific island nations, suggests a step in the right direction by building sustainable institutional ties. The UNDP, which spends about 40 percent of its budget on D&G work, including 60 LSPs, also takes a long-term approach by assisting both legislators and staff development. To support this work, it created the Parliamentary Development Team and the Global Programme on Parliamentary Strengthening (GPPS), which receives about 8 percent of the budget for Global Programmes in Democratic Governance, or $2.4 million. In an analysis of American D&G, Shulz argues that to be effective, LSPs must entail a long-term commitment and be explicitly situated within other aid programs and activities. Much like the above discussion about judicial substitution, LSPs need to be tailored not just to the political history but to the particular institutional arrangement. Sustained engagement is important if aid is to have meaningful impacts and build relationships of trust between donors and program participants. A good rule of thumb would be a commitment to programming and training that extends at least beyond the next election cycle in the recipient country.

A third critical observation concerns executive bias in programs. Because donors typically approach incumbent officials in the executive branch, LSP assistance could be seen as an effort to weaken the executive. Donors therefore become risk averse, avoiding issues such as impeachment procedures or comparative constitutional considerations on term limits, issues discussed earlier. Based on case studies from Rwanda and elsewhere, Rugumamu argues that when D&G goes around the legislature, it unintentionally strengthens already strong presidents. Power agrees, arguing that longevity is important to address high turnover in many legislatures as well, which undermines the development of expertise. Interestingly though, democracy assistance programs in the Middle East and North Africa show very few signs of executive bias. “Beyond support for elections and democratic institutions, such as legislatures,” writes a new study of democracy assistance, “such aid typically bypasses the more official top-down aid channels to assist groups and implement projects directly or through third parties, including an increasingly broad and active set of international private voluntary organizations (PVOs).” This is notable given the increase in the region’s share of overall aid since 1989 and especially since 2001. By 2010, about 25 percent of US aid to MENA states was devoted to democracy assistance, compared to less than 20 percent for the rest of the world. This means that democracy assistance specifically constitutes a larger

74 Azevedo-Harman, op cit.
76 Power, op cit.
proportion of aid to the region compared to other regions.\textsuperscript{77} So while executive bias is a valid concern, once again the Arab Spring points to strong countervailing trends.

Despite this important research, much of which utilizes primary sources from D\&G studies, additional empirical research on legislatures and human rights is needed in developed and developing countries alike. In Europe, Hunt points out, little is known about the role of parliaments in fulfilling the positive obligations generated by human rights instruments. In global terms, no systematic comparative research has emerged from the Inter-Parliamentary Union (IPU) survey bringing together legislator attitudes on human rights with measures of parliamentary effectiveness.\textsuperscript{78}

Based on the literature review and the above analytical studies of D\&G, legislative strengthening could have a systematic impact on democratization and human rights in at least three ways. First, LSPs could simultaneously strengthen both democracy and human rights. We would expect to identify parallel effects, meaning that all good things truly do go together. Such results here could be highly contingent upon the type of measure used for democracy in any statistical examination. For example Freedom House’s civil and political rights are often equated with democracy, which could confirm the hypothesis. Alternative measures of democracy, primarily the Varieties of Democracy project, whose full data will be released in late 2015, aim to address such shortcomings. This would justify and reinforce the current USAID approach, as well as the UN Secretary General’s rhetoric at the outset.

Second, LSPs could improve human rights or democracy, but not necessarily at the same time. We can think of this in terms of two possible divergences. In (a) democratic stagnation could occur, for example, in an authoritarian regime undergoing a period of liberalization in order to deter deeper discontent. The early democratization literature argued that dictators struggle to control the pace or depth of liberalization once they make modest concessions. But a key point of Levitsky and Way and the current generation of research is to highlight the adaptability of autocrats, enabling openings to serve as “pressure valves” for frustration.\textsuperscript{79} In the other divergence, (b), an LSP improves democracy but not necessarily human rights. This is plausible for the reasons offered by Finkel et al., as well as the scenarios mentioned in relation to majoritarianism and minority rights: by seeming to validate majority will automatically, minorities of various stripes are outnumbered and outvoted – advancing collective participatory components of democracy but undermining liberal ones.

Third, LSPs could initiate or accelerate a chain of causal effects. For example, legislative strengthening enhances democracy, as Barkan (2009) argues, which then deepens the commitment to human rights. But this happens only because of some intervening phenomena, such as the growth of middle class business alliances that alter the basis for electoral politics. Arriola, for example, suggests that multi-ethnic private sector coalitions are prevailing over old ethnic parochialism that drove wedges through African politics for decades.\textsuperscript{80}


A fourth broad possibility is a complicated feedback effect. In this scenario, legislative strengthening could enable conditions for improved human rights monitoring that then contributes to democratization but which is essentially only possible under particular initial conditions of democracy.

In a fully specified study, each one of these potential relationships would also have to take into consideration a broad array of contextual or intervening factors, such as those identified in large literatures. Hopefully such research will be undertaken in the future. However, since this project is the first general attempt to assess LSPs by USAID, it is more important at this stage to explore how different USAID goals interact with the theoretically possible relationships and to provide some suggestions for programmatic purposes and for future empirical testing. The case studies in the next section add some depth to the above generalizations, making the case for democracy promotion with prudence and participation.

IV. CASE STUDIES: NIGERIA AND UGANDA

RESEARCH DESIGN AND SELECTION CRITERIA

The time and funding constraints noted earlier limited our ability to pursue empirical cross-national analyses that could test some of the intuitions developed above or observations from the secondary literature. In this section we therefore probe some of our key insights through a comparative analysis of two cases: Nigeria, drawing on a desk study with remote interviews, and Uganda, drawing on original research in the field. Research was conducted from April to September, 2015. An immediate objective of this analysis is to provide a preliminary empirical basis for assessing causal relationships between legislatures and human rights, and secondarily for considering the possibilities that external technical assistance can amplify such relationships. In addition, we sought to clarify the complexities of intervening factors mentioned above, as well as identifying any additional ones. Such factors would need to be considered in a more comprehensive or quantitative analysis of LSPs.

With these objectives and limitations in mind, our case selection strategy considered six criteria, three centered on baseline similarities between cases, and three that identified dichotomously oriented differences between the cases. First, we selected a pair of African countries. Focusing on Uganda and Nigeria has some disadvantages, because America’s ties are historically more recent and arguably shallower compared to other parts of the world in terms of density of bilateral ties. But it also balances the regional focus apparent in other parts of the project, providing a more holistic picture of legislative strengthening. Moreover, it helps control for geographical or cultural factors, thus reducing risks associated with omitted variable bias while enabling us to control for considerations such as colonial legacies. Nigeria and Uganda both experienced indirect rule under the British, creating a distinct institutional heritage characteristic of other Anglophone countries’ experience with interest groups, electoral systems, media, state-building bureaucracy, and constitutionalism (Widner 1994).

Second, our case studies have both received sustained legislative strengthening at meaningful levels. Ideally the aid would be continuous. But since the project data illustrates this is rarely the case, multiple programs over a period of time is sufficient. This engagement is important if aid is to have an institutional impact deeper than any specific government in power. The “meaningful levels” threshold is important in order to reduce “crowding out effects” of different aid objectives, including those of other donors. This also better positions implementers to situate their programmatic work within broader multinational donor

As a third criterion, we focused on cases that are important strategic allies of the United States. This increases the likelihood that the USG values the legislative strengthening within its overall country strategy. But “strategic” also means that it is important to look for lessons learned about how donor and recipient alike managed competing policy priorities.\(^{81}\) Did recipients actually prioritize human rights or democratic practices such as transparency or public participation over national security? Both cases are important USG allies on different fronts of counter-terrorism: Nigeria’s Islamic insurgents aligned with the Islamic State in the Levant (ISIL) and exported conflict to neighboring Cameroon – raising broader concerns for West Africa. Uganda has been a secular and military bulwark against al Shabaab’s threat to East Africa. Both cases have seen expanded military ties too – directly in Uganda’s case as US advisors have collaborated closely with troops pursuing the warlord Joseph Kony. Such activities constitute an important test for domestic human rights institutions and democratic constituencies.

While the first three criteria establish that the two cases are comparable, worthy of attention, and can be effectively studied side-by-side, the remaining criteria refer to salient differences. Despite these differences, representing highly plausible causal forces common in the literature, we present data illustrating a decline in physical integrity-based human rights and to some extent, in democracy, too. Like the other teams involved in the broader LSP project, our analysis is not a technical programmatic assessment that follows standards of foreign aid monitoring and evaluation. Our analysis focuses on macro-level outcomes and the potential intervention of broad historical or contextual factors that could impact assistance.

Thus our fourth criterion for selection was different histories of party formation. Parties provide an institutional basis for cooperation between legislatures and executives, or in the relatively rare case of divided government in the developing world, the organizational basis for competing leadership recruitment streams. They also provide the basis for internal coordination for the exercise of checks and balances, or alternatively, for one branch (typically the executive) to dominate through control of campaign resources, ballot access, or leadership appointment. Here we focus on an important historical distinction across African experiences: endogenous social movement legacies with roots in nationalist movements or in economic liberalization protests during the 1980s\(^{82}\) compared to national liberation movements, which struggle to shed secrecy and coercion and are slow to embrace political competition.\(^{83}\) Nigeria’s parties fit the former mold, with elite political links to broad-based social movements for decolonization and later for democratization. By contrast, Uganda has experimented with one-party and “no party” politics and the ruling party has been in power since it emerged victorious from the bush in 1986. One could therefore expect Nigerian parties, and perhaps legislators, to have access to constituent counter-forces to balance executive power. But are there incentives for legislators to do so? In Nigeria, as in Uganda, a single party has dominated legislative and executive branches. We aim to distinguish the effects of this common experience from the divergent paths to party development.

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A fifth criterion relates to executive tenure and legislative authority to reallocate regime power. Our cases sharply diverge on this point: Uganda’s president successfully modified the constitution to maintain his eligibility for office, essentially in exchange for an opening up in the party system (Tangri and Mwenda 2010). However in Nigeria, when President Olusegun Obasanjo orchestrated a campaign to modify the constitution, the Senate decisively voted down the proposal, arguably deepening legislative institutional development. This is important for our purposes because tenure extension offers a critical test for legislative power.

Sixth, we sought cases with contrasting histories of civil-military relations. Coups have a lasting impact on democratic behavior long after a successful transition back to civilian rule. They discourage legislatures from reining in security services, and retired soldiers often enter civilian politics, forming a powerful political interest group. Nevertheless, robust political liberalization seems to “inoculate” democracies from coups, as discussed in the literature review above. Nigeria has had at least six coups since 1966, and two coup “scares” since the 1999 transition – one in 2004 and another in 2010 during a succession crisis following the natural death of the president while in office. Uganda has never had a coup, unless one counts the current president’s victory as a bush rebel in 1986.

In addition to an extensive review of the secondary literature, we carried out semi-structured interviews with politicians, former politicians, civil society activists, and bureaucrats. Questions fell into several categories. From civil society, we sought a general characterization about space for associational life, information about the kind of work and type of groups engaged in advocacy or issue development with the legislature, and an assessment of how legislators handle “major incidents” concerning “public safety.” From members of parliament, we asked about the general effects of foreign donor training on the legislature, as well as questions pertaining to the committee structures for oversight in general and for security services in particular, whether members have relevant experience for their assigned committees, agenda control for such committees, and frequent interaction with civil society. We also sought information about members’ relations to their parties, in order to understand whether there are any advantages of developing an expertise in domestic human rights concerns. Another set of questions asked subjects to characterize human rights over time in their country, and about the kind of people (academics, activists, ordinary police officials, victims, etc.) who provide information to legislative committees. We also inquired about any shifts over time in legislators’ willingness to investigate problems with police or the military. Even with prodding, many respondents interpreted this question to only apply to criminals or insurgents and not state violence. We also asked about the general perception of donors interested in enhancing democracy, and willingness to receiving training specifically on human rights protections.

CASE STUDY: NIGERIA

We begin by situating the development of Nigeria’s legislature in historical and political contexts, drawing upon secondary sources and a desk study that includes telephone interviews. It proceeds first with a summary of Nigeria’s democratic opening, noting previous failed attempts at democracy and enduring legacies of colonialism and military rule as well as other factors that research associates with adverse democratic development, such as an oil economy and ethnic politics that undermine public goods. Second, it describes the state of the National Assembly since the 1999 transition to democracy, summarizing significant developments related to legislative institution building, relations with non-

governmental organizations (NGOs) and the media, the party system, and elections. Third, it outlines legislative strengthening programs since 1999, noting an unusually significant capacity for in-house training. Little information is available to assess the impact of these programs. Fourth and finally, the case study summarizes the legislature’s oversight functions, including its role in fighting corruption—and sometimes participating in it. This discussion also includes examples of successful assertion of legislative authority over the executive, suggesting a capacity for checks and balances within a presidential system and a bicameral legislature. These features of democratic development have been undermined by frequent turnover of Assembly members, concentration of the economy in the oil sector that raises the stakes for federal control of power, and arguably shifts within civil society’s disposition and strategic incentives. A violent Islamic insurgency that has killed upwards of 13,000 people since 2009 has complicated the institutional oversight of human rights, as there has been little domestic criticism of the government’s role in abuses, which include the deaths of thousands of terrorism suspects while in custody.

Introduction: Nigeria’s Democratic Opening

Nigeria’s election of Olusegun Obasanjo as president in 1999, following the unexpected death of the brutal dictator Sani Abacha, ushered in the longest stretch of democracy since independence from Britain in 1960. This upward trajectory in democratic development followed a path of modest but meaningful successes and reforms, culminating with the country’s first party turnover in April, 2015, with the defeat of the ruling People’s Democratic Party (PDP) for the presidency, control of the National Assembly, and most of the 36 governorships. Previous elections had been either procedurally flawed, violent, or both. The elections in 2003 were the first organized by a civilian regime that were not followed by significant violence, but they were considered barely acceptable by international and domestic observers. The 2007 elections constituted the first time one civilian government handed over power to another but were deeply flawed and widely condemned. The 2011 elections were praised as free and fair but were immediately followed by violence that killed over 800 people. Thus the 2015 victory for the All Progressive Congress (APC) turned a new page entirely with the defeat of an incumbent party in the freest and fairest election since 1959 as well as a geographical distribution of support that transcended ethno-regional cleavages rooted in historic and cultural differences between the predominantly Muslim North and the largely Christian South. This progress toward democratic consolidation in Nigeria is especially notable given the failures of previous attempts at democratic governance in the First Republic (1960-1966) and the Second Republic (1979-1983). This section provides a brief historical background to the country’s political opening in 1999 and outlines how colonial legacies, military coups, ethnic divisiveness, and competition over oil rents all presented barriers to democracy.

The democratic cards seemed to be stacked against a successful transition in 1999, with a history of institutionalized ethnic politics, recurring military disruptions of civilian rule, and the onset of the “oil curse” that accompanied a rise in corruption. Obasanjo’s selection by the PDP as its presidential candidate was a double-edged sword: as a war hero in the Civil War (1967-70) and later as a dictator who oversaw the 1979 transition, he had the military’s respect. But he also brought familiar heavy handed habits to the presidency, for example, by providing few details about federal spending proposals, surrounding the

Senate President’s house with federal security forces during a legislative dispute over a bill, and bombing villages in the Niger Delta (notably Odi, in Bayelsa) that had lashed out against military operations there. Human rights organizations spoke out against the military’s abuses, but a truth commission known as the “Oputa Panel” formed by the government during the transition to investigate past abuses had a limited mandate, and its full report has never been made public.

During the transition, civil society organizations pulled together into a large umbrella coalition, the Transition Monitoring Group. The TMG has monitored elections ever since the transition in 1998-1999. Many of its members underwent a period of adjustment from more adversarial work during the dictatorship to policy advocacy and public education; this often colored its contacts with the National Assembly, whose members were typically reluctant to engage civil society. Nigeria has experienced ongoing, serious human rights violations since the early post-transition years. This is graphically illustrated by data on physical integrity from the Cingranelli and Richard dataset (2010).88 One activist argued that donors have provided little support for any human rights work critical of the government, meaning for example, that whistleblowers have little protection. National Assembly members have few incentives to investigate human rights problems, particularly around the time of elections.89 One large private foundation commented, in a recent meeting in Washington, DC, that assertive organizations such as Constitutional Rights Project and Civil Liberties Organization are gone, and that civil society is doing little to hold the government accountable on security issues, adding that many CSOs operate more like think tanks rather than the constituency-oriented organizations they were during pro-democracy struggles in the 1980s and 1990s.

Another, separate shift in civil society relates to the prominence of cultural organizations grounded in each of the three major regions with ties to parties and politicians. For example, Afenifer formed as a socio-cultural organization among Yoruba and maintains close links to Southwestern politicians, while the Arewa Consultative Forum plays a similar role in the North, linking traditional elites with contemporary politics and politicians.90 Endorsement or criticism from these organizations is weighed heavily for candidates or policy questions. Their public statements on presidential powers, negotiating with militant groups, constitutional revision and other issues sometimes accent ethnic or regional interests rather than the issue-based organizations that have proliferated since the transition.

The 1999 Constitution, hastily promulgated before the inauguration, was substantially based on the 1979 version that set up a presidential system with a bicameral legislature. But unlike the vast majority of constitutions promulgated in the post-Cold War wave of democratization, it was not subject to any kind of public referendum. The reality of a decreed constitution legitimized arguments by minorities and ethnic nationalists agitating for a Sovereign National Conference styled after Francophone African countries where constitutions were re-written through direct citizen involvement.91

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89 Telephone Interview, Kemi Okenyodo, CLEEN Legal Foundation. 24 July 2015.
Elections for the National Assembly are held concurrently with presidential election, though the precise timing has been a recurring point of contention during at least two previous cycles of electoral reform. As noted, national elections were held in 1999, 2003, 2007, 2011, and most recently in April 2015. Among the freshmen elected in 1999, more than 80 percent had never held elected office, amplifying a weak institutional bargaining position vis-à-vis the executive. The Assembly has continued to have surprisingly high rates of turnover, notably in 2007 and 2015. This has undermined institutional memory and the application of legislative experience to recurring questions such as the legislative authority to modify the president’s federal budget. One former member estimates that 300 out of the 360 members of the House elected in 2015 were freshmen; high attrition, in that member’s view, weakens the institution.

While up to 30 parties have competed in the presidential elections, and small regional parties have managed to secure some governorships and National Assembly seats, competition since 1999 has repeatedly played out among about three parties. Until the 2015 elections the PDP was clearly dominant at all levels of government, while the other two larger parties underwent several name changes and efforts to consolidate or form coalitions. The APC formed from such a merger of parties, including the All Nigeria Peoples’ Party (ANPP), the Action Congress Nigeria (ACN), the Congress for Progress Change (CPC) and a few small parties. The persistence of smaller parties, despite a Single Member District – plurality electoral system that tends to consolidate around two large parties, was attributed to their strong regional appeals. For example, ACN dominated the Yoruba Southwest and ANPP was strongest in the Northeast and Northwest. The APC’s presidential victory in 2015 is all the more remarkable since the party is less than two years old. Since many of its members are disgruntled PDP defectors, it now faces challenges for internal democracy. While members may be able to win election or re-election when they are unpopular with the executive branch, it is very difficult to do so against the wishes of the party. Local
and regional “godfathers” often interfere in such disputes, throwing resources behind their preferred candidates and undermining the transparent selection of candidates.  

Like the early years of President Obasanjo’s tenure, the National Assembly under APC leadership is already clashing with the party leadership. This happened shortly after the 2015 election when APC Senators elected a leadership opposed by the party organization. Acute tensions between the legislative and executive branches are common, even though Nigeria has yet to experience “divided” government, with different parties controlling different branches (or “arms” as Nigerians typically refer to them). Ordinary citizens often see this as petty, while politicians often lament such behavior as a case for more disciplined parties.  

The African Legislatures Project (ALP) examination of the “role orientations” of legislators ranked partisanship in Nigeria’s National Assembly the lowest in eleven African countries. However this can also be interpreted as a sign of institutional development, as the Assembly asserts its independence by choosing its leadership or setting the legislative agenda as the case may be. There have only been a handful of presidential veto overrides, but they were on high profile legislative issues such the Niger Delta Development Commission.

The National Assembly’s efforts to limit executive discretion offer examples of this institutional development. For example, the Senate voted down President Obasanjo’s attempt to modify the constitution in 2006 in order to run for a third term. Legislators played a constructive role in resolving the constitutional crisis that began in November, 2009, when Obasanjo’s successor, Umaru Musa Yar’Adua, fell ill and completely disappeared from public view for nearly six months. It has also contributed to broad institutional reforms with the creation of the Economic and Financial Crimes Commission (EFCC) as well as a commission to coordinate development efforts in the polluted and disgruntled Niger Delta region. The Assembly has also at various times contributed to democratic control over government spending through its role debating and overseeing the federal budget. This has been especially important over the last decade, as Nigeria’s economy grew at about 7 percent annually, emerging as the largest economy in Africa in 2014. After nearly half a century depending on oil revenues for almost all foreign export earnings, the economy showed signs of diversification over the last decade, primarily due to expansion of the service sector, which accounts for 57 percent of recent Gross Domestic Product growth. But if the National Assembly’s support for debt relief in 2006 – agreeing to pay off virtually all of the country’s foreign debts – was a shining moment of fiscal prudence, numerous corruption scandals resulting in the removal of its leadership were low points. Its spending on itself appeared to reach profligate levels in 2014 (by some estimates nearly a quarter of the federal budget).
surveys show an increase in percentages of Nigerians since 2001 who say that “most” or “all” of the National Assembly is involved in corruption.

Surveys released shortly before the 2015 election suggest while large minorities favor strong executive power, citizens appreciate the importance of separate and sovereign legislative institutions. Two-thirds (68%) of Nigerians say law-making power should rest with the National Assembly, “even if the president does not agree,” but a significant minority (25%) say the president should “pass laws without worrying about what the National Assembly thinks.” More pointedly, a clear majority of Nigerians (58%) say the National Assembly “should ensure that the president explains to it on a regular basis” how public funds are spent, while 40% say the president should be allowed to govern freely without “wasting time” to justify expenses.98

Civil society played constructive roles on specific issues, such as the passage of a Freedom of Information bill, after a long public campaign to pass it.99 The 2010 electoral reforms passed by the National Assembly similarly benefitted from detailed input from a broad electoral reform coalition. However on many other issues it has been less engaged. Several years ago the Assembly established a civil society liaison office, but it its impact is unclear. Some organizations questioned why one particular CSO runs the office and raised questions about coordination or favoritism, complaining about the difficulty of even physically entering the Assembly now, compared to a few years ago. Other CSOs portrayed a more cooperative relationship with the National Assembly, pointing to the constructive role of lawyers’ groups in passage of the Violence against Persons Act and the Tobacco Control Act, where groups submitted a memo and were invited to testify.100 The electoral reform bill was not passed in 2014, despite pressure from civil society. Politicians consulted for this project argued that CSO involvement with the National Assembly has declined.

After the 1999 transition, legislators often viewed the media suspiciously – a legacy of journalists’ role in exposing the crimes of military governments. Systematic outreach to the media has improved significantly, but this has also given journalists privileged access that discourages them from uncovering corruption or political disputes, rather than reporting on those that have already spilled out into view. The Committee to Protect Journalists reports that journalists faced increased threats to their personal safety leading up to the 2015 election, mostly due to the environments in which they work. Another alarming trend is the foreign media’s declining access to the country.

History of Legislative Strengthening Programs in Nigeria

From 1999-2003, the Mississippi Consortium for International Development provided technical assistance and training to state legislators and other local elected officials. The $1 million grant from USAID funded work developing and strengthening legislature process and procedures, developing constituency relations and improving the relationship between the legislative and executive branches. From 2000 to 2001, USAID provided $1.1 million to the National Democratic Institute for International Affairs (NDI) to provide technical assistance to the National Assembly to improve legislative-executive relations and information technologies.101 In 2001, an additional $2.2 million grant included an expanded

100 Telephone interview, Abubakar Jimoh, Civil Society Legislative Advocacy Centre. 24 June 2015.
101 The author led this program for NDI.
mission to build skills of constituency staff; conduct seminars on economic growth, trade, poverty alleviation, and HIV/AIDS issues; develop a legislative internship program; and strengthen the public hearing process. Then, from 2003 – 2008, CEPPS partners implemented a $6 million grant to strengthen the capacity of National Assembly committees in areas of legal drafting, budget preparation, oversight, civil society outreach and constituent relations. At the time of this writing, no monitoring and evaluation information was available to empirically assess the specific impact of these programs. But nearly all of the sources contacted for the desk study were aware of either USAID's or NDI’s work.

Unlike many countries, the National Assembly allocates a significant amount of money for in-house training. It established a Policy Analysis and Research Project (PARP) in 2003 with assistance from African Capacity Building Foundation (ACBF). Then in 2011 President Goodluck Jonathan signed into law a bill expanding these services with the establishment of the National Institute for Legislative Studies (NILS). Its mission statement describes it as “a world class multi-disciplinary institution capable of providing training, capacity building, research, policy analysis and extension services for the legislature at the Federal, State and Local government levels.” NILS offers research assistance to committees, including evaluating and monitoring implementation of annual budgets. Each of Nigeria’s 36 state governments allocates a share of its budget for training as well. Foreign trips consumed such a large share of the legislative training that several federal budgets have attempted to freeze spending on them. Foreign travel contributed to public perceptions that legislators are disengaged. In addition, interviews with several former members of the House suggest that the in-house services are underutilized or perhaps mismatched with their needs. According to one former member, the in-house training is “sometimes less comparative,” arguing that training for newly elected members would be better implemented by the parties.

It is clear from the research that the high rates of turnover mean that the skills and comparative knowledge acquired through training has a brief shelf life. Implementers need to consider intensive, extended orientations for freshmen with the election of each new Assembly.

The National Assembly’s Policy Roles and Oversight Functions

Despite the apparent consolidation of democracy in institutional terms, economic performance, and electoral administration, human rights violations by state and non-state actors have generally increased in recent years. This section discusses the National Assembly’s response to human rights concerns and other signs of its policy and oversight functions. Though the committee system suggests a high degree of specialization conducive to oversight, over half of the 109 members are committee chairs. According to the IPU, the average number of committees per legislature is 17 and 70 percent of the world’s legislatures have fewer than 20; astonishingly, Nigeria has 84 committees. Many members see little value in rank and file membership since chairs control significant resources for travel and other perks. The large number of committees contributes to fragmentation, and the high turnover rate (due in large part to party control over candidates and the Assembly leadership’s frequent rotation of committee assignments) undermines the development of expertise. Most interviewees commented that civil servants in the Assembly and in-house institutions with expertise are inadequate and under-utilized.

102 See for example, Adebolu Arowolo, “2009 budget: Dead on arrival?” PUNCH, 8 December 2008.
103 Telephone interview, Honorable Habeeb Fasinro. 23 July 2015.
Human rights challenges since the transition have centered on several different kinds of issues, and the National Assembly’s willingness and capacity to oversee them has varied. One ongoing issue concerns “settler-indigene” conflicts, in which migrants to new states suffer discrimination; when they are from a different ethnic group or religion the sources of tension are amplified.104 The Assembly discusses these issues, but has yet to address the citizenship laws and other legal reforms related to the Land Use Act (decreed under military rule) that might address some of the underlying causes. It has also discussed Islamic law after twelve states extended Sharia from civil code (a constitutional arrangement in effect since the 1950s) to criminal code. But like the courts, it has been reluctant to assert secular supremacy or otherwise decisively resolve the issue given the sensitivities between predominantly Muslim north and largely Christian south. The National Assembly has arguably been the most engaged with human rights issues in the Niger Delta, where militant groups launched a series of rebellions starting around 2004. By 2006, hundreds of foreigners had been held for ransom, and the oil sector, which at that time typically pumped about 1.5 million barrels a day, was losing up to a third of its capacity to “bunkering” or direct theft of oil from pipelines.105 As noted above, the National Assembly created a commission to coordinate development in the region and generally supported an amnesty program launched in 2009-2010 to demobilize militants in the Niger Delta. It has been less reluctant to assess the overall success of the amnesty program or to investigate large government contracts that have made former militants wealthy.

The Islamic insurgency popularly known as Boko Haram, which has killed thousands of civilians since 2009, has consumed security concerns since at least 2013. President Jonathan was initially reluctant to treat the violence as a threat with national scope. In July 2014, a Gallup poll reported that 95 percent of Nigerians see the Islamic insurgency led by Boko Haram as a “major threat” to the country’s future, but also noted the fourth consecutive annual decline in confidence in the police, the military, and political leadership’s ability to handle the threat.106 International human rights organizations have documented that the government’s security services are also responsible for thousands of suspects captured in broad counter-terrorism sweeps who then died in custody, some after being tortured.

The National Assembly’s roles in policy formulation and oversight have been limited. “Legislators have not done a good job,” commented one former member. “Much money has been allocated to fight the insurgency but there has not been necessary follow-up about how it has been used.”107 Various advocacy organizations noted that national security oversight is impeded by secrecy. For example, the findings of a recent investigation into police mismanagement were never released. The National Human Rights Commission is engaged and public hearings take place but politics, but “politics interfere” and members have few incentives to report out disagreeable findings.108 One organization focused on police reform in particular noted that the committee structure for oversight of human rights is adequate, but they “are not very accessible to citizens” and parties often do not choose members with relevant experience.109 One former member of the House said that state abuses deserve scrutiny, but that there must be a balance with the victims of non-state groups as well. On such issues, he said the Human Rights Commission is “playing a good role” but expressed concerns that it needs to be more independent and its views may not carry sufficient weight for the National Assembly.

The National Assembly has successfully demanded additional details from executive branch spending proposals. Importantly, when President Goodluck Jonathan in 2014 sought to extend a federal State of Emergency that had been in effect in three northeastern states for a year and a half, the Senate imposed conditions on the extension, and declined his request for borrowing money for military operations.\textsuperscript{110} However the budget has become less transparent in other ways. For example, federal revenue allocations from the central government to the states are no longer published online. High rates of turnover impede the development of specialized knowledge for budget oversight, and, according to one former member involved in budget process reform, staff expertise and institutional support for budget formulation and oversight remains inadequate.\textsuperscript{111}

Interviewees noted that when the party controls both the legislative and executive branches of government, members have few incentives to conduct oversight because the party influences committee assignments and typically controls primaries during election cycles. Still, the National Assembly successfully exposed corruption and waste on several occasions through its oversight work. A 2001 Senate Public Account Committee investigation into the Nigerian National Petroleum Corporation (NNPC) in 2001, Central Bank of Nigeria (CBN) and National Electric Power Authority (NEPA) revealed 2.3 billion naira that could not be properly accounted for. The Committee on Privatisation called the former Aviation Minister, Kema Chikwe, and the Director General Bureau for Public Enterprises (BPE) to testify on the mishandling of the privatisation of Nigeria Airways Limited (NAL) and establishment of a new National Airline.\textsuperscript{112} It is difficult to assess the extent to which such efforts complemented the work of anti-corruption agencies such as the Economic and Financial Crimes Commission (EFCC), since they too have been doubted for casting nets so broad as to be less useful, or accused of being tools of the executive.\textsuperscript{113}

**CASE STUDY: UGANDA**

Emerging in 1986 out of decades of conflict, Uganda resumed the path of democratization that began with independence in 1962 and was aborted with Idi Amin’s coup d’état in 1970. Since 1986, Uganda has made great strides in the consolidation of democracy, but it has also faced many challenges. With the new constitution of 1995, The Parliament of Uganda has begun to emerge as an important player in the political milieu through its promotion of democratization, human rights, and checks on executive power. At the same time, Parliament faces a number of countervailing forces from other bases of power, particularly the executive branch. It is within this context that USAID spent approximately $9.8 million between 1998 and 2010 on legislative strengthening programs (LSPs) to enhance the institutional capacity and democratic credentials of Parliament. Uganda’s recent path of democratization and the corresponding international support it has received provide an opportunity to assess the role of Parliament in promoting democratic ideals and the alignment of LSPs to the needs of Uganda’s legislature. In this case, the study particularly focuses on Parliament’s impact on human rights.

\textsuperscript{111} Telephone interview, Honorable Habeeb Fasinro. 23 July 2015.
This case study begins by providing an overview of Uganda’s political landscape, examining its experience with democratization and legislative-executive relations. The study then analyzes the legislative milieu, describing the political party and electoral systems, the process of making policy, challenges faced by member of parliaments (MPs), independence from the executive, and MPs’ relationship with constituents, civil society, and the media. This is followed by an analysis of the role of Parliament in promoting human rights. Next, this study explores LSPs implemented in Uganda, analyzing their impact and their alignment with the challenges and needs of Parliament. Following this assessment, the study compares the findings from some of the literature on legislatures and human rights to those of this study. The study closes with a summary of the main findings and their implications. To inform the writing of this case study, I conducted field research in Uganda in May 2015 with MPs, civil society, and government officials.

**History of Democratic Opening**

Uganda became independent in 1962 after 80 years of combined Imperial British East African Trading Company and Protectorate rule. Since then, strongmen, dictators, government repression, internal revolts, and more recently, democratization have characterized Uganda’s post-colonial experience. In 1986 the National Resistance Movement/Army (NRM/A) led by the current President of Uganda Yoweri Museveni, overthrew this military regime. This experience set the current tensions between democracy and “strong man” rule in place, resting legislative powers with the National Resistance Council (NRC) and the President. Since then, Museveni and the National Resistance Movement (NRM) have controlled the executive and legislative branches of government. In 1989, 1991, and 1993 the NRC – the precursor to Parliament – held elections to include popularly elected officials. Work and consultations commenced on the current constitution in 1988 and was completed in 1995, followed by the direct election of the President – a new electoral rule – and the sixth parliament in 1996. Since 1996, Museveni has won re-election in 2001, 2006, and 2011. Ahead of the 2006 and 2011 elections, the opposition leader from the Forum for Democratic Change (FDC) was arrested. The 2006 and 2011 elections were disputed, while an EU election observer noted that in the 2011 elections “the level playing field had been severely compromised by Museveni’s [sic] overusing his powers of incumbency, while bribery – mostly from the ruling party – had been widely observed and the voting procedure had been poor or very poor in 30 percent of cases.”

115 Ibid.
116 Ibid.
117 Ibid.
According to Polity IV, autocracy declined from 1986 to 2005, but a measurable level has become embedded in the socio-political milieu and it remains a challenge to democratization. Additionally, Uganda’s democracy is given a poor score of 1 (scale is from 0 to 7), which has not changed since the reelection of Museveni and the introduction of multiparty democracy in 2006. Along these lines, Nijzink et al. classify Uganda as an “electoral autocracy.”

In terms of the effects of the levels of democracy and autocracy, the most recent data from CIRI shows low levels of physical integrity and empowerment rights. Physical integrity rights, such as political imprisonment and torture, oscillated between 1988 and 2009, finally settling at their 1986-1988 levels. Empowerment rights have also oscillated, and as of 2011 they are below 1986 levels. While Uganda’s levels of autocracy have declined, democratization has marginally progressed since 1986, but it stalled out in recent years. At the same time, physical integrity and empowerment rights have oscillated immensely and remain low, around their 1986 levels.

Source: Polity IV.

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120 Ibid.


122 CIRI. “Human Rights Data Project.” http://www.humanrightsdata.com/. Physical Integrity rights are ranked on a scale of 0 (low government respect) to 8 (high government respect) and it is comprised of: torture, extrajudicial killing, political imprisonment, and disappearance. Empowerment rights are ranked on a scale of 0 to 14 and are comprised of: foreign and domestic movement, freedom of assembly and association, workers’ rights, electoral self-determination, and freedom of religion.

123 Ibid.
Parliamentary and Executive Relations

Uganda’s parliamentary and executive relations are best understood within the context of its tumultuous post-colonial history of authoritarianism and conflict. Moreover, this experience has shaped current parliamentary-executive relations. After the NRM came to power in 1986, it established the National Resistance Council (NRC), which vested 38 members of the NRM/A President Museveni with legislative authority.124 Over the next ten years, the NRC expanded to approximately 300 mostly elected members, including: county representatives, city/municipal council members, nominated members, and district women representatives.125 The 1996 constitution, considered progressive for Africa, vested considerable power in Parliament, even detailing legislative powers before those of the executive.126 With the legal devolution of power to the legislature and thus a potentially new autonomous center of power in government, the executive took a keen interest in the sixth parliament’s (1996-2001) work by “always stepping on its toes.”127 The seventh parliament (2001-2006) was dominated by discussions of the executive running for re-election, and tensions became increasingly evident with Parliament’s creation of the Parliamentary Advocacy Forum (PAFO) and the Popular Resistance Against Life Presidency, both of which were seen as anti-NRM.128 In 2006 Uganda saw the ushering in of multi-party elections and the eighth parliament (2006-2011). With the inclusion of multiple parties, the NRM caucus became an important mechanism to promote consensus around government/NRM policy in the eighth parliament.129

124 Parliament of the Republic of Uganda
125 Ibid.
126 Interview with the author, Kampala, Uganda, May 2015.
127 Ibid.
128 Ibid.
129 Interviews with the author, Kampala, May 2015.
The ninth and current parliament has seen the NRM caucus become even more assertive, characterized by discipline and coherence with the NRM/government’s policies. The NRM has a super majority or 70.1% of the seats, which is above the two-thirds margin for passing votes. This means that if and when MPs vote along party lines, the NRM receives the requisite votes to promote its agenda. Independents, the opposition, and other parties’ votes cannot sway the outcome. Facilitating such a scenario is the NRM’s caucus, which promotes party policy that is set or approved by the government, including the executive. According to NRM and non-NRM members alike, the NRM caucus is extremely efficient in getting party members to rally behind party policy. One MP noted that without a larger opposition, the government can effectively do as it pleases. Regardless of party support for a bill, the effect of parliamentary votes on policy outcomes has its limits since according to one MP, ‘Parliament can only provide recommendations, and then these go through other government entities. These recommendations are selectively implemented and largely determined by the executive.’

Conversely, the relationship between Parliament and the executive can be characterized as acrimonious for those in the opposition, other parties, and independents. The government regularly arrests and places under house arrest those vocal critics, particularly from the opposition, the FDC. Multiple opposition MPs noted that there is a general fear of being arrested, that they are regularly harassed, and that the opposition can be placed under effective house arrest, precluding them from attending Parliament. One MP noted that the executive refers to the opposition as “enemies.” This MP went on to note that the government was simply not ready for the installation of multi-party elections in 2006, thus the unhealthy relationship between the government and the opposition.

The Functionality of the Ugandan Legislature

The 2006 constitution ushered in multi-party democracy for the first time since the early 1980s. Today, the 9th parliament has 375 members of whom 263 (70.1%) are NRM, 44 (11.7%) independents, the formal opposition, 34 (9.1%) FDC, 12 (3.2%) Democratic Party, 10 (2.7%) Uganda People’s Defence Forces (UPDF), 10 (2.7%) UPC, 1 (<1%) Conservative Party, and 1 (<1%) Justice Forum of Uganda. The composition of the 9th parliament highlights the NRM’s political dominance in Parliament and the non-ruling parties’ fragmentation. Many believe this boosts the NRM’s influence in the legislature.

The election of these 375 members is complex. In fact, 238 are “directly elected to represent each electoral constituency; 112 women MPs directly elected to represent each administrative district; and 25 MPs are elected by four different kinds of electoral colleges, in accordance with the systems devised for each of the Special Interest groups (SIG), namely youth, workers and persons with disabilities, each of whom elect five MPs, and the Ugandan People’s Defence Force, which elects 10 MPs.” As is evident in

130 Interview with author, Kampala, Uganda, May 2015.
132 Interviews with the author, Kampala, Uganda, May 2015.
133 Interview with the author, Kampala, Uganda, May 2015.
134 Ibid.
135 Ibid.
136 Ibid.
137 Inter-Parliamentary Union (IPU).
their presence in Parliament, it is important to note that post-National Revolutionary Council, the army still officially plays an important role in Uganda’s legislature and in national policy. As to the true amount of power the UPDF actually possesses in this milieu, considering the executive’s past as the head of the NRA and present connections to the institution, it may be even be higher.

The various parties have power bases that are regional in nature. The NRM’s power base is the West and Southwest of the country, where President Museveni is from. During the 2006 elections, the opposition party, the FDC’s, base of power was “the north of the country, around Kampala, and in pockets of the east and west…” The DP’s main area of support is Buganda, in the center of the country.

Although parties have regional power bases, they are not particularly associated with certain ethnic groups. This means that in Uganda, politicians cannot rely on ethnicity alone to be re-elected, but they must deliver programmatic results. Results, in this case, often relate to Ugandan MPs clientelistic relationships with constituents, where cash and public goods are supplied in exchange for political support.

**Policy Process**

In Uganda, MPs or the government may propose bills. After a bill is read for a first time, it is referred to the relevant committee, which then seeks outside consultations on the bill, such as from the ULS – the equivalent of the American Bar Association – or government bodies like the UHRC. For example, the ULS can be asked by Parliament to provide its opinion on a bill via testifying, while the Parliament reviews the bill for human rights compliance. The bill is then debated and voted on during a plenary session and passed or not passed during a subsequent reading. Passing requires a two-thirds vote. The bill is then presented to the executive for approval. This entire process is time intensive. In 2012, Parliament passed only 13 bills, while it increased to 25 in 2013. Productivity is low despite the potential to pass legislation rapidly with the NRMs super majority in Parliament and the government’s proactivity in legislative affairs. Regarding this proactivity, members of civil society, the opposition, independents, and the NRM each emphasized that the government takes a keen interest in legislative affairs by setting the parameters of policy discussions both formally through bills and informally through its influence over party members.

Relative to Parliament, the balance of power is on the side of the executive and government. One manifestation of this control is that Parliament cannot meaningfully impact issues that “touch the nerve center of the government,” such as executive power, corruption of senior officials, the military and police,

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139 Ibid., 11.
140 Ibid., 11.
141 Ibid., 11.
143 Parliament of the Republic of Uganda.
144 Interviews with the author, Kampala, Uganda, May 2015.
146 Ibid.
148 Interviews with the author, Kampala, May 2015.
land, and oil and gas, among others. For example, high profile corruption cases, such as that of the recent Principal Secretary for Local Government Affairs, rarely lead to parliamentary discussions and then sackings by the government. In this light, a staff member who worked on an LSP noted that parliamentary committees addressing military and police issues, e.g., the Defence and Internal Affairs Committee, are not very effective. As one NRM MP said, “You can only make noise” when combating government human right’s abuses. The inability to address issues at the “nerve center of government” may partially explain why ministers answered only approximately half of the questions asked of them on the floor of Parliament. While the content of the issues raised is becoming more substantive, the written responses by ministers remain low and often lack much substance. Furthermore, the main body charged with promoting human rights in Parliament, the Committee on Human Rights Affairs, is not an accountability committee. Accountability committees are one of the principal mechanism that Parliament has to hold the executive accountable, because they are chaired by the opposition, which may be more likely to challenge the executive than members from his party.

The balance of power in favor of the executive is also seen in Parliament’s inability to significantly impact government budgets and bills. In fact, during interviews in May, 2015, MPs struggled to highlight examples of their legislative victories over the government. Two such examples provided were Parliament’s ability to get an increase in funding to maternal health and to increase funding to local governments for environmental issues. The government also sets Parliament’s legislative agenda by proposing the annual budget. MPs can refuse to pass the budget and demand changes, but because of NRM caucus influence and a system of patronage, their victories in negotiations are marginal relative to the entire budget. Kasfir and Twabaze find that parliamentary committees were regularly able to see their recommendations on government bills adopted by Parliament and that these recommendations were more often “substantive” – implying that they changed the meaning of a bill – as opposed to being “minor” in nature.

Major legislation that has the potential to restrict key constitutional rights, such as the Public Order Management Act (2013), is seen by many to infringe the freedom of assembly and speech, as would the forthcoming NGO bill that seeks to significantly increase government’s control over civil society. It appears that MPs have a limited ability to effect change on such major bills. In reference to the POM bill, a NRM MP noted that it was able to change the government-proposed requirement of informing the police if more than two people are meeting to discuss political issues to simply providing an estimate of the number of people who will meet. The NGO bill has yet to be voted on in Parliament. It appears that the government sets the parameters of critical national policy through its drafting of the budget and major legislation, over which Parliament’s influence is marginal. The government’s influence over the legislature can be summed up by the remarks of one independent MP, who claimed to be told by the Speaker of Parliament that their job is ‘to pass resolutions, as to whether the executive passes them or

149 Ibid.
150 Interview with the author, Kampala, May 2015.
151 Ibid.
153 Kasfir and Twabaze, “Performance & Effectiveness of Lawmaking and Oversight”, p. 20.
154 Interview with author, Kampala, May 2015.
155 Ibid., p. 3 and 18.
156 Email communication with author. July 2015.
does not, does not matter. ¹⁵⁷ Although the power of Parliament is small relative to the government and Parliament “has no teeth” according to many observers in Uganda, the government still has to figure out how to get legislation past the legislative branch. ¹⁵⁸ One staff member who worked on a LSP went on to note that ‘regardless of how weak Parliament is, it is still a check.’ ¹⁵⁹

Parliament’s Internal Struggles

Many MPs, and as a result Parliament as an institution, struggle with a number of internal issues that diminish their ability to serve as a more effective legislative body. First, repeated interviews with MPs, government institutions, and civil society groups highlighted that the advocacy or activism of parliamentarians revolves around elections. ¹⁶⁰ Elections for MPs and the President take place every five years, with the executive being elected by popular vote. When a new session of Parliament begins, MPs are more independent of the government and vocal against it. As elections approach, however, MPs follow the party line a lot more closely. ¹⁶¹ This cyclical advocacy is an attempt by MPs to not lose the favor, support, or funding from the government as elections approach. Second, rampant absenteeism and tardiness in Parliament negatively affect its business. As a result, its Deputy Speaker raised the issue on the floor and introduced electronic attendance registration in 2015. ¹⁶² There is even discussion of deducting money from MPs salaries for not showing up to work. ¹⁶³ Alabi highlights that absentee MPs is a common issue throughout Africa, and it decreases parliaments’ productivity as institutions. ¹⁶⁴ However, in the case of Uganda, absenteeism can also be attributed to electoral competition in their constituencies and the 65% turnover rate for MPs from the previous Parliament, which results in MPs choosing to campaign ahead of the 2016 elections rather than being present in Parliament. ¹⁶⁵ Third, Uganda’s Parliament, as noted earlier, is unproductive. Finally, there are insufficient researchers, clerical officers, and budget officers for all committees to be more productive in their respective areas. ¹⁶⁶ For example, with more researchers, the human rights committee could expand their investigations into human rights abuses. Exacerbating this issue of insufficient staffers, many of them moonlight, so productivity is also low. ¹⁶⁷

Degree of MPs Independence from Executive

Patronage politics manifests itself in a number of ways, limiting MPs’ independence from the executive. First, campaign finance and constituency service debt contribute to a system of patronage. ¹⁶⁸ To win

¹⁵⁷ Interview with the author, Kampala, May 2015.
¹⁵⁸ Ibid.
¹⁵⁹ Ibid.
¹⁶⁰ Interviews with author, Kampala, May 2015.
¹⁶¹ Interview with the author, Kampala, May 2015.
¹⁶³ Ibid; and Nakatudde, “Anti-Corruption Activists Push for Deduction of MPs Pay over Absenteeism.”
¹⁶⁵ Mulondo, “MPs’ Absenteeism Crippling Parliament Committees.”
¹⁶⁶ Interview with the author, Kampala, Uganda, May 2015.
¹⁶⁷ Ibid.
¹⁶⁸ Interviews with the author, Kampala, Uganda, May 2015.
election campaigns, MPs must spend a significant amount of money traveling to their constituencies, campaigning, handouts, and other expenses. Additionally, MPs accrue debt from providing handouts to constituents in exchange for electoral support. A January, 2015, survey by the Alliance for Campaign Finance Monitoring found that ‘Personal financial assistance,’ or handouts by Ugandan MPs to constituents, average about USh 4.68 million (≈ $1,410) per trip. To afford these expenses, MPs from all parties borrow from commercial banks, accruing debts that they cannot repay. The government recently rescheduled these debts and is presently repaying them, while deducting some of this money from MPs salaries. Although this debt-restructuring service was recently provided to MPs regardless of party affiliation, this process is believed by those within the NRM and experts alike to form a system of patronage whereby ruling party members are then expected to adhere to the party line in exchange for debt assistance. Second, MP independence from the executive is undermined by the strong link between the Speaker of Parliament and the executive. It is a well-known secret in Kampala that the current Speaker, who used to be more of an outspoken critic of the government on human rights issues, toned down her criticisms after a meeting with the President. As the Speaker of Parliament is heavily influenced by the executive and ruling party, the NRM caucus will be heavily in line with the government. Finally, there were also reports of MP intimidation by the executive branch and a desire of MPs to appease the executive, both of which strengthen the link between MPs and the executive office. As one MP put it, “one of the biggest challenges is parliamentarians who stand up for society, they don’t want to be counted, they want to show loyalty” to the government. In summary, opposition MPs noted that Parliament as an institution is becoming weaker because it is fused with the executive.

MPs and Constituents

Ugandan MPs interact with their constituents through constituent services, parliamentary office visits, and electronic channels. Constituent services entail visits to their home districts for consultations and discussions with community members, typically during weekends. Theoretically, these interactions channel citizens’ voice in Parliament and enable MPs to gauge the pulse of the community. In practice, however, constituent services are plagued by a number of issues that complicate this principal-agent mechanism, thus interrupting the relationship between citizens and their MPs. First, the resources provided by the government are insufficient to cover the cost of transport, as despite rising petrol prices and inflation, the money allocated has not changed since 2001. Additionally, members are provided only a portion of the costs of a vehicle, obligating MPs to spend their own resources to buy a reliable car. The minimal resources for constituent services is particularly an issue for MPs who live in remote

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169 Ibid.
170 Ibid.
171 Alliance for Campaign Finance Monitoring (ACFIM), “Who Pays the Piper…Calls the Tune,” MP Survey on Commercialization of Politics, January 2015; Exchange rate on July 15, 2015 was $1 to USh 3,320.04 on www.xe.com
172 Interviews with the author, Kampala, May 2015.
173 Interview with the author, Kampala, May 2015.
174 Interviews with the author, Kampala, May 2015.
175 This point was brought up by multiple members from civil society and government organizations during May 2015 interviews in Kampala.
176 Interview with the author, Kampala, May 2015.
177 Ibid.
178 Ibid.
179 Ibid.
areas of the country and who require an off-road vehicle for the dirt roads, which is more expensive in terms of the cost of the vehicle, maintenance, and fuel. Second, because of financial constraints, some MPs lack of interest, and the distance from Kampala to remote parts of the country, the frequency of trips to districts are infrequent. One MP noted that noted that these trips are a cumbersome process and one must be patient with constituents. As a result, they went onto to note that some members pay lip service to constituent services. Third, whom MPs meet with during constituent services matters in terms of the efficacy of this mechanism of government. A MP remarked that the average community members are passive and do not attend constituent service because they are illiterate and poor. Consequently, the typical attendees are local councils, teachers, and civil servants. Regardless of why certain groups attend or do not attend such meetings, it is clear that their absence diminishes their voice and thus influence on MPs. Fourth, the content and purpose of meetings determine whether the voice of the people is channeled from constituents to MPs to Parliament. As highlighted earlier, handouts plague constituent services. Handouts are a manifestation of patronage politics and disrupt the principal-agent relationship, as instead of MPs channeling citizens’ demands in Parliament, an MP noted that constituents demand money.

Civil Society and Media’s Role in the Promotion of Human Rights and Democratization

Civil society and the media play a critical and active role in the promotion of human rights and democratization in Uganda. As a result, they sometimes face an element of government interference and repression. Freedom House categorizes the state of political rights and civil liberties as “not free,” and they deem the press as only “partly free.” As one opposition MP succinctly put it, Ugandans have the constitutional rights of ‘freedom of assembly and speech, but they cannot enjoy them.’ Along these lines, one civil society member noted that the application of the laws that protect such freedoms is selective, depending on whether one is a government supporter or opponent.

Many civil society organizations have a healthy working relationship with Parliament, but a more acrimonious one with the government and state institutions like the police. For example, the Human Rights Centre – Uganda has jointly authored reports with the Uganda Human Rights Commission (UHRC), and they have helped train Parliament’s Human Rights Committee. As one civil society group noted, the key to having a healthy, but also honest and productive relationship with the government is to sit down with the government in private. The government prefers this approach as it is extremely sensitive to criticism in the media, and CSOs argue their recommendations less likely to be ignored.

180 Interviews with the author, Kampala, May 2015.
181 Interview with the author, Kampala, May 2015.
182 Ibid.
183 Ibid.
184 Ibid.
185 Ibid.
186 Ibid.
188 Ibid.
189 Ibid.
190 Ibid.
government has attempted to intimidate the more confrontational groups through several legislative initiatives. The Public Order Management Act (POMA) requires advance notice for mass assemblies and makes media coverage of assemblies deemed illegal to also be against the law.\textsuperscript{191} Human rights organizations believe it has had a chilling effect on political space. A recent NGO bill similarly would curtail civil society activities related to politics. It provides the government NGO Board authority to register NGOs and permit who can work for them, including foreigners.\textsuperscript{192} One member of civil society said “the government sees civil society as a risk, and it is extremely sensitive to criticism.”\textsuperscript{193} No fewer than 15 NGOs had their offices broken into in 2014, which is believed by some critics of the government and outside observers to be government orchestrated.\textsuperscript{194} Bills that infringe on human rights often receive broad parliamentary support. Many CSOs and opposition MPs oppose this bill, as it is seen by many to be aimed at restricting the ability of civil society due to the government’s suspicion of international NGOs.\textsuperscript{195}

Other civil society groups face less harassment from the government, including those campaigning against homosexuality. The Anti-Homosexuality Bill would make it illegal to promote homosexuality as an organization, while also prohibiting media coverage of gay rights issues, such as of a person being denied medical treatment because of their sexual orientation.\textsuperscript{196} President Museveni ultimately vetoed the related legislation, using a parliamentary technicality as an apparent pretext, out of fear that that government, NGOs and businesses would lose significant donor money.

The media has a similarly mixed rapport with the government. On one extreme there is the Vision Group, which is widely seen as pro-government (which is the majority shareholder). Their media empire includes the widely disseminated New Vision newspaper, Radio West, and Bukeede TV (the only Lugandan language TV station).\textsuperscript{197} Nation Media Group is an independent Kenyan company that owns NTV along with the Daily Monitor and the East African newspapers.\textsuperscript{198} In 2013, the Daily Monitor and another private newspaper, Red Pepper, had their offices raided, and two Daily Monitor radio stations were shut down by the police on a court order.\textsuperscript{199} In these incidences police were searching for a purported letter from an army general that discussed an inquiry into a plot to kill people opposed to the President’s son becoming the next President of Uganda.\textsuperscript{200} In 2014, NTV was forbidden to cover presidential events after it purportedly aired footage of the president asleep in Parliament.\textsuperscript{201} Additionally, journalists are regularly arrested and can be even charged with treason for failing to disclose their sources.\textsuperscript{202}

\begin{itemize}
\item \textsuperscript{191} Ibid.
\item \textsuperscript{193} Ibid.
\item \textsuperscript{194} Ibid.
\item \textsuperscript{195} Interviews with the author. May 2015.
\item \textsuperscript{196} Ibid.
\item \textsuperscript{198} Nation Media Group, www.nationmedia.com, accessed July 21, 2015.
\item \textsuperscript{202} Interview with the author, Kampala, May 2015.
\end{itemize}
The creation of space for interaction among Parliament, CSOs and media shows promise for improving relations, but the impact is so far limited. Through POMA and other legislation, the Parliament continues to show interest in containing civil society and restricting the media. POMA was an initiative by the government, and the NRM caucus was used to rally ruling party support while opposition MPs and civil society were against this law. As one MP noted, this law was “pushed down our throats,” as it directly serves the interest of government quelling dissent and contradicts constitutional rights.\textsuperscript{203} They went on to declare that POMA was based on the South African system of apartheid.\textsuperscript{204}

The Committee on Human Rights Affairs of the Ugandan Parliament

Established in 2012, the main body of the Ugandan Parliament charged with promoting human rights is the Committee on Human Rights Affairs. The Committee is comprised of 21 members – 13 from the ruling party – all of whom have been trained by numerous human rights groups, including the Uganda Human Rights Commission (UHRC).\textsuperscript{205} The Committee reviews annual human rights reports by the UHRC and ensures that these recommendations have been implemented.\textsuperscript{206} The Committee is not an accountability committee, meaning the opposition does not chair it.

Established with the new constitution in 1995, the UHRC is charged with monitoring “the human rights situation in the country,” including: investigating human rights abuses, promoting research, education, and information on human rights, making recommendations to Parliament, including an annual report, and monitoring “the Government’s compliance with international treaty and convention obligations on human rights.”\textsuperscript{207} The UHRC has the constitutional power to summon people and order people released from custody and/or to receive compensation.\textsuperscript{208} Prior to laws being passed, the UHRC reviews them to ensure they are compliant with human rights.\textsuperscript{209} Based on the Committee’s review of the annual UHRC report, the former undertakes weeklong fact-finding missions to investigate specific issues highlighted therein on a quarterly basis.\textsuperscript{210}

In its three years of existence, the Committee has promoted some important outcomes in the field. The establishment of the Committee is in and of itself is an important development in the promotion of human rights in the country. As to whether the establishment of this institution improves human rights conditions in the country is another issue. In assessing the impact of the Committee, it is important to keep in mind that it has only existed for approximately three years, which may not be long enough to gauge its impact and the potential impact on human rights in a comprehensive manner. That said, this conversation focuses on its accomplishments to date and the current challenges it faces.

Most observers note that the Committee has had a small impact on human rights in Uganda in its short existence. That said, what are the measurable or observed impacts of the Committee? First, the Committee requires institutions named in the UHRC reports to testify and account for their actions in

front of Parliament.\textsuperscript{211} Although testifying may not inherently change the behavior of institutions or persons accused of human rights abuses, it may change it for some, especially, if they are threatened with legal action. Second, the Committee’s fact-finding missions to investigate human rights abuses provide MPs with a greater sense of the related issues in the country. Third, the Committee now certifies that all bills do not privilege any social groups.\textsuperscript{212} This is a new innovation, so its impact is difficult to assess. Finally, the Committee has developed a human rights checklist, one that it hopes to pass as an amendment to Parliament’s procedural rules that would require all committees to use this guide in their legislative work.\textsuperscript{213} One Committee MP cautioned, however, that Parliament still requires further sensitization on human rights in order for such a list to be effective.\textsuperscript{214}

Despite its potential, there are a series of key factors that diminish the efficacy of the Committee’s ability to address human rights abuses in the country. First, the Committee primarily investigates human rights abuses that are highlighted in the UHRC’s reports, and to a much less extent, some abuses highlighted by the media and civil society.\textsuperscript{215} Inevitably, the UHRC is able to investigate and report on only so many issues based on resource constraints and the information available to it; however, this is not the larger issue diminishing its potential in relationship to the Committee. As highlighted by numerous interviewees, the risk with the Committee’s dependence on the UHRC for information is that the government, which is guilty of numerous human rights abuses, appoints the UHRC officials.\textsuperscript{216} As a result, the government is theoretically less likely to appoint UHRC officials who are too vocal against government human rights abuses. One member of a media-related CSO stated that the UHRC is not an independent institution.\textsuperscript{217} As a result, the UHRC reports that the Committee uses as their guide to promoting human rights in the country may not address issues that placate key or senior government officials.

Second, independent and opposition MPs alike noted that the committee should be an “accountability committee,” which could theoretically hold the government and various state institutions more accountable.\textsuperscript{218} According to these MPs, the opposition must chair such a committee so that the institution is more independent of the government.\textsuperscript{219} At present, the Committee is chaired by the NRM, who has a super majority in parliament and who also controls the executive office. Third, the Committee’s field inquiries are also plagued by a number of issues: (a) these fact finding missions are insufficient in scope and time considering the size of the country and the extent of human rights abuses. It would be more efficient for the Committee to have staffers and researchers conducting the majority of human rights research; (b) the incentive of some of the Committee members is the per diem (USh 140,000) that they receive for each day that they are in the field.\textsuperscript{220} Fourth, the committee has not been very productive as far as reviewing UHRC reports and then tabling and debating their own reports based on the UHRC’s and

\textsuperscript{211} Interview with the author, Kampala, May 2015.
\textsuperscript{212} Ibid.
\textsuperscript{213} Ibid.
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\textsuperscript{216} Interviews with the author, Kampala, May 2015.
\textsuperscript{217} Interview with the author, Kampala, May 2015.
\textsuperscript{218} Interviews with the author, Kampala, May 2015.
\textsuperscript{219} Ibid.
\textsuperscript{220} Ibid.
There are conflicting reports on whether any Committee reports have actually been tabled for discussion in Parliament, but it is clear that they have not been debated. As one NRM staffer noted, the Committee is merely posturing and critiquing human rights abuses, but they have yet to provide any serious outcomes. On top of this, the government has not responded to any of the Committee’s reports. Finally, multiple MPs noted that capacity building and sensitization on human rights is needed not just for the Committee, but also for all of Parliament. In effect, it is difficult for the Committee to push an issue or an agenda if more MPs are not more sensitized on human rights issues.

Legislative Strengthening Programs in Uganda

There have been three rounds of USAID Legislative Strengthening Programs (LSPs) in Uganda. In the first round, from 1998 to 2002, Uganda Technical Assistance Program (UPTAP), was managed by the State University of New York (SUNY) and received just over $3.8 million in funding. UPTAP sought to enhance the Parliamentary Commission’s capacity, which is in charge of building Parliament’s institutional capacity, improve constituent services, and increase professional staff capacity. Hirschmann and Nyago’s evaluation of UPTAP found that it was largely successful in promoting “the legislative, budgeting, and oversight role of Parliament.” They reported that UPTAP positively impacted activities and inputs through trainings and exchanges, and it promoted “institution building,” for example with the successes of the Budget Office and Act, promoting civil society-Parliament relations. Programs also improved services for MPs, including internet and research materials. Mozaffar et al.’s evaluation largely agreed with this assessment. Reflecting back on UPTAP in 2015, one member of the Linkages program noted that that there were two key outcomes of the program: (1) funding helped set up technology systems for a few key offices, including the budget office, the research department, and the IT office, and (2) the funding supported getting basic amenities like chairs and desks where needed in Parliament.

Hirschmann and Nyago note that although UPTAP had a positive impact on achieving the variety of observed impacts, other factors contributed to these outcomes as well. These include: “a conducive and supportive environment for change in Parliament” and a total of eight donors supporting Parliament as of July 2003. They also point out that one year after UPTAP, many of the project’s outcomes could still be observed. SUNY received a generally positive report card for its work from local stakeholders. Criticisms of SUNY included a lack of consultations with MPs on project goals, design, and selection of implementers, failure to inform Parliament’s Procurement Office about purchases, and a mismatch

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221 Interview with the author, Kampala, May 2015.
222 Interviews with the author, Kampala, May 2015.
223 Interview with the author, Kampala, May 2015.
224 Interview with the author, Kampala, May 2015.
225 Country Totals – v2(2). excel sheet from Tom Bridle
226 Country Totals – v2(2). excel sheet from Tom Bridle
228 Ibid., p. vii-viii.
229 Interview with the author, Kampala, May 2015.
231 Ibid., p. viii.
232 Ibid., p. viii.
233 Ibid., p. ix.
between UPTAP’s objectives and Parliament’s ability to promote these changes. Based on these findings, the report makes a number of recommendations, including improving the process of consultations. This includes “transparency, and information sharing”; enhancing the representative nature of MPs; and recognizing the high turnover of MPs and thus direct more LSP support to the training of staffers.

The second LSP (2002-2006), Legislative Support Activity (LSA), was managed by Development Alternatives Incorporated (DAI) and received $3.1 million in assistance. Its six main areas aimed to improve the: (a) capacity of MPs and staff, (b) constituent services, (c) interactions with civil society, (d) drafting of legislation, (e) ethics and anti-corruption, and (f) system for legislative elections. A key impact of the LSA was its promotion of legislative drafting with MPs and staffers, the latter group helped draft the Disabled Rights Law.

This training was supplemented by a series of workshops with the persons with disabilities community that helped inform the bill. Another key institutional outcome was that it started field visits for parliamentary committees, a practice which continues today without LSP support. In one case, soon after this program was implemented, LSA supported a fact-finding mission for the Committee on Security and Humanitarian Situation to learn more about the state of the war-torn North, as many MPs had never visited the area. The next day the committee declared the North a “disaster area,” but the executive overrode their declaration.

The third Uganda LSP, Linkages (2007-2010), was implemented by SUNY and RTI International and received $2.9 million in funding. Set within the context of the reinstitution of multi-party democracy in 2006, this LSP aimed to enhance: (a) the capacity of Parliament and local government to “identify local development and national policy issues so they may carry out their representational functions…”, (b) “democratic participation in political processes,” (c) “institutional transparency and accountability,” and (d) service delivery. One member of the Linkages staff emphasized that a key limitation of this program was that the scope of the program was ambitious, while the resources and time were insufficient.

In November of 2010, The Consulting House (Kenya) and Centre for Justice Studies and Innovations (Uganda) published an extensive review of the Linkages program, finding that the program had a significant impact in some areas and less so in others, and that it should be continued. Their review is based on 380 interviews and approximately 100 secondary sources and focuses on the outcomes because

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235 Ibid., p. 23-25.
236 Country Totals – v2(2). excel sheet from Tom Bridle
237 Country Totals – v2(2). excel sheet from Tom Bridle
240 Ibid. p. 15; Interview with the author, Kampala, May 2015.
241 Ibid.
243 Country Totals – v2(2). excel sheet from Tom Bridle
244 Country Totals – v2(2). excel sheet from Tom Bridle
245 Interview with the author, Kampala, May 2015.
the programs are too new to assess their impact. The overall finding of the report is that the LSPs impact on Parliament were “modest,” and “apart from the oversight function, investment in Parliament had limited returns.” The study found that Linkages enhanced: (a) the demand and supply side of governance, but these effects were less profound in Parliament than they were at the district level, (b) opposition institutions, (c) “policy expertise and decision making,” (d) increased oversight over the executive, and (e) promoted legislative activism and “field visits” by parliamentarians.

One critical institutional outcome of the program, according to a Linkages staff member, is that it increased the interactions between local district governments and MPs. They noted that the program enabled parliamentary committees to visit and conduct meetings in districts, which has now been institutionalized by the government. Another key outcome is that the district chairman and chief administrative officer are held more accountable to Parliament for their actions. However, not all the linkages created are effective. Moreover, during the program, the parliamentary auditor general committee that reviews local government accounts did not have their recommendations enacted. According to Linkages evaluation the lessons learned include: (a) “conceptual disconnect” between USAID’s and implementers’ proposal, (b) the necessity of mapping out the spectrum of linkages beforehand, which did not occur during this program, (c) ability to respond to challenges on the ground in a timely manner inhibited by the bureaucratic web between implementer’s field office, implementer’s headquarters, and USAID, (d) monitoring and evaluation was too quantitative in nature and missed nuances of governance that require qualitative assessment, (e) implementer was not very open to learning from local partners, and (f) timeline between legislation and service delivery was too long and there was no link between quality legislation and the quality of its implementation.

Assessing Uganda’s LSPs

Given the context of Uganda’s political landscape, with a particular focus on its Parliament, it is important to consider whether some of the areas of USAID LSP support are improving or not. First, a key area of LSP support in all three programs relates to constituent services. Field research in Uganda highlighted that constituent services, for a variety of reasons ranging from the focus on handouts to the nature of those who attend meetings with MPs, remain an ineffective mechanism for channeling the voice of the people into Parliament. Further funding for constituent services will continue to assist those MPs who are interested in enhancing their principal-agent relationship with constituents, while also being a misallocation for those MPs who don’t utilize these visits as they were intended. It will also curtail the goal of LSPs to enhance service delivery to constituents and their ability to identify local and national needs. Further funding needs to consider first how to promote the effective use of constituent services in the name of democratization.

247 Ibid., p. 6-7.
248 Ibid., p. 6.
249 Ibid., p. 6-9.
250 Interview with the author, Kampala, May 2015.
251 Ibid.
252 Ibid.
253 Ibid.
254 Ibid.
Second, LSPs helped promote parliamentary committees’ field visits, a practice that has built Parliament’s capacity to make informed decisions on their committee’s respective foci. This has also strengthened the links between local government and Parliament.

Third, LSP funding has supported capacity-building efforts for parliament’s professional staff. Unless, Parliament can motivate its staff to be more productive and not have other jobs outside of Parliament, LSP funding will continue to have marginal effects in this area. Fourth, ethics, anti-corruption, transparency, and accountability are a critical theme of LSPs. LSPs have helped parliamentary oversight over local government and promoted transparency and helped address corruption. In terms of oversight over individual MPs’ corruption and parliamentary oversight over the executive, there is no evidence of such an impact.

Finally, the Consulting House and Centre for Justice Studies and Innovations report on Linkages claimed that the program enhanced legislative activism, but, as field research indicated, activism is cyclical, revolving around elections. Moreover, many MPs, particularly from the ruling party are heavily influenced by the NRM caucus and executive. Similarly, Mozaffar et al. note “the reassertion of Executive authority through strict party discipline in POU reinforced by patronage and the attendant threat of withdrawing resources for constituency service from recalcitrant MPs.”256 Unless LSPs can address the underlying causes of the lack of activism, support therein will only be temporary or will be lost with the high rate of turnover in Parliament.

In sum, it appears that LSPs have achieved mixed results in the pursuit of their objectives. While there are some notable successes, such as beginning field visits, this is an outcome and it does not necessarily translate into a more informed and stronger Parliament (e.g., the impact). Additionally, donor funding cannot significantly alter the context (e.g., neo-patrimonialism) and the array of factors (e.g., political will) that preclude a strong legislature in the first place. Moving forward, donors need to be more considerate of what their support can and cannot achieve while also keeping in mind that many such things such as institution building take many years. One curious observation is that each subsequent LSP received less funding.

Ten key insights relating to Uganda’s politics, its parliament, and human rights emerge from this study: (1) Democratization in Uganda appears to have stagnated in recent years. While there are elections for Parliament and the executive, physical security and empowerment rights are around post-revolution (1986) levels, with the opposition, media, and civil society under increasing pressure from the government.257 (2) The NRM caucus has become an extremely effective mechanism in forging consent among ruling party MPs. (3) The balance of power between the executive and Parliament remains tipped towards the former, as the latter cannot address issues that touch the nerve of the government. (4) The government sets the national policy agenda by proposing the budget and major legislation, which Parliament can only impact on the margins. (5) Parliament is plagued with an array of internal struggles, which diminish its efficacy as an institution. These struggles include: absenteeism and tardiness, election cycle advocacy, productivity, and insufficient and unproductive professional staff. (6) The system of patronage politics between the executive and Parliament is reinforced by MPs’ campaign and handout debt being paid off with assistance from the government. (7) Constituent services are ineffective at enhancing the principal-agent relationship between MPs and constituents due to: insufficient resources, a

257 CIRI. “Human Rights Data Project.”
lack of some MPs interest in this dimension of their work, certain segments of the population dominating meetings with MPs, and the emphasis on handouts versus strengthening the principal-agent relationship. (8) Formal channels of cooperation, between Parliament and civil society/media (such as testifying) have increased, yet they have produced limited results. At the same time, Parliament has also passed legislation that restricts the space for civil society and the media by clamping down on government dissent and political active groups. (9) The Committee on Human Rights Affairs has registered some critical success in promoting human rights, such as conducting fact-finding missions based on UHRC reports and certifying that legislation does not favor or disfavor any socio-economic group. The Committee’s potential impact on human rights, however, is diminished by a series of factors: it primarily analyzes UHRC reports, conducts insufficient field inquiries, has low productivity in terms of the production and debate of reports and the failure to get government to follow up on them, and insufficient parliamentary sensitization on human rights. (10) Reviewing the LSP evaluations shows that these programs achieved many outcomes, such as promoting constituent services and committee field visits, but the impact of these outcomes is marginal or negligible in the face of the immense challenges that Parliament faces in becoming a stronger institution.

Summary of Observations from Uganda

This case study of Uganda’s Parliament aimed to better understand the democratic strides the country has made in recent years. At the same time, this study sought to analyze the challenges that the Parliament of Uganda faces in effectively carrying out its legislative role, with particular attention being paid to the protection and promotion of human rights. Ultimately, the idea was to compare the efficacy of Parliament to the goals and purported impact of USAID LSPs. Uganda’s Parliament has helped promote democratization. At the same time an array of challenges diminish its ability to effectively undertake its role as a legislature and oversight mechanism. With recognition of the shortcomings of previous LSPs and the challenges that Parliament faces, some critical analysis must be done before any new donor programs are implemented to support this institution. As there is no consensus on how to best strengthen parliaments, models tailored to specific contexts will need to be devised to reflect the particular challenges that the Parliament of Uganda faces in effectively doing its job.258 Such approaches will enable donors to better target areas of Parliament’s work that they have the potential to impact positively while also highlighting that some changes need to come from within society for which no amount of aid money can address on its own or at all. Additionally, donors will have to continue to address the issue of political will, because if there is no political buy-in with LSPs and the implications of their design, their impact on the strengthening of Parliament will continue to be marginal. That said, LSPs must reconsider the timeframe and money that they allocate, as the ability to strengthen legislative branches and institutions take time and possibly a significant amount of money due to the array of challenges that they encounter.

VI. CONCLUSION AND RECOMMENDATIONS

Legislatures are critical institutions for democratic development and promoting human rights. But LSPs are not likely to have a meaningful impact unless donors consider important conditions as well as the indirect and possibly multi-directional relations among legislatures, human rights and democracy. Until further empirical research is conducted, we have little basis to presume that legislative capacity necessarily leads to better human rights protections or that human rights co-develop with democratization.

This conclusion highlights six critical observations, summing up key points from the earlier analysis with the goal of formulating tough but practical questions for future USAID programming.

First and most importantly, building legislative capacity is not likely to make much of a difference if institutional incentives are misaligned. In other words, LSPs could increase the knowledge and resources available to legislators. But if there is a fusion of legislative and executive functions through the cabinet, the balance of power won’t shift much, as van Cranenburgh points out. Similarly, the legislature will be unable to provide oversight of executive if it cannot or does not censure cabinet ministers or impeach the executive despite having the constitutional power to do so. The Uganda case study clearly fits this mold. Several scholars in the literature highlighted concerns about donor bias towards the executive. Though this did not seem to be the case in the Middle East and North Africa – the region with the most growth in D&G programming over the last decade – executive bias could misread the institutional context and undermine the very purpose of LSPs.

Second, according to Kiyondo and Pelizzo, unless political will accompanies LSPs, the program’s impact will be diminished. In particular, a key aspect of LSPs has been funding for constituent services and creating space for civil society to interact with parliament, but on average the latter has not taken advantage of these institutional developments. An important manifestation of political will that diminishes legislative efficacy is absenteeism, as Alabi notes. This is a serious problem in both case studies here. During the 2014 legislative calendar in Nigeria, the legislature actually met fewer days than is required under the constitution. The National Assembly rammed through dozens of bills at the last minute before the fateful 2015 elections once the ruling party realized that voters had noted their historically abysmal productivity. Such apathy, according to Dias and Taylor, can be addressed by members who signal their activity by working for the various interests of society and staying involved in issues through constituent services. Thus, a lack of political will, manifested in sub-par constituent services and absenteeism, stunts democratization and human rights in Uganda, as MPs are neither accountable nor promoting inclusive participation in the political process.

Third, LSPs should be tailored to the local context. This is important given the current donor discourse on “best practices.” According to Kiyondo and Pelizzo’s study of LSPs in the Pacific, this was a key source of programs’ not delivering their promised results. In order to do this properly, they found that each country requires a training needs assessment (TNA) to design more effective LSPs but also to see what improvement to the legislative milieu are possible given the context. The 2013 “USAID Strategy on Democracy, Human Rights, and Governance” reflects this emphasis on country-specific approaches, which may have been ahead of the time of the three original Uganda LSPs (1998-2010). Moreover, context must mean more than simply culture, political will, or the state of democracy overall. Context

259 Ibid., 55.
261 Alabi, “The Legislatures in Africa,” p. 239.
263 Ibid.

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must also relate to the institutional environment and the origins of those institutions; Nigeria’s party history and recent paths to party formation point to more potential for parties to serve as counter-forces to presidential powers, while Uganda’s reforms face inertia due to its liberation movement history. In addition, the Ugandan case study exemplifies the need for tailored LSPs because of the constraints facing civil society and the parliament.

In addition, part of assessing a legislative context should include perceptions of legislators and legislatures. If public opinion of the institution and its individuals is low, then this will affect “buy in.” However, perceptions on legislative-executive relations do not necessarily correspond with such unfavorable opinions, and legislatures are often held in low esteem even if support for democracy is high. Such contexts point to an opening for LSPs, but one that must make sure that legislators are educating the public alongside their own learning. Low trust in parliament, as documented by Rolof and others, is thus a common reality for LSPs, but it can also be a sign of healthy democratic skepticism – individual citizens demonstrating their capacity for critical thinking about public institutions. Either way, the emergence of reliable and scientific opinion data in most of the developing world could usefully inform initial assessments and baseline estimates for LSPs.

Fourth, LSPs will not be effective without complementary efforts to support their goals. Schulz argues “additional long-term technical assistance in the form of a broader mix of activities, including training for members and staff, expert advice on legislative practice and procedures, policy reform, and linkages to other development programs and activities, among others, are necessary to sustain long-term democratic reforms and legislative effectiveness.” The need for complementarity is also illustrated through the discussion about “judicial substitution.” If legislatures are unable or unwilling to promote human rights, it is especially important to bolster the capacity of the judiciary. Similarly, though this study did not cover federalism, such elements of the broader institutional context may help remedy defects of the democratic process in the legislature – or populist tensions with human rights. A less understood feature of this holistic institutional reading, until recently, is the relationship between executive type and parties. For reasons explained by Samuels and Shugart and others, a weak legislature and a strong president leads to weak parties; party strengthening activities may need to more systematically consider differences among executives and not just the electoral system and the legislature.

A fifth set of critiques point to the potentially limited focus of many LSPs, including ones that are more effective. There is good evidence that legislative oversight of security services deters coups and civilian control of the military advances democracy. But parliamentary scrutiny of defense policy remains a weak spot for most LSPs. The former Soviet States present a different context, since they arguably inherited strong civilian control of the military from the communist legacy. But the consequence of poor parliamentary oversight of defense policy is that it gives legislatures little insight and even less leverage over crises such as the one currently unfolding in Ukraine. In short, civilian control of the military may need to be more prominent in USAID programming for legislatures. Much the same can be said for the “ultimate institutional tests” such as term limits or impeachment. If we take them to be important empirical indicators of legislative capacity, then legislators need to be educated on how they work and the risks that legislative assertiveness may present. This conversation needs to take place in the abstract, ideally in the absence of a potential disagreement with the executive. While the discussion of human rights emphasized how issue-based programming can easily to overlook how democratic majoritarianism

can threaten minority rights, here there is a good case for issue-based donor assistance: a comparative discussion of sensitive topics, before they come up, highlighting the disadvantages and advantages from different cases.

Lastly, USAID should ideally be in for the long haul in any LSP. While a transition to democracy in a post-conflict environment may generate excitement and high-level short-term commitments, legislatures would be better served globally if permanent staff had enduring ties and if capacity building at least transcended the next electoral cycle. Human rights, democracy, and legislatures will all be better off in the long run.
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LEGISLATIVE STRENGTHENING PROGRAMS IN UKRAINE

DRG LEARNING, EVALUATION AND RESEARCH ACTIVITY

OCTOBER 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by NORC at the University of Chicago. The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
LEGISLATIVE STRENGTHENING PROGRAMS IN UKRAINE

DRAFT

(OCTOBER 26, 2015)

Prepared under Contract No.: GS-10F-0033M / AID-OAA-M-13-00013, Tasking N021

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DISCLAIMER

The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
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INTRODUCTION

The existing literature on political development universally recognizes that legislatures are vital institutions in promoting both democracy and economic growth (Longley and Davidson, p.1; Copeland and Patterson, 1994, p. 1). Some argue that legislatures should probably be regarded as the most important institutions in a democracy. This is because their different institutional forms, rules, and practices can have major consequences both for the degree of democracy in a country and for the effective operation of the system (Lijphart, 1991: ix).

The literature identifies three key and necessary parliamentary functions: linkage (or representation), legitimacy (“the public recognition and acceptance of the right of a parliament and the government to act in some manner and the corresponding obligation of citizens to abide by that action”), and policymaking (addressing the key problems of the policy) (Copeland and Patterson, 1998: xxiv - xxviii). The policymaking responsibility includes both the creation of policies and their implementation. Oversight, therefore, is a key function of any legislature that allows these bodies to review, monitor, and supervise policy implementation and make sure that laws get implemented as intended.

This paper addresses the factors that drive active and effective efforts at policy oversight within post-authoritarian countries. The paper compares two former autocratic nations, Poland and Ukraine. We examine what has worked and what has not worked in the two countries, and we situate those experiences in a larger setting of legislative developments around the world. Next, we address the motivating factors behind the oversight processes in these two countries. This is where we can gain insight into what drives individual legislators to engage in oversight activities. Finally, we conclude by identifying factors that need to be considered in establishing a new program or improving an existing program of oversight.

In the first section of this paper, we review the literature on legislative oversight. In section two, we lay out a series of hypothesized relationships about the factors that are likely to impact the effectiveness of oversight. Following this discussion, we compare the cases of Ukraine and Poland. The final section outlines conclusions and discusses the implications of the study for the work of the developmental community.

RESEARCH ON LEGISLATIVE OVERSIGHT

Oversight can be defined as “the review, monitoring, and supervision of government and public agencies, including the implementation of policy and legislation” (Yamamoto, 2007, p. 9). More specifically, the purpose of oversight is to hold the government accountable for the use of public funds by detecting fraud and waste and by ensuring that laws get implemented as intended. Oversight is consequently a “follow-on activity linked to lawmaking” that becomes critical when considering the “enormous powers wielded by executive leaders” (National Democratic Institute [NDI], 2000, p. 19).

Research on oversight is heavily influenced by studies of the Congress of the United States and other legislatures operating in long-lasting democracies. Studies of the developing legislatures of Eastern Europe usually concentrate on the oversight functions of committees, while some publications also address budgetary oversight.

This research reveals that oversight practices may differ in terms of how and to what extent legislators attempt to detect and remedy the transgressions of members of the government’s executive branch. For example, McCubbins and Schwartz (1984) famously observe that legislators may attempt to maximize the
political benefits of legislative oversight by adopting either a police patrol or fire-alarm approach to the oversight process.

Oversight can be either legislative or investigative. The former involves the examination of programs and agencies for the purpose of deciding whether new legislation or a modification of existing legislation is needed. The latter is more exploratory, with a view toward uncovering incompetence or malfeasance within the administration of a particular agency.

Oversight tools can be internal to the organization of a legislature (committees, inquiries, etc.) or external (ombudsmen, audit institutions). The external environment of a legislature is significantly affected by both contextual and facilitating factors, and thus its use of external oversight tools must be considered within a particular context. Experts differ as to which of these factors are most important. The literature points to the following mechanisms that legislatures use to oversee the work of governmental agencies on policy implementation: investigations, funding, constituency service, reviewing secondary legislation, audits, and ministerial responsibility.

Specifically, legislatures may use questions to government to collect information. Parliamentary questioning periods, government days, and question hours are the most common oversight tools in parliamentary and hybrid governmental systems. They are, however, not found in full presidential systems. Within these information-gathering systems, questions can be asked of government entities or individuals orally or in writing. These questions are then discussed and debated as needed. Written questions are not debated in parliament, although written answers to those questions are provided. Additionally, individual questions can be deemed urgent, requiring a speedy government response.

Legislatures also use interpellations to obtain information from the executive. Interpellations differ from question periods. While an individual member of parliament (MP) may submit questions, interpellations have to be introduced either by a party’s parliamentary group or by a prescribed minimum number of MPs. During question periods, the executive is questioned by an MP on factual data, such as the correctness of information received by the government, that informs a deliberative process, whether the government plans to share this information with the legislature, and whether the government has undertaken or is willing to undertake a specific course of action. In an interpellation, the objective is not only to gain or clarify factual information, but also to obtain information on the reasons and motivations behind a particular government decision. Unlike the question period, a government crisis and motions of censure can be caused by an interpellation.

Legislatures use motions to scrutinize policy implementations. The two main types of motions are: motions for debate and motion of censure. A motion for debate is used to scrutinize the implementation of government policies and activities. A motion of censure is used to express formal disapproval of either the head of the government or the government as a whole. Motions of censure can have a wide range of consequences (Pelizzo, 2013). In some presidential countries, such as Burundi, they are used only to record the displeasure of the legislature, without any substantive consequences. In other countries, such as Liberia, they can lead to the dismissal of the head of government.

Committees are one of the most distinctive organizational features of legislatures. Regardless of the type of oversight, legislative committees often play a vital role in the process of oversight. This is particularly true in semi-presidential and presidential systems, where active committees with strong oversight functions play a critical role in exercising inter-branch checks and balances, ensuring the genuine
separation of powers (Strøm, 1998). They can vary in size and number, but they invariably assist legislatures in performing their legislative and oversight functions.

The oversight functions of a particular committee depend on the committee type. Permanent committees exist for the duration of the legislature and are established either in a constitution, in parliamentary rules and procedures, or in the standing orders of a legislature. Ad hoc inquiry committees exist for a specific period of time, and function to examine a specific issue.

The most frequently used specialized committee for oversight purposes is the Public Account Committee (PAC). This type of committee reviews government expenditures and ensures accountability. It was once found exclusively in countries with a British institutional legacy (Commonwealth and Ireland). In the contemporary political world, several countries outside the Commonwealth and/or with presidential forms of government (e.g., Nigeria, Liberia, Seychelles, Bhutan, and the Federated States of Micronesia) have also adopted PACs (Pellizzo, 2013).

Hearings are the most common oversight tools utilized by committees. Committees can have the power to subpoena government ministers and senior officials, as well as other witnesses if deemed necessary, to gather information on government activity and policy implementation and keep the government accountable. Many legislatures use ad hoc or temporary committees (or subcommittees of inquiry) to perform specific investigations on particularly salient issues. These committees are dissolved once they have performed the task for which they had been instituted or because their terms have expired.

Missions and reports are other forms of legislative oversight that are used in some parliaments. Pelizzo (2013) has found several countries (e.g., Benin, Burundi, Congo, Djibouti, and Indonesia) where legislatures can carry out fact-finding missions to gather information on the efficiency and the effectiveness of government policy implementation. In many other countries (e.g., Cyprus, Djibouti, and South Korea), specific provisions compel the executive to submit regular reports to the legislature about the implementation of policies and programs. These reports can be subject to debate in the plenary.

LARGER SYSTEMIC FACTORS

Legislatures do not operate in isolation. They work as a part of a larger system that also includes the executive and judicial branches, as well as society as a whole. This larger system framework influences all processes in which legislatures engage, including the process of oversight.

Legislatures differ in their strength relative to the strength of the executive and judiciary. Therefore, oversight processes work differently in different countries. In parliamentary systems, parliament not only oversees the executive branch, but also helps form it, with some or all of the ministers (including the prime minister) first elected as members of parliament. In contrast, presidential systems have parliament and the executive as separate branches of government, and presidents are elected for fixed terms in elections that are separate from parliamentary elections. The president appoints ministers (although such appointments are often subject to parliamentary ratification).

A key function of parliament in promoting greater government accountability within the executive branch is its financial oversight function. This is particularly relevant where a parliament has a role in ex-ante and ex-post budget reviews. Parliaments approve the annual budget and oversee government spending, and through this process they assist in holding the executive accountable for the use of public funds. As a good example of “strategy follows structure,” parliamentary systems tend to emphasize the parliament’s role in the budget cycle ex-post, with an emphasis on financial scrutiny and, in a growing number of
countries, value-for-money and performance audits. In presidential systems, parliaments tend to play a greater role in budget formulation.

Legislatures differ in their usages of legislative oversight tools. For example, Pelizzo’s research (2013) shows that committee hearings are used in 22 of the 24 countries under consideration, oral or written questions in 21 of the 24, committees of inquiry in 20 countries, and urgent questions in 19. By contrast, missions are used in only 9 of the 24 countries, motions for debate in 12, reports in 15, and motions of censure in 14. The question, then, is: What motivates legislators to engage in oversight in general and in a particular form of an oversight specifically?

Research indicates that oversight is a function of the type of both the governmental system and the election system.

**Presidential/parliamentary forms of government and electoral systems (Pelizzo 2013)**

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<th>Single-Member Plurality System</th>
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<td>Presidential</td>
<td>Strong Oversight</td>
<td>Weak Oversight</td>
</tr>
<tr>
<td>Parliamentary</td>
<td>Weak Oversight</td>
<td>Strong Oversight</td>
</tr>
</tbody>
</table>

Thus, Pelizzo concludes that legislatures that operate in presidential systems with single-member plurality systems, as well as legislatures operating in parliamentary systems with proportional-representation systems, have strong oversight functions.

**THE DEVELOPMENT OF OVERSIGHT THEORIES**

The previous discussed theories have been developed within a general paradigm of institutionalism. All of these theories agree on the main purpose of legislative oversight, which is to make sure that laws get implemented as intended and to correct governmental wrongdoings during the policy implementation process. In addition, these theories present the major tools of legislative oversight and their applicability in the contexts of different countries. Thus, oversight is discussed in relation to a specific type of a governmental system and also in relation to the type of an election system.

The development of these theories is heavily rooted in the practice of Western legislatures, especially the U.S. Congress. This means that certain basic assumptions about a political system need to be true for a theory to be generalizable from a Western context to that of a developing post-communist country. For example, the definition of “oversight” points out that legislators’ main interest is in making sure that policies get implemented as intended and correcting governmental wrongdoings to protect the public good. In addition, there is an assumption that the electoral connection works and the election process itself is indeed free and equal, as in all long-lasting democracies. This is a huge assumption for a post-authoritarian society. If an election system does not function as intended in a democracy, then it is hard to conclude that a legislature in a parliamentary system with a proportional system of representation would have a strong oversight function. It is also hard to conclude that a legislature in a presidential governmental system with a single-member plurality system would have strong oversight function. If we apply this argument to modern Belarus under President Lukashenko, then the theory suggests that the Belorussian Parliament would have a strong oversight function. However, the research demonstrates that Belarus is an authoritarian country; President Lukashenko has power and Parliament frequently serves as a rubber-stamp institution to the presidential power.
Here is an additional example of an argument based on the assumption of free and equal election that works for the Western world but needs further clarification to be applied to the developmental context of post-communist countries (Pelizzo 2013):

As soon as voters demand that the government be held accountable for its actions, the structure of incentives shifts and it becomes more rewarding for legislators to engage in effective oversight and to oversee the government actions. This means that it is sufficient to generate or stimulate voter demands for accountability in order to ensure that oversight activities will be effectively performed by the legislature. If voter demand exists for more effective oversight, then there will be clear benefits for legislators to introduce accountability procedures.

This argument is based on the assumption that voters can demand anything from legislators and can actually hold legislators accountable. This assumption is based on a fundamental principle, that elections are free and equal and voters can make an actual difference. However, research on post-communist countries points to widespread occurrences of election fraud. The devices used in authoritarian countries to cheat in elections in “competitive authoritarianism systems” have been researched to some extent. Organizations such as the National Endowment for Democracy are already discussing how authoritarian regimes deliberately obfuscate their electoral processes to mislead Western observers (See National Endowment for Democracy: http://www.ned.org/events/election-observation-how-authoritarian-regimes-muddy-the-waters/).

Asking if a legislature has the appropriate tools for oversight and the knowledge of their use is an important question and a proper first step. However, an additional important question for the practice of development should address the motivational factors behind a legislature’s engagement in legislative oversight. The following section engages in further theory development to find answers to this question.

The neo-institutional perspective has two aims: to account for the effects of legislative organization and to explain the organization’s origins. These both share the point of view that legislative organization matters. Institutional structure, procedures, and rules are assumed to affect the distribution of legislative power and, ultimately, public policy. The neo-institutionalists see legislators as involved in collective choice situations that include both inescapable conflict over outcomes and prospects for gains from trade (Shepsle and Wiengast, 1994; Krehbiel, 1991).

The following may provide an insight into what motivates legislators to engage in oversight. First, oversight activities allow legislators to increase their level of expertise on policy issues, which gives them an advantage in working with executives—specialists by definition—and allow legislators a greater influence on policy. However, this is mitigated by the crucial role that information uncertainty plays in the construction of policy (Gilligan and Krehbiel, 1989; Krehbiel, 1991). Some degree of uncertainty exists between parliamentary decisions and policy outcomes. Specialization is a well-known way to deal with the uncertainty of policy outcomes. Oversight activities would allow deputies to specialize at low cost.

In addition, individual legislators have different agendas. Oversight activities allow deputies who have conflicting policy goals to exchange “favors” and to engage in negotiation activities such as “pork-barrel” projects. This can be associated with increased chances of electoral success and more influential positions in the process of policymaking.
Finally, oversight can be seen as an instrument for increasing the position of a particular party for future re-election purposes. Thus, members of an opposition party may engage in oversight activities to increase their chances not only of re-election, but also of becoming a majority. Conversely, oversight may be perceived as a tool the majority party can use to remain in power.

The neo-institutional perspective has important implications. The first explanation implies that legislators act independently of party or floor influence in performing legislative oversight functions. The second explanation implies that legislators are constituency-oriented, irrespective of party or floor preferences. And the final explanation implies that legislators are motivated by their parties. All three perspectives imply that legislators are interested in increasing their level of influence in the policymaking process and thus the ability to exert effective influence on the government during the policy implementation process.

**OVERSIGHT EFFECTIVENESS**

Drawing insights from both recent scholarship on post-communist legislatures and the broader literature on comparative world legislatures, we develop here a series of hypothesized relationships concerning the effectiveness of legislative oversight. We are specifically interested in factors that contribute to this effectiveness, measured by whether or not this activity results in more effective implementation of policies by the governmental agencies that benefit broad constituencies. Obtaining a greater public good for broader constituencies (as opposed to a process that offers benefits to only one person or a small group of political or economic elites) as a final result of the oversight process is a key component to our operationalization of effective oversight.

The first hypothesized relationship we offer is that making oversight tools available to legislators increases the opportunity for the creation and implementation of an effective oversight process. Specifically, the presence of the following mechanisms allows for effective oversight:

1. Investigations;
2. Funding;
3. Constituency service;
4. Reviewing secondary legislation;
5. Post-audit; and

Nevertheless, the effectiveness of an oversight process, even if it may avail itself of all these mechanisms, still depends on the type of governmental system in a society and the coupling of that system with a particular election system, according to research by Pelizzo (2013). That research concludes that the strongest possibilities for effective oversight occur in either a presidential system with a single-member election system or a parliamentary governmental system with a proportional-representation election system.

Further, the choice and implementation of these mechanisms depends on the purpose of the oversight, which can be either legislative or investigative. The availability to legislators of such purpose-dependent mechanisms allows for effective oversight.
Finally, larger systemic factors influence the effectiveness of legislative oversight. Thus, the degree of conflict in legislative-executive relations, the level of corruption in the country, and the degree of fraud in the electoral processes all influence the effectiveness of legislative oversight. We hypothesize that the levels of corruption and/or fraud will have an inverse relationship to the efficacy of the oversight process; i.e., higher levels of corruption result in a less-effective oversight process.

**CASE STUDIES: POLAND AND UKRAINE**

The following section compares the cases of Ukraine and Poland and gives special attention to this question, in addition to discussing the existing tools of legislative oversight available to these legislatures.

The transition from communism in Europe and the former Soviet Union has led to fully consolidated democracies with functioning democratic legislatures in only few instances. Since the fall of the Berlin Wall in 1989 and the collapse of the Soviet Union in 1991, 28 mostly new states have abandoned communism. Only eight—the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia, and Croatia—now have democratic legislatures that function well. Legislatures in the remaining majority of new post-Communist states exhibit various degrees of institutionalization, ranging from “rubber-stamp” legislative institutions in countries like Russia and Belarus to parliaments that have developed policymaking capacities and different degrees of independence from executives, such as Ukraine. Why did some legislatures become more successful than others in developing independently from the executive policy roles? Why have some acquired a considerable degree of influence on policymaking, while others struggle and remain puppet or rubber-stamp institutions to powerful executives? Simultaneous regime change in two dozen countries, all beginning in roughly similar places but moving along very different trajectories over a two-decade period, offers a perfect social laboratory setting for testing theories and developing new hypotheses about legislative institutionalization in general and the development of an oversight function within a parliament specifically.

In comparing these two cases of post-communist transition, we must discuss the successes and failures of their legislatures regarding oversight, analyze which mechanisms of oversight are available to legislators in those countries, and discuss why the process of legislative oversight of policy implementation works as it does in these countries. We must specifically address the factors that influence the behavior of individual legislators. Finally, we must identify the policy implementation factors that need to be considered within these countries in establishing initial legislative oversight processes or improving existing ones.

Poland and Ukraine are two post-communist countries that separated from the Soviet Union and began their democratic transition during the last decade of the 20th century. Poland actively engaged in a democratic transition between 1989 and 1991. This put an end to the People’s Republic of Poland and led to a democratic regime, called the Polish Third Republic. Poland joined NATO in 1999 and the European Union in 2004. In December 1989, the Sejm (the lower house of the Polish parliament) approved the government’s reform program to transform the Polish economy from centrally planned to free-market, amended the constitution to eliminate references to the “leading role” of the Communist Party, and renamed the country the “Republic of Poland.” The communist Polish United Workers’ Party dissolved itself in January 1990, creating in its place the Social Democracy of the Republic of Poland. Most of the property of the former Communist Party was turned over to the state. Poland’s first free parliamentary elections took place in 1991. In April 1997, the first post-communist Constitution of Poland was finalized, and then put into effect in July. Poland’s new constitution in 1997 redefined the concept of the
Polish nation in civic rather than in ethnic terms. Article 35 of that constitution guaranteed the rights of national and ethnic minorities, while other provisions prohibited discrimination and political organizations that spread racial hatred.

In 1997 parliamentary elections, two parties with roots in the solidarity movement—Solidarity Electoral Action (AWS) and the Freedom Union (UW)—won 261 of the 460 seats in the Sejm and formed a coalition government. Jerzy Buzek of the AWS became prime minister. The AWS and the Democratic Left Alliance (SLD) held the majority of the seats in the Sejm. Marian Krzaklewski was the leader of the AWS and Leszek Miller led the SLD. In June 2000, UW withdrew from the governing coalition, leaving AWS at the helm of a minority government.

Compared to the relatively straightforward movements in Poland, Ukraine’s constitutional engineering has been far more complicated, with multiple changes between semi-presidential to semi-parliamentary forms of government. Ukraine gained independence from the Soviet Union in 1991. Since that year, Ukraine has moved through four broad periods of institutional development. The first period marked the establishment of Ukraine’s mixed presidential-parliamentary system, beginning with the transition to independence in the late 1980s through the early 1990s. The second period—from the first openly contested parliamentary and presidential elections in 1994 through the passage of Ukraine’s constitution in 1996 to the early 2000s—saw the solidification of the mixed regime and heightened legislative-executive conflict. During the third period, beginning in 2004, constitutional reforms shifted power from the president to the Rada (its unicameral parliament). This third period also marked an important change in political context: the period of political demonstrations (Majdans) such as the Orange Revolution, which led to the peaceful defeat of the reigning autocratic elites. The fourth period has been characterized by a series of Majdans—ongoing conflicts between government and opposition forces. This period also has included a military confrontation with Russian-backed separatists in Eastern Ukraine; the constitutional reforms of 2010, which shifted more power to the president; and the reforms of 2014, which brought more power to the Parliament. (See Appendix 1 for a brief chronology of constitutional engineering in Ukraine.)

In general, the Polish Sejm and the Ukrainian Rada have all of the tools necessary to conduct effective legislative oversight of the executive branch. In the following section, we discuss the most frequently used oversight tools in the Rada and the Sejm.

UKRAINE

The oversight tools most commonly used by the Rada include committee and plenary hearings, MPs writing inquiries or information requests to ministries, and Government Day (Hour of Questions). The Rada conducts plenary hearings, allocating a period on the floor for questions to the ministerial staff. Frequently, however, the purpose of these is less oversight than member visibility, giving MPs an opportunity to be in front TV cameras and show that they are actively advocating for their constituencies. The plenary room is usually almost empty and the majority of MPs are absent. Thus, MPs ask questions and address TV audiences more than actually try to get answers from ministerial staff. Ministerial staffs are usually represented, but not by those who can give informed responses. Oversight on these occasions is therefore just a public relations tool for MPs.

Committee hearings can be more influential in terms of oversight than plenary hearings. Committees have connections to ministries in their policy areas, and these hearings usually target more specific policy issues than televised hearings on the plenary.
Legislative inquiries to ministries, whether from MPs or the public, also have marginal impact. If powerful groups support a law, that law will be implemented through informal communication channels rather than through formal tools of oversight. If a law is not supported, then letters will have no impact except to show the electorate that MPs care about their concerns, and the inquiries serve the sole purpose of supplying MPs with publicity for their constituencies.

In addition, Ukraine has an Accounting Chamber (in Ukrainian: Рахункова палата України), which is an auditing body of the Rada. The Accounting Chamber is a permanent acting body of external state financial control that has been functioning since 1997. The constitution adopted in 1996 fixed the status of the Accounting Chamber as the body acting on behalf of the Rada and executing control over the use of funds in the state budget. This change, however, came only after a contentious override of a presidential veto.

Article 98 of the Constitution of Ukraine outlines the main purpose of the Accounting Chamber: to provide control over use of funds of the state budget. The tasks of the Accounting Chamber include the following:

- To organize and execute control over timely execution of expenditures of the State Budget of Ukraine, including national targeted funds, their amounts, structure, and targeted allocation;
- Execute control over the internal and external national debt of Ukraine, judge appropriateness and efficiency of spending public money, foreign currency and credit, and financial resources;
- Scientific and technical research, social and cultural development and environmental protection;
- Execute control over the legality of lending money and rendering economic assistance as envisaged by the State Budget of Ukraine to foreign countries and international organizations;
- Analyze deviations from state budget indicators and draft proposals for their corrections, as well as for improvements of general budgeting process;
- Regularly inform the Ukrainian Rada and its committees about state budget execution and the situation with redemption of internal and foreign debt of Ukraine and about the results of other controlling activities; and
- Execute other tasks of the Accounting Chamber according to current Ukrainian law.

The staff of the Accounting Chamber includes its chair and a first deputy, deputy chair, chief inspectors and the secretary of the Accounting Chamber. They are collectively known as the Collegiate or Board of the Accounting Chamber. The chamber has its own secretarial apparatus and has a great degree of independence from other organizations within the state administration. To preserve independence in its functions, members of the chamber cannot be MPs or work for other government agencies and cannot be employed in commercial activities or perform other work concurrently, except for teaching, research, and other unrelated creative activities. Appointments to leadership positions in the chamber take place every seven years, according to the Law of Ukraine on the Accounting Chamber.

POLAND

Committee hearings are one of the most frequently used methods of oversight in Poland. Ministers and representatives of other public institutions are obliged to present information and explanations at the
request of permanent and special committees of the Sejm or the Senate on matters falling within the scope of their activity. In addition, the Sejm may appoint a committee of inquiry or an investigative committee to examine a particular matter. Legislators may submit oral and written questions. Deputies may address interpellations, deputies’ questions, and questions on current issues to ministers. Interpellations are a form of question relating to significant matters in Poland; deputies’ questions relate to less important matters; and questions on current issues address the matters covered by their title. An addressee of an interpellation is obliged to provide an answer in writing within 21 days. Consideration of an interpellation at a sitting of the Sejm includes information on the substance of an interpellation and the answer of the representative. In the course of the sitting, the questioner may request additional information from the person addressed. Questions on current issues are posed orally during each sitting of the Sejm and require a direct answer. The Sejm presidium is obliged to include in each sitting’s orders of the day an item for interpellations and questions on current issues, provided that the time granted is no longer than one and two hours, respectively. Questions cannot give rise to a debate in the Sejm, which conducts a budgetary audit. Thus, the supreme chamber of control is subordinate to the Sejm and is the chief state audit body (Article 202 of the Constitution). It audits government administrative bodies, the national bank, state legal persons, and other state organizational units with regard to their legality, economic prudence, efficacy, and diligence. The chamber of control may audit the activity of the organs of local government, communal legal persons, and other communal organizational units with regard to legality, economic prudence, and diligence. It may also audit the activity of other organizational units and economic subjects, regarding their legality and economic prudence, to the extent to which they use state or communal property or resources, or have financial obligations to the state.

The president of the chamber is appointed by the Sejm, with the consent of the Senate, for a period of six years, which may be extended for one more period only. The president may not hold any other post, except for a professorship in an institute of higher education, nor perform any other professional activities, and may not belong to a political party, a trade union, or perform public activities incompatible with the dignity of the office. The supreme chamber of control presents a report to the Sejm containing three sections: (i) an analysis of the implementation of the state budget and monetary policy aims; (ii) an opinion concerning the vote to accept the accounts for the preceding fiscal year presented by the Council of Ministers; and (iii) information on the results of audits, conclusions, and submissions specified by statute (Article 204 of the Constitution). It also presents an annual report on its own activities to the Sejm.

**COMPARING OVERSIGHT IN THE TWO LEGISLATURES**

Both legislatures regularly use the tools available to them. Legislators of both are well aware of the oversight tools they have and how to use them. Yet the Rada faces far more significant challenges in performing these functions than do the Sejm and the majority of legislatures in long-lasting democracies. Some challenges are similar to those faced by other legislatures around the world, including the Sejm and U.S. Congress, as oversight is usually one of the most neglected functions in the majority of legislatures. In its early years, the Sejm used this tool considerably more than it does currently. In addition, getting the cooperation of ministries or agencies, especially in the presence of a strong president in presidential and semi-presidential systems, can be a challenge as well. This can be true for the strongest and the most developed legislatures with longest histories, such as the U.S. Congress.

As in any country, historical and larger systemic factors condition policy implementation and the process of legislative oversight. As discussed in previous sections, the Ukrainian political system has been developing rapidly, with multiple changes in its governmental system, from semi-presidential to semi-
parliamentary. Therefore, Ukraine and its Rada faced differing sets of challenges, depending on the period of the Ukrainian post-communist history and the governmental system in place at any given time. The history of the Sejm demonstrates that it too faced multiple challenges during its post-communist history, but Poland did not have as many radical changes in its governmental system as Ukraine did.

One of the first and most significant challenges to both the Rada and the Sejm was a lack of knowledge among legislators about organizing legislative functions, such as committee work and oversight. Thus, legislators of the first post-communist Rada engaged in plenary work with enthusiasm and at the expense of any other kind of parliamentary work, including work on committees. Conducting almost all, if not all, work on the plenary (primarily with floor debates) served as a significant impediment to the work of this institution. This coincided with an economic transformation from a state-owned to a market economy, the development of a banking system that could address the needs of a new market economy, and the formation of new economic and social groups.

Modern Ukraine and its Rada are facing a different set of challenges than those in its earlier post-communist years. These contemporary issues also set the Rada apart from the Sejm and its unique set of challenges. The Ukrainian challenges include corruption, the struggle to develop a fully representative form of government, election fraud, and the lack of an effective system of punishment for governmental wrongdoing. For example, during the summer of 2015, Ukraine had prosecutors who refused to prosecute governmental wrongdoing and an Accounting Chamber that did not execute any control over the state budget. All of this occurred during the ongoing conflict in Eastern Ukraine, replete with its Russian-backed separatists and Russian aggression in Crimea. Research on the Sejm, based on a series of interviews conducted by Monica Nalepa with Polish legislators, shows that the relationship between government and opposition is the main driving force behind almost all decision-making processes for Polish legislators. They stated that as soon as the government makes a decision, the opposition attacks that decision almost automatically, regardless of the substance of what the government decides. Legislators in the Polish Sejm are concerned mainly with their own re-election. Interviews show that the national election process works in Poland, and legislators thus rely on actual votes (as opposed to the other tools that are used in fraudulent elections) to win seats in the Sejm. There is some perception of the need for oversight in Ukraine, but not as a tool to improve policy implementation. Rather, oversight could be a tool for legislators to increase their levels of visibility, which then translates into an increase in how much power these legislators have in the Rada and in the overall political system. In other cases oversight can be used as a tool for individual economic gain.

Some new and emerging factors provide Ukraine with an opportunity to overcome these challenges, move to the next stage in its institutional development, and engage in effective oversight activities. Pressures from the international community could be among the most influential factors. The flow of money from the West benefits some powerful economic groups in Ukraine. Therefore, international pressures can serve as an incentive for reforms to combat corruption and address other challenges. For example, the Ukrainian government is interested and has been successful in securing loans from the European Union (EU) and the International Monetary Fund (IMF). Those were conditional loans, and the international community would monitor compliance with the conditions to implement them. This offers an opportunity to the Rada to use its oversight tools to ensure effective implementation of policies that are necessary to secure the next set of loans.

Effective oversight that is directed toward improving the country’s public policies, such as those much-needed loans to Ukraine, could change the prevailing public opinion—and the opinion of the majority of the Ukrainian legislators—on the need for legislative oversight. Currently, Ukrainians crave more
legislation and blame the lack of quality in existing legislation for failures in policy implementation. Most Ukrainians believe that laws must be self-executing. They share a belief in a perfect law that would leave little or no need for oversight, i.e., a law that spells everything out clearly and in detail. Rada staff members have great interest in more training to write perfect laws that would self-execute, eliminating the need for oversight.

LARGER POLITICAL SYSTEM INFLUENCES IN UKRAINE

The Rada, like legislatures in other countries, operates within the constraints of the political system in Ukraine. It has an opportunity to influence the system, but its daily operations remain within the constraints of the political system of which it constitutes a significant part. Corruption has been one of the main factors which explain the dynamics we observed in legislative oversight. Oversight in this system is becoming a part of another process, which Ukrainians call a “schema”—a sequence of steps where those with ties to powerful economic groups can make significant financial gains. Ukrainian laws, like laws from the U.S. Congress, leave considerable room for administrative discretion. Ministries frequently use this discretion to benefit a specific group; for instance, they may make rules that allow a specific group to win a governmental contract (or tender) to import drugs.

Characteristics unique to the legislative process in Ukraine influence the oversight processes. Thus, the success of a law in terms of implementation depends on who initiates the law. Specifically, presidential laws usually enjoy a smooth ride through ministries, leading to a conclusion that there is no need for oversight in general. Ministries are highly motivated to please presidential administrations because of the power that the president has over ministries. Therefore, ministries work closely with the presidential administration to implement laws exactly as they are intended. The Rada has little to no role in this process.

If a legislator initiates a law, it usually originates with a ministry working through that legislator, as that method is easier to initiate a law than a ministry initiating the law itself. Therefore, ministries frequently approach members of their factions within the legislature. Thus, many laws appear to originate in the Rada but in reality come from ministries. Ministries have a vested interest in implementing their own laws; therefore, oversight has little to no value in this process.

Finally, legislators introduce draft laws as well. If the president approves such a law, then the ministries will execute it. No formal oversight is needed, because it is easier for all parties to discuss the details of such legislation over dinner than use the formal tools of oversight. If the president does not support the law, even if it gets through the Rada and a presidential signature, its implementation depends on whether the intended outcome of the law aligns with interests of one or more powerful economic groups and whether some other powerful group would oppose it. In such a high-conflict situation, no oversight can help with policy implementation (or the lack of it) if ministries are captured by powerful economic interests aligned against the law. If the president supports the powerful economic interests and opposes the law, then a ministry usually would ignore those legislators who are trying to engage in legislative oversight.

Some legislators are not aligned with any powerful economic group. If these new legislators refuse to join forces with one of the well-established powerful economic groups, they can use oversight tools, but their efforts will be largely fruitless. Ministries will respond, but along the lines of, “We are reviewing the issue,” or “We are investigating,” and the other such responses. If a legislator continues to insist on performing an oversight function, then the threat can be made to discredit that legislator in the media.
An additional way to discredit these legislators is to organize a mass protest. For example, one of the interviewees explained it as follows:

(W)ith this number of people making less than $100/month, it takes little to organize a protest against a product. For example, if an uncooperative MP has a business that produces a medicine in a green box, then tomorrow, there can be hundreds of people next to the Parliament protesting medication in green boxes. In addition, the KGB has files on all, and if a president wants somebody to be discredited, then these files can be made public.

Practices like these can preclude legislators from engaging in oversight. Some legislators enjoy a certain degree of independence from the president. This relative independence depends on the election system and the region from which the legislator hails. This is because the powerful economic interests represented in the Rada (related to oligarchs) have the power to fight with almost unlimited resources, such as the ability to organize mass protests, pay for media coverage and smear campaigns, fund private militias, and (allegedly) resort to bribery. Presidents can use their powers over regional administrations to enhance the chances of one candidate for a legislative seat over another.

Ministerial officials are also powerful players in legislative-executive relations and can act independently from either the president or the legislature. Ministerial staff members, for example, may refuse to cooperate in any meaningful way with legislators during the oversight process. This is especially true if the president supports the ministerial staff (and if the president opposes a given legislator). In this situation, legislators can do little to get cooperation from the executive branch. This can regularly occur due to the competition among different groups of oligarchs represented in the Rada. Staffers in a ministry make little money, so it is easy for a group of oligarchs to bribe them.

If other groups try to engage in oversight, ministerial staff members will ignore a particular request, delay a response to that request, send a formalistic response, or send a representative to participate in an event at the Rada. Little or no information will flow from the ministry to the legislature. In other words, the formal attributes of successful oversight are there for donors to observe, but this is a form of window-dressing rather than a full-fledged democratic practice for the region.

Ministers who have the powers of hiring and firing may not get cooperation from their employees if powerful groups of oligarchs align against them. For example, a new minister of health has been experiencing difficulties in getting cooperation from the street-level bureaucrats under his command. The following is a summary of responses received during interviews with Ukrainian experts. When asked about the appointment of a new health minister and the minister’s appointment of loyal department heads, responses varied, but all pointed to a similar situation:
Yes, there is a newly appointed minister of health, but he will be taken care of in the same way as the previous minister. He is new and has not gone through the stages of career growth here, so he has little, if any, understanding of how things work. Picture this: a regular staff member of the ministry makes about 1,800–2,000 hryvna [UAH] per month. If the paperwork becomes suddenly “lost” or misdelivered or delayed, there is no way to find out what happened. This is because powerful economic interests can pay small amounts to buy the loyalty of these low-paid governmental employees. They then do what Ukrainians from the old communist times referred to as “Italian sabotage,” which is when a leader with a lack of professional experience cannot even find a reason to fire an employee, because the employee points to the fact that he or she brought the failure to the supervisor’s attention, did this and that, and did their absolute best to accomplish the task, and they just have no idea what went wrong. They present themselves as very hardworking and willing to please the boss, but they just do not know how to do so. This new minister is already looking for a way out, and you cannot just come after schemas and expect to succeed. [The word “schema” is understood by any Ukrainian. It means a system of steps that lead to a well-predicted outcome, which is usually significant financial gain by one of the powerful economic groups.]

At the time of this field research, in June 2015, the Accounting Chamber worked with little (if any) effectiveness. The Rada had the responsibility, but failed to appoint the staff of the Accounting Chamber, except for its chair. As a result, although its employees were coming to work and getting paid, they were not actually appointed for three years by the time of this research, and therefore were not performing any of the duties assigned to them. In addition, on Aug. 14, 2014, the Rada adopted a law on lustration, which excluded from public office civil servants who worked under President Viktor Yanukovych for more than a year “and did not resign of their own accord” between Feb. 25, 2010, and Feb. 22, 2014. The law also excluded civil servants who were active in the Communist Party of the Soviet Union. The former civil servants may be excluded for anywhere from five to 10 years. The leadership of the Accounting Chamber had ties to powerful economic groups, and all feared being dismissed from their positions under the lustration law. Therefore, even the lawful head of the chamber was avoiding performing any meaningful tasks to avoid conflicts with any of the powerful groups of oligarchs.

Here is an example from one of the interviews in Ukraine from the summer of 2015:

Picture this: Here is a bottle of water or medicine. It costs UAH 5. You are a governmental official and you come to me and say that you are willing to pay UAH 8 per bottle with an understanding that UAH 3 will be deposited directly to a Swiss account.

The staff of the Accounting Chamber will usually catch this practice. However, the Ukrainian solution is then to offer UAH 1 from the sale to whoever is working on this case in the Accounting Chamber. MPs or their close families are usually part of this process, a typical Ukrainian schema.

When the government announces a competition for private companies to provide a service (buying drugs, for example), the rules of the competition are usually designed to favor specific groups in such a way that

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1 Hryvna (UAH) is the Ukrainian currency; exchange rate as of December 9, 2015, is UAH 20 = USD $1.
2 Lustration refers to the removal of government officials who served in past regimes.
no other group can win the contract. Competition for the contract will be announced, but everybody knows who will win it. The paperwork can be drafted in a way that only one company would qualify for it. For example, they would require certain dosages to be obtained from the same provider. Even though it makes no substantive sense, the process ensures that only one “preferred” company will qualify.

Schemas in general are becoming more sophisticated. The groups behind them figured out how to participate in the policy implementation process on paper, but they actually do nothing and still profit. Consider this example: The ministry sets up a rule that the winner of a competition does not have to provide the actual drug for another five months, but gets money to purchase the drug immediately. Whoever wins the contract has no intention to do anything to further the purchase. The winner simply takes money from the government for the purchase and makes money by using the capital for the ensuing five months. They then return the amount awarded, claiming that the service cannot be provided due to circumstances outside of their control, such as price changes. Another popular excuse is that capital was awarded in hryvnas and the exchange rate has changed, making the transaction untenable. They then insist the government either take the money back or award more money for the purchase. In any case, the groups make money using government money, a kind of governmental loan with no interest. Drug consumers are simply left with no means to sustain or enhance their quality of life until this process is completed and the drugs are obtained.

Legislative oversight under these conditions is usually limited to protecting the interests of a powerful group and making sure that the schema works smoothly. Many powerful actors in different branches of the government are involved in these schemas, and they use their oversight functions to ensure the largest financial gain for their groups.

Finally, the election process is another factor that has impact on legislative oversight in Ukraine. Free and fair elections ensure an electoral connection and enhance the function of representation in a legislature. The electoral process (and electoral fraud) has been outside the scope of this research, but researching election practices in Ukraine would be a useful next step in understanding Ukrainian dynamics, including the oversight process. Initial results from this current research suggest the presence of some levels of electoral fraud, levels that could possibly be substantially higher than those reported by Western election observers.

LARGER POLITICAL SYSTEM INFLUENCES IN POLAND

Two main premises merit consideration in discussing oversight in Poland:

- Formal rights versus actual possibilities and
- Full control of government coalition over legislation.

The role of the Polish legislature is strictly connected to its political background and structure and specifically to the roles of political parties in legislative process. The legislature presents the decision of the majority, while opposition is frequently characterized as powerless. Thus amendments or drafts submitted by opposition parties are routinely rejected, regardless of their substantive content.

Unlike in Ukraine, it does not matter for the purposes of oversight who formally initiates a particular bill in Poland, but the support of the majority coalition matters. This can be explained by the differences in governmental systems. Poland has adopted a parliamentary form of government where the president is the supreme representative of the republic and the guarantor of the continuity of state authority (Article 126...
of the Constitution). He or she ensures observance of the Constitution and safeguards the sovereignty and security of the state as well as the inviolability and integrity of its territory. The prime minister heads the executive branch. The Council of Ministers comprises its president, the prime minister, and other ministers (Article 147 of the Constitution). Vice presidents or deputy prime ministers may also be appointed within the Council of Ministers. The Council of Ministers conducts the internal affairs and foreign policy of the republic and manages the government administration. The president is directly elected by universal suffrage (Article 127 of the Constitution). He or she nominates a prime minister who proposes the composition of a Council of Ministers (Article 154 of the Constitution). Within 14 days of the first sitting of the House or acceptance of the resignation of the previous Council of Ministers, the president appoints a prime minister and other ministers and accepts their oaths of office. In the event that the president has not appointed a council, the House chooses a prime minister as well as the other ministers as proposed by him within 14 days by an absolute majority of votes in the presence of at least half of all deputies. The president then has to appoint the Council of Ministers as chosen.

In the event that no Council of Ministers has been appointed according to the above procedure, the president, within a period of 14 days, appoints a prime minister and, on his application, the other ministers. Within 14 days following the appointment of the Council of Ministers by the president, the House holds a vote of confidence in the presence of at least half of all deputies. If the vote of confidence has not been granted to the Council of Ministers, the president orders new elections to the House.

There is no difference between the two chambers in this respect, due to the majority rule. The role of parliament is thus to legitimize the (party) government decisions. For example, for the sixth term of the Sejm (2007–11), the legislature considered 1,511 bills: 45 percent submitted by the government, 33 percent by MPs, 12 percent by committees, 7 percent by the Senate, 2 percent by the president, and 1 percent by citizens. If we ascribe party affiliation to the MPs who signed the bill proposals, we see that most of that 33 percent were submitted by opposition parties (constituting 20 percent of the total number of bills).

The Sejm approved most of the bills submitted to it (72 percent); 9 percent were rejected or withdrawn, and 19 percent were not subjected to a third reading by the end of the term (and then, according to the law, not examined again during the next term). However, the plurality of bills presented by opposition MPs (45 percent) were postponed and were not given a final reading by the end of the term; 23 percent were rejected by the chamber; and 7 percent were withdrawn by the initiators. One in four succeeded, mostly as joint projects.

The parliament can require information on any issue from the government (ministers or heads of central offices). This may take the form of individual interpellations and inquiries (written, requiring written answers), individual questions on current issues (delivered orally, with direct answers required), or committee demands (desiderata) and resolutions.

The main function of individual actions is to maintain an MP’s image as present and active for his or her constituents. This strategy is considered to improve an MP’s chances of getting appointed as a candidate by his or her party in the next election. The record on an MP’s number of questions is easily available from the Sejm website and is frequently used as an indicator of the quality of an MP (e.g., by media ranking). It is probable that on many occasions the content of a particular question is delivered by civil society organizations or other pressure groups.
Demands by committees often seek to gain access to information which then may be used by civil society organizations. However, any real decisions resulting from the oversight function (a vote of approval—*absolutorium*—for the budget execution, a vote of confidence, a vote of no confidence, approval for any report or information, appointment of an investigative committee) depend on the ruling majority and are automatic. This obviously limits the real responsibility of the government unless the parliamentary majority becomes unstable.

**CONCLUSION**

The legislatures of Poland and Ukraine have been building their respective institutional capacities, specifically with regard to their oversight functions. Both the Rada and the Sejm have been using all of the major tools of legislative oversight that can be found in any democratic legislature. At the same time, larger systemic factors such as corruption and electoral pressures influence the oversight processes in these two counties. These larger systemic factors present a significant challenge to the quality of this process in Ukraine, for they frequently undermine the process altogether or capture this tool for the personal economic gain of office holders. The Polish Sejm has its challenges, but those are in line with what legislatures in developed parliamentary systems are dealing with for the most part.

In should be noted that the availability of the major tools of legislative oversight to the Rada, along with the knowledge of how to use those tools, offers a unique opportunity to Ukraine to address the problem of corruption and other social ills apparent in Ukrainian society. Coupled with the international pressures, these tools can be used to deal with the very issues which impede the effective use of oversight. Ukraine already has a viable infrastructure with which to conduct legislative oversight, and international pressures may serve as a catalyst to jumpstart the process and to use it to combat major social ills.

The oversight process in Ukraine at the time of this research has become frequently a part of the previously discussed schemas. Under these conditions, the oversight process can be—and frequently is—manipulated by powerful economic interests who use it for personal financial gain or for increased visibility to gain political power (which, in turn, is used for personal financial gain). The main problem with the Ukrainian system at the time of this research (summer 2015) was that no effective mechanisms of law enforcement existed and any governmental wrongdoing, however publicly known and exposed in the media, was not prosecuted.

It is important to emphasize the time of this research, because it coincides with Ukraine working on a reform of its criminal justice system, specifically the prosecutor’s office. This is where the available tools of legislative oversight can be especially useful to move Ukraine further in the direction of combating corruption. Most democratic countries, including the United States, went through a long stage of development where major private interests wielded a disproportional amount of power, such as the trusts in the latter 1800s. However, President Theodore Roosevelt and the Progressive Party came into power and broadened the influence of citizens, and the governmental infrastructure allowed them to be effective. Ukraine has this infrastructure in place and has the opportunity to use these legislative oversight tools to ensure that the government implements laws and reforms as intended. In addition, Ukraine will have to implement reforms and policies that are part of the conditions for external funding from the EU and the IMF. The EU and other donors will demand proof of implementation. This is an opening for the Rada to use tools of legislative oversight to ensure that these policies will be implemented properly and as intended.
This research has important implications for building future legislative strengthening programs (LSPs). Specifically, such a process would start with building an infrastructure, i.e., assisting a legislature with establishing the major tools of legislative oversight and training legislators in their use is an effective first step, and the foundation for further legislative work with the goal of creating a better institutionalized, stronger legislature. Some of the most useful forms of assistance within this step include responses to information requests from legislators, trainings, and handbooks.

LSPs will need to have a speedy reaction force due to the fast pace and large scale of changes occurring in Ukraine. To stay on top of those changes, issues like the degree of autonomy of the regional USAID office will need to be addressed, and the relationship between the Washington and field offices will need to be re-evaluated. Although the general trend in public administration is to decentralize such functions, this may be the wrong approach for the developing world. A field office, although it may understand the many minute details of local politics, may lack the vision to see a broader horizon. This foreshortening of a global vision, especially when coupled with its own organizational interests, can be counterproductive to the general mission that USAID has in a country.

Also, the highly fragmented nature of the projects supported by USAID (most of which address relatively small tasks, such as enhancing the administrative capacity of nonprofits in Ukraine) might have been useful at some point, but this model of service delivery may be counterproductive now and a restructuring may be needed to keep up with the pace of changes in some of the developing countries. This is because the situation in the country has developed rapidly and new political realities there require new approaches to providing assistance.

For example, USAID provides training in enhancing the administrative capacities of local not-for-profit organizations. USAID also supports projects that train not-for-profit organizations in lobbying and other methods of influencing government. Groups that just go through training in enhancing their administrative ability without training in understanding how the government works and where to apply pressure usually either disappear or get captured by powerful economic groups. In other words, enhancing only an organization’s administrative capacity is a waste of resources, because this simply improves the ability of that group to better represent powerful economic interests but does not address the long-term viability of the group itself.

LSPs may need to consider involving the U.S. research community in coming up with solutions to modern problems in the developing world. Although the idea of building local capacity in dealing with their own problems is a good one, it may not be appropriate in all situations, and again, given the fast pace of changes in some countries, it may not be responsive to the needs of the organization. These developing democratic societies present new challenges that need immediate solutions. However, these societies do not have the capacity to come up with solutions because they do not yet have an internally developed discipline of political science. For example, a corps of researchers and practitioners in the fields of political science and public administration are needed to address major challenges in these countries. However, these fields do not exist in Ukraine. Ukraine has a science of polytology, which is a strange mixture of philosophy, sociology, and anthropology, and all this at a rudimentary level. Therefore, without an influx of international political scientists and public administrators, Ukrainians will continue to lack training and education on matters that are commonplace for college graduates in political science. Continuing with ongoing training will thus be important, but the trainers themselves will need to be better trained; involving U.S. academia is a necessary part of this process.
But this alone is not sufficient. A shift in focus is needed to complement this influx of expertise. LSPs would be better off concentrating their efforts on a select number of major issues, rather than on a larger number of small issues. Issues like the construction and maintenance of a fair, above-board, and consistent election process should take priority. Another large issue that deserves attention is a reform of public administration. Civil service reform could have been useful in combating corruption in Ukraine; the reform of such institutions and processes would in turn make more global processes like legislative oversight all the more effective.

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LEGISLATIVE STRENGTHENING PROGRAMS IN INDONESIA

DRG LEARNING, EVALUATION AND RESEARCH ACTIVITY

OCTOBER 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by NORC at the University of Chicago. The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
LEGISLATIVE STRENGTHENING PROGRAMS IN INDONESIA

Draft

(October 26, 2015)

Prepared under Contract No.: GS-10F-0033M / AID-OAA-M-13-00013, Tasking N021

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DISCLAIMER

The authors’ views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.
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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>BAPPenas</td>
<td>Ministry of National Development Planning</td>
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<td>BTA</td>
<td>Bilateral Trade Agreement</td>
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<td>CBO</td>
<td>Congressional Budget Office</td>
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<td>CDF</td>
<td>Constituency Development Fund</td>
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<td>CEPPS</td>
<td>Consortium on Elections and Political Processes</td>
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<td>CPV</td>
<td>Communist Party of Vietnam</td>
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<td>CSIS</td>
<td>Center for Strategic and International Studies</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<tr>
<td>DFAT</td>
<td>Department of Foreign Affairs and Trade, Australia</td>
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<td>DPD</td>
<td>Regional Representative Council</td>
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<td>DPR</td>
<td>People's Representative Council</td>
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<td>DRG</td>
<td>Democracy, Human Rights and Governance</td>
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<td>DRM</td>
<td>Domestic Resource Mobilization</td>
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<td>DRSP</td>
<td>Democratic Reform Support Program</td>
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<td>EU</td>
<td>European Union</td>
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<td>GIG</td>
<td>Governance for Inclusive Growth</td>
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<td>GVN</td>
<td>Government of Vietnam</td>
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<td>HDI</td>
<td>Human Development Index</td>
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<td>ICEL</td>
<td>International Center for Environmental Law</td>
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<td>IFES</td>
<td>International Foundation for Electoral Systems</td>
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<td>ILS</td>
<td>Institute for Legislative Studies</td>
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<td>IRE</td>
<td>Institute for Research and Empowerment</td>
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<td>IPC</td>
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<td>International Republican Institute</td>
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<td>Legislative Engagement Program</td>
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<td>LIPI</td>
<td>Indonesian Institute of Sciences</td>
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<td>Acronym</td>
<td>Full Form</td>
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<td>LIS</td>
<td>Legislative Information Service</td>
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<td>LPEM</td>
<td>Institute for Economic and Social Research, University of Jakarta</td>
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<tr>
<td>LRP</td>
<td>Legislative Research Project</td>
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<td>LSSP</td>
<td>Legislative Strengthening Support Project</td>
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<td>NA</td>
<td>National Assembly</td>
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<td>NDI</td>
<td>National Democratic Institute for International Affairs</td>
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<td>OTI</td>
<td>Office of Transition Initiatives</td>
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<td>Public Accounts Committee</td>
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<td>Political Economy Analysis</td>
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<td>PEPFAR</td>
<td>President’s Emergency Plan for AIDS Relief</td>
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<td>Policy Research Network</td>
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<td>Publish What You Pay</td>
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<td>Research Triangle Institute</td>
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<td>SBY</td>
<td>Susilo Bambang Yudhoyono</td>
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<tr>
<td>STAR</td>
<td>Support for Trade Acceleration Project</td>
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<td>UNDP</td>
<td>United Nations Development Program</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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I. INTRODUCTION

This report examines the relationship between legislative engagement activities supported by foreign assistance (both per se and in conjunction with programming in other sectors) and legislative actions tied to economic and social development policies. We first assess the role played by the political and social environment in which legislatures function. This section considers the relative strength of the legislature vis-à-vis other sectors of government and identifies key themes emerging in literature relating to this subject, including the overall level of democratic freedoms, legislative capacity, the relative strength of the legislature versus the executive branch, the method of electing legislators, the number of parties in the legislature, and the relationship between those parties and the underlying cleavages in the society.

Section II reviews the various phases of USAID’s legislative support activities. We examine the range of activities designed to support the development of the legislature as a distinct and influential branch of government, including a number of discrete sub-activities outlined in the 2000 USAID Handbook on Legislative Strengthening (e.g., improved committee functioning, development of rules of procedure, bill drafting and constituency outreach activities). These efforts can be disaggregated into first-generation activities, directed largely at the legislature itself (the supply side), and second-generation activities, including a focus on civil society advocacy and constituent relations roles. This section asks a series of questions related to legislative strengthening and modernization:

- How have the traditional legislative strengthening approaches impacted legislative output regarding economic and social developmental goals?
- Which approaches have had the most impact in this regard?
- What have been key elements of the modernization approach?
- What have been the advantages and challenges related to this approach?
- Do these approaches intersect in any fashion with more integrative programming?

The section then assesses legislative engagement programming:

- How do respondents define/view the extent to which legislative engagement programming relates to USAID development goals in other sectors (e.g., health, agriculture, environment, economic development)?
- Where are the natural interfaces? What forms does integrative programming take? How central is legislative policy development to this interface?
- Can integrative programming result in the creation of a broader coalition of support for the desired outcome?
- What is the attitude of other sectors to integrative programming? What incentives are there for other sectors in integrative programming?

1 The author gratefully acknowledges the assistance of Samantha Wulfson in the preparation of this report.
• What incentives are there for DRG in integrative programming? Is there a perspective that this risks simply turning D/G into an appendage of other programming, and diminishing its intrinsic merit?

• To what extent are other sectors currently undertaking integrative programming without officially involved DRG?

• What should be considerations in determining the relative resource allocation for legislative-related activities within the overall program budget for integrative programming?

Section III centers on two case studies, Indonesia and Viet Nam. These cases illustrate the current trend towards legislative engagement activities that connect to other sectoral programming. We chose these cases on the following criteria:

• there has been a significant USAID investment there over a sustained period of time;

• this has included legislative programming;

• there has also been significant programming in two or more areas of USAID’s development focus (e.g. health, environment, economic development); and

• there is overall a relatively positive story to tell in developmental terms.

Section IV concludes with recommendations relating to legislative engagement programming specifically directed toward social and economic development. Legislative support approaches that can most directly influence the legislature’s ability to promote economic and social development, include, inter alia, the ability to access data and information to make informed legislative policy choices, the capacity to develop and shape relevant legislation, and the creation of a budget development and analysis capability. We also hypothesize that there is a need for “an informed legislative community” (e.g., civil society, constituencies, research institutes, etc.) to both advocate for policies and to serve as an information resource for the legislatures, to help strengthen their engagement and input into policy development. This in turn could result in legislators engaging in more proactive dialogue with constituents and stakeholders on a variety of specific development issues. This could also include additional and more regularized flow of information into the legislative process.

We also note that, even while emphasizing legislative engagement programming integrated with other sectors, there is also an ongoing need for emphasis on traditional legislative strengthening approach. Moreover, an integrative approach may not always work. With an integrative approach the DRG risks losing its intrinsic value and simply become an appendage of sectors. Other sectors may simply strive to pass a particular piece of legislation quickly, with no structured and longer-term legislative capacity-building element.
II. LITERATURE REVIEW.

A. INTRODUCTION

This literature review provides an historically based overview of how the academic and policy communities view the role of legislatures in social and economic development and the extent to which donor support for legislatures has impacted broader developmental goals. This review will be sub-divided into two categories. The first, more macro-oriented segment, examines the role of the legislature in a democratic system and the ways in which it may affect, positively or negatively, economic and social development. The second element focuses more specifically on the interface between donor-supported legislative support projects and development.

Legislatures and Democracy

Democratic theory emphasizes the key role played by legislatures in ensuring the checks and balances inherent in democratic governance. In the absence of an effective legislature, a populist, personalist form of rule often exists that can be highly detrimental to democracy. Wright (2008) acknowledges the importance of political institutions that constrain the power of politicians, emphasizing that personalist regimes are much more likely to have nonbinding legislatures that fail to sufficiently constrain executive power. Geddes (2003) points out that while personalist regimes may have other potential centers of influence, such as political parties or civil society, these fora are often not powerful or independent enough to act as counterweights that can keep leaders from unilaterally making key policy and personnel decisions. O’Donnell (1992) noted a significant divergence in populist regimes from the traditional representative democratic institution model in which legislatures contribute to accountability alongside the other branches of government. “Delegative” democracy, by contrast, can lead to the chief executive making arbitrary and unwise decisions that are focused on short-term goals. These may compromise longer-term interests and place the executive firmly in conflict with the legislature. Hence, the importance of the representative function is emphasized in the literature. An effectively functioning legislative is a catalyst of democracy and thus an essential element of focus for international donors seeking to strengthen democratic institutions.

The existence of a strong legislature is essential for a transparent and accountable policy-making process. Arter (2007) emphasizes that legislatures need not only sufficient capacity and operational functionality but also the will and ability to utilize the first two prerequisites to actually carry out their responsibilities. Legislatures are entrusted with “the responsibility to make sure that a state spends money well and wisely, that it delivers good and appropriate policy, and that it steers the nation admirably and surely” (Rotberg & Salubhub, 2013). Other scholars of legislative functioning stress the need for openness and visibility of legislative actions. For example, Malesky et al. (2012, 762) note “evidence that politicians respond to greater transparency with better performance. Better access to information seems to force politicians to respond more appropriately to citizen demands, both in developed and developing countries.” Ahmed (2012) cites Bangladesh as an example of the need for transparency, elaborating on the essential relationship between legislators and citizens. The path, in his view, to a more open, trusting relationship is outlined by promoting dialogue between the elected officials and their constituents. Thus the concerns of transparency, governance, and corruption have endured as central issues and are recognized as such. Bardini (1999, vi) noted that “The demand for WBI’s
(World Bank Institute) parliamentary programs is evident. WBI now has an opportunity to rededicate its work with parliaments and deliver programs which can be of particular help to those countries undergoing profound political and economic changes.”

The ability of the legislature to contribute to broader developmental objectives is a key test of its role and relevance. Kroenig and Karan-Delhaye (2011) ask whether stronger legislatures lead to the adoption of laws and programs that increase economic growth and reduce poverty. They conclude that legislatures have an important role to play in determining the macro-economic course of a country’s economic development and that strengthening national legislatures should be an urgent priority for governments and donors focused on improving standards of living in the developing world.

Democratic legislatures often focus on socioeconomic development as a key area of policy. The benefits of a legislative focus on development are emphasized in an analysis of economic development determining that “countries with more powerful national legislatures not only possess higher levels of economic growth, but they also enjoy higher levels of human development and lower levels of income inequality” (Kroenig & Karan-Delhaye, 2011, 8). These authors advocate for continued emphasis on donor support in legislative strengthening programs, arguing that they have proven to be a crucial element of improving standards of living through economic growth in developing countries. By contrast, a lack of involvement can have deleterious effects. Rakner (2012) has explored why Zambia’s economic growth has been disappointing. Much of the country remains in poverty and is plagued by rampant corruption. Rakner attributes Zambia’s failure in part to the inability of the legislature to exert influence over the strong executive, thus suggesting further legislative strengthening efforts are necessary.

Sharkey et al. (2005) take a somewhat more advocacy-oriented approach, emphasizing the role that national legislatures can play in promoting poverty reduction strategies. They observe that the involvement of legislatures can promote national “buy-in” for donor efforts to promote economic development and that in doing so legislatures can also provide perspectives that would not have otherwise been heard, in a process often dominated by donors and the executive branch. This need for broad-based buy-in to legislative efforts supporting development is echoed in Farrooqi’s study (2012, 99) of the USAID-funded Pakistan Legislative Support Project. It concludes that “the development enterprise fails to achieve its normative goals because fundamentally socio-political problems are conceived by development actors in purely technical terms.” The study thus emphasizes the perceived need for mitigating, if not eliminating, the common “stovepipe” approach in which identified elements for success of a development project often include only limited consideration of how its implementation and sustainability may be affected by political factors and realities. Finally, Kroenig and Karan-Delhaye (2011, 2) note that “When political power is dispersed…power holders are more likely to adopt economic institutions that protect the economic interests of a larger cross-section of society.” Legislatures thus have the responsibility to incorporate the interests of civil society and other non-governmental actors into their work, ensuring increased representation.

The governance environment must be well understood before engaging in project interventions. Without a thorough understanding of this context, feasible options cannot be identified nor can they be pursued in a fashion ensuring a high success rate. Cornell (2013) examines, for example, whether the effect of democracy aid differs between different types of authoritarian regimes and concludes that such aid’s impact is indeed related to the nature of the authoritarian government.
As Barkan (2010) argued in a seminal project focusing on African legislatures, the government’s relationship with the public, the strength of political parties, and the significance of the electoral system are all aspects that play a key role in determining the effectiveness of legislative strengthening and development. Rugumamu (2011) echoes these lessons, emphasizing the need “to strategically link the democracy support, peace, and development issues in order to comprehensively address the structural root causes and consequences of fragility.” Hence, an accurate understanding of the country context is as essential as the desired reform efforts. Rugumamu (2011, 160) suggests that “such analysis would inform what kinds of policy and institutional reforms to undertake, actors to engage, and the relative time for engagement.” While many reform efforts have rightly been focused on fragile states, changes in governance are difficult if the underlying causes of fragility are not analyzed.

While Rugumamu (2011) points out the potential to achieve enhanced results by addressing both legislative strengthening and the sources of state fragility, the process of nurturing a strong legislature from a weak state presents raises many issues. Special attention, for example, must be given to determining which legislatures are most likely to benefit from donor assistance. While the ultimate goal may be legislative strengthening, legislatures in developing countries face some fundamental cleavages and challenges, including lack of resources and knowledge that may constrain efforts to achieve realistic and attainable results. Freytag and Heckleman (2012, 1) cite the inability of several transition countries to sustain and improve reform efforts and assert that “donors should concentrate aid flows on countries with low civil liberties and a longer history of central planning” to ensure that reforms will have a true impact. They also identify successful focus areas: “judicial independence, civil society, media freedom and electoral process.” The degree to which the fundamental country context is understood can have distinct repercussions, and disregard for or misinterpretation of key factors can lead to either unrelated or unachievable goals.

In sum, the literature suggests that international assistance can support legislatures’ roles in economic and social development, with the caveat that such assistance must be accompanied by a keen understanding of the realities of the situation. The process of developing strong legislatures is often quite lengthy and depends greatly on the context of the country or region. While much hype surrounds the third wave of democratization, Barkan (2010, 2) emphasizes the significance of legislative strengthening in the democratization process. He suggests that “Democratic consolidation—the highest stage of democratization—cannot be achieved without a developed and powerful legislature.” The nature of the institutions already in place is one of the most important determining factors for how easily reform will take hold. Thus, the progress of long-term capacity building efforts depends greatly on the context of the initial situation as well as the shaping of an appropriate plan of action for implementing programs in the country in question.

**Legislative Support Programming**

We now consider more specifically the elements of legislative support programming. Over time we observe a gradual move from efforts designed a) to create an infrastructure, b) to foster within the legislature itself a culture of, and constituency for, legislative “modernization”, and c) to develop a more integrated, cross-sectoral approach within USAID mission-identified developmental priorities and sectors. Note that these three categories overlap chronologically.
Nonetheless, they are helpful and credible conceptual yardsticks of the evolution of legislative programming.

With the global advance of democratic reform in the 1980s, donors began to make significant efforts to strengthen legislatures, which were often the “poor cousins” to the executive in the exercise of power. Nakamura (2008), for example, reviewed three strategies while assessing legislative strengthening approaches: directly supporting legislative staff and institutions, targeting political parties to increase involvement and competition, and involving civil society in order to best identify and advocate for the interests of the population.

Legislative strengthening efforts fall into two distinct categories. The first comprises technical assistance regarding legislative processes, including areas such as constituency building, committee support, and legislative drafting. The second consists of hardware and durable goods that are utilized by legislators and staff in the pursuit of their duties. These may be communications and other materials and equipment as well as information technology materials and support. We find numerous references in the literature to the following elements:

The strengthening of committees is essential to the overall functioning and power of the legislature. Insufficient and inadequately trained staff members will hamper the conduct of legislative duties. There is a need for a sufficient number of well-trained staff capable of addressing specific issues. Bryan and Hoffman (2007, 28) noted the weakness of legislatures in several developing African nations, stating, “Committee appointment systems that do not take legislators’ backgrounds into full account also miss opportunities to build on existing capacity in specific areas.” There are a multitude of options for strengthening committees, beginning with targeting previously known strengths, then building on the number of staff and their technical skills through training programs, as Bryan points out is being done in several countries, including Sierra Leone. Similarly, Barkan (2010) maintained that the most profound advances in committees came from technical assistance by international donors. Nakamura (2008, 12) emphasizes, “Micro-level leadership is an important variable in separating success from failure. Somebody has to be willing and able to take the internal lead in implementation efforts.”

Barkan (2010), in his study of African legislatures, suggests that a universally accepted principle found in more consolidated democratic legislatures, that a well-developed system of parliamentary committees conducts oversight for government ministries, departments and agencies (MDAs), is essential for legislatures to perform their defining functions. Equipped with ample members and plentiful education and expertise, committees can be potent sources of knowledge and support.

Past efforts, summarized by the Democracy House Partnership (Dreier, 2012), have included in-country training, seminars on a variety of legislative strengthening topics, and visits to connect with program recipients including legislators, staff, and CSO members. A study commissioned by SIDA, the Swedish International Development Cooperation Agency (Rocha Menocal and O’Neil, 2012, 47) cites “trials of constituency relations programmes in Uganda in partnership with an academic institution,” but also acknowledges that rather than general standards, “different parliaments may have different needs and expectations based on context which has meant that momentum has now shifted towards the regional level, which could be a positive development for fostering localized ownership.”
As both knowledge and ownership of civil society are encouraged in combination with legislative strengthening efforts, a strong relationship between legislators and CSOs is likely to be increasingly important. More organized CSOs will be better able to advocate for their needs and representation. Moreover, a stronger legislature is likely to be much more willing and able to respond to these demands and act on them. Thus, not only is constituency building an encouraged focus area, but it may now also be an essential element of successful reform.

The legislative research function receives considerable emphasis in the literature. The goal is to provide legislators and staff with access to the knowledge and information necessary for informed public policy decision making. An Inter-Parliamentary Union report (IPU 2009) highlighted the importance of administrative and research staff having access to credible and policy-relevant information. Datta and Jones (2011, 17) note that “Legislatures can improve their research literacy and promote better understanding of their research needs through enhanced networks and joint working with researchers as well as with legislators from other countries.” Recommended methods include seminars, visits to other countries, public hearings, and the creation of effective research facilities.

Cuninghame (2009) elaborates on the creation of functioning and comprehensive legislative libraries. Though legislators often have access to libraries, they must be sufficiently organized and equipped to address the wide array of needs of parliamentarians, including the safeguarding of parliamentary records, provision of research services, and the systematizing of administrative duties. Cuninghame (p. 33) acknowledges the potential of well-functioning libraries: “Members’ enormous information needs can best be met by effective and well-resourced parliamentary library and research services making full use of new technologies for collecting, managing and sharing information.” There are many methods to carry out staff training, although collaboration and access to knowledge are two central pillars in the majority of aid programs.

Information Technology and Technical Support present seemingly advanced methods for many developing countries, but small changes can lead to great results. Regarding a project in Timor Leste, the Democracy House Partnership report (Dreier, 2012, 14) cites refined software capabilities leading to “greatly improved internet and network connectivity for members of Parliament and the parliamentary research service improving their ability to use the library to undertake legislative research and analysis.” The Inter-Parliamentary Union (2009, 7) suggests that “by adopting new methods and technologies in information management, these services can provide part of the solution to information overload and to issues of legislative quality and accountability.”

IT and tech support can prove essential in increasing overall legislative transparency. With heightened capabilities, “Technology has led to the democratization of information, with both parliamentarians and the public having greater access to material on the work of parliament and parliamentarians” (Interparliamentary Union, 2009, 11). Thus, IT and tech support are valuable means of procuring information and organizing legislative functions, but they may also take a lead role in increasing transparency and accountability.

Legislative drafting is an integral part of the legislative function. In discussing the functioning of the Ugandan parliament, Andrews and Bategeka (2013, 21) identify dialogue, analysis, and scrutiny as essential steps before even beginning the drafting process. It is crucial that the technical side of writing bills is understood, as “this process begins with brainstorming about the
entry points for reform.” Legislative drafting and the passage of legislation are identified as the last phase of a lengthy progression. Roth (2004, 48) further elaborates on the importance of competent and well-informed participants in the legislative drafting process, noting that “Where legislation is initiated by MPs, expert advice is even more important and will certainly need to include advice on drafting.” In order to create effective legislation, the components of infrastructure and support should be in place to ensure that the process can be carried out successfully and knowledgably. There are different specific models of legislative drafting, “ranging from ad hoc systems, where legislators might ask friends and associates to draft, to centralized systems servicing all needs—government and private members alike. Bill drafting reform efforts have generally moved toward institutionalizing the process and establishing centralized professional, non-partisan systems.”

External actor (stakeholder) capacity building has received considerable attention. It is widely agreed that efforts to reform the legislature must be coupled with the strengthening of civil society, capacity building, and a general increase in knowledge of the legislative processes. Despite varying views on best practices of aid programs, Nakamura (2008, 16) emphasizes prerequisites of the process: “Two things follow from using a capacity building approach. The first is that you need somebody to work with in the form of the target population. And the second is that capacity building works primarily on the capacity to act and supposes the motivation to work for more effective representation already exists or can be developed.”

Another approach in terms of legislative interactions with stakeholders, an approach that has received less support from donors (for reasons cited below), has been the provision of constituency development funds (CDFs). Such funds can provide a clear and direct connection between the legislator and constituents. Baskin (2010) notes that CDFs can promote the involvement of civil society in dealing with development goals on the local level. If instituted correctly, they can be powerful tools to develop relationships among governments and constituents. In his study on Bangladesh, Ahmed (2012) similarly observes that in other South Asian countries legislators can also use constituency development funds in promoting the interests of their constituents. For India he cites yearly project allocations worth 20 million rupees in response to citizens’ demands. The more powerful the legislature, the more likely it is to impact policy, so the decision then follows as to what extent the legislature will incorporate the will of the people into their policy-making decisions. Constituency development funds have shown success in several contexts by articulating the needs of citizens in a relationship that clearly outlines the roles of both parties.

Constituency development funding, along with several other constituency building methods, have been criticized on a range of grounds. They can be mismanaged, and they blur the line between development and the generation of corruption in the form of patronage and political quid pro quos. Van Zyl (2010, 106), for example, has argued against CDFs, claiming that they

- breach the separation of powers,
- distribute allocations less progressively than other funding mechanisms,
- influence the results of elections,
- are less aligned with local development priorities than other local infrastructure projects,
displace funding that might otherwise have gone to local governments and impose a number of administrative and monitoring burdens on the latter,

- are more poorly monitored than that of other projects,

- weaken the ability of the legislature to oversee the executive, and

- enhance clientelistic aspects of the relationship between MPs and the electorate.

These types of problems have led most donors to be wary of providing significant CDF funding.

The passage of a budget is one of the legislature’s principle tasks. Since the budget determines levels of government spending, it explicitly relates to the government’s development goals and improving the ability of legislatures to effectively manage the budget process is an increasing focus of legislative support efforts by donors. The empowerment of legislatures to effectively engage in this function can also prevent corruption and ensure that money is being allocated to the issues of utmost importance. Past outcomes demonstrate that the alignment of internal interests and external aid is critical, as there should be a strong initiative from within to promote reform. Purcell et al. (2006) present a situation in “Evaluation of General Budget Support—Uganda” in which expressed donor interest in budget reforms mirrored that of parliament, but unfortunately the government seized on this to complain of foreign interference and ignored the fact that the parliament had similar views. Thus, communication is necessary not only between constituents and the government but also among other reform actors and the government.

The execution of the budget process links directly not only to legislative functioning, but also to economic growth and the furthering of democracy. Wehner (2004, 1) suggests that “The budget is the key economic policy tool of the government, and constitutes arguably its most comprehensive statement of priorities.” He also argues that “During budget execution, substantial gaps between approved and actual budgets undermine the credibility of the annual budget and legislative authority in general”. Therefore, channeling reform efforts to legislative strengthening can create a better budget process and in turn increase the prospective for economic progress. It is acknowledged that the annual budget process is embedded within a broader socio-economic and political environment that affects the potential for legislative scrutiny. Thus, the repercussions of a strong budget process are far-ranging. McKie and van de Walle (2010, 1283) state that “the manner in which budget execution is undertaken impacts development in a country in terms of the effect it has on the quality of physical infrastructure that is built, the availability of crucial social services, and the efficiency of government entities to facilitate economic advancement.” If executed well, legislative—specifically budget—support could potentially lead to substantial economic advances. Posner and Park (2007, 23) provide a synthesis of what evolving democracies can aspire to. They note that “The involvement of legislature with budgeting has grown in recent years, caused by deep-seated forces in the economy, the political system and the culture.” Legislative assistance directed at improving budget processes can increase executive oversight, build legislative capacity, lead to a better legislative-executive relationship, and promote more knowledgeable decision-making.

The work surrounding the budget process, both in terms of donors creating mutually supporting programs and coordinating efforts with fellow actors, remains a work in progress. The SIDA report (Rocha Menocal and O’Neil, 2012, 71), for example, analyzes the alignment of interests regarding the budget, concluding that with “greater focus on issue-based support to parliaments
(such as strengthening budgetary skills and parliamentary roles in scrutinizing budgets in relation to issues like gender equality and health; human rights, etc.), it is again not yet clear what has worked and what kind of qualitative difference it has made.”

In achieving a better budget process successful strategies to work towards the end goal are varied. The need for legislatures to have independent sources of information for budget analysis and development is an issue of central importance. Arter (2007) emphasizes that a necessary requirement for legislative effectiveness and legislative autonomy is that the legislature can acquire the information it needs to examine government measures without needed to depend on information to do so supplied by executive sources.” Staddon (2014, 58) elaborates on the Public Accounts Committees in Trinidad and Tobago and Jamaica, “responsible for the non-partisan audit of public expenditure and control of the public purse.” These PACs possess an unrestricted right to consider issues of efficiency and economy of program implementation. Johnson and Stapenhurst (2008) identify nonpartisan budget offices as another potential strategy, which would separate budget issues from all political perspectives. The ability of nonpartisan teams to conduct their own research and provide independent information potentially enhances functioning and serves to check the activities of the executive in their involvement in this process. The involvement of civil society in the budget process can also be very helpful. Guinn and Straussman (2015) call for a working relationship between the legislature and civil society to increase oversight after passage of the budget in Afghanistan, asserting that transparency serves to bolster legitimacy.

In recent years the elaboration of benchmarks to assess legislative functioning has been increasing. Benchmark exercises provide external or internal perspectives on the quality of the functioning of a legislature. One report (LSE MPA Capstone, 2009, 64) identifies five commonly used methods, designed “to contribute a deeper understanding of differences and commonalities across frameworks and assist organizations in a possible harmonization and collaboration effort.” Based on analysis of findings, three of the instruments appeared consonant with each other, namely the Commonwealth Parliamentary Association/World Bank Institute/United Nations Development Programme Benchmarks, NDI Standards, and the Parliamentary Centre frameworks; providing similar results and generating the promise of a credible common empirical approach to assessing legislative functioning.

The International Conference on Benchmarking and Self-Assessment for Democratic Legislatures (UNDP, 2010a) sought to synthesize the specific importance of benchmarks. It acknowledges that while context does play a role in the feasibility of reform, a general conceptual framework is extremely relevant regardless of the context. There is a set of widely accepted standards for what is and is not satisfactory in democratic legislatures. It is essential that legislators take a lead role in identifying these benchmarks, as legislators are uniquely equipped to respond to calls for accountability and transparency while also incorporating organizations into the overall process in order to create a more democratic legislature. The European Parliament (Staddon, 2012, 6) emphasizes the goal of such an exercise as “assessing where a legislature is at the moment, providing examples of issues to consider, and stimulating intense debate about what kind of institution the organization should become.” Given continued efforts on the part of donors and legislatures to further strengthen their functional capabilities, the process and methodologies related to benchmarking are likely to evolve further.
Cross-Sectoral Integration

Cross-sectoral development programming is an area of increased focus, comprised of several unique components linking democracy and governance to other sectors of reform. Its importance has been emphasized in the current era of limited resources for development and greater recognition of governance as the key to promoting other developmental goals (Kaufman and Smith, 2013).

SIDA’s overall assessment of foreign assistance programs dealing with legislatures (Rocha Menocal and O’Neil, 2012) has defined such “legislative engagement” programming as including a number of approaches, which can be considered to be integrative in nature. One area of focus includes issue-based activities that work with or through legislatures to achieve other, more targeted policy objectives, either as a discrete project or as part of a broader sectoral program. Another related set of activities comprises programs integrating activities to target different elements of democratic governance, with legislatures as only one element. Guinn (2015) further elaborates on cross-cutting aid, addressing several forms of legislative assistance and ways that legislatures and donors work together to carry out strengthening programs with increasingly wide-ranging goals.

Richa Menocal and O’Neil (2012) concur that aid programs are increasingly governed by an integrative ethos, including understanding of and some influence within the informal politics, rules, and relationships based on political economy analysis and local buy-in. With the use of these integrative programs, the coordination of diverse development efforts is advised to ensure that a common goal is being worked towards while avoiding potentially conflicting outcomes. Guinn (2015, 14) supports an inclusive approach, emphasizing that a relationship of trust is necessary, as the legislature will be significantly more open to working with implementers that are believed to have the country’s best interests in mind. Furthermore, the international community is advised to: “align its programming with the clear interests of the legislature…articulate the projects goals and implement all activities in a clear and transparent manner and…implement programming incrementally in accord with the development of the legislature.” The identification of fundamental factors for alignment and cooperation emphasize the critical coordination of all components of cross-sectoral aid.

As mentioned in the context of specific legislative strengthening programs, the viability of both legislative strengthening and cross-cutting goals are significantly determined by the context of the country. Thus, a specialized reform approach accounting for the sociopolitical environment and the country history is advised. Farooqi (2012) emphasizes the harmful results of a “stovepipe” approach through which successful elements of a development project often include only limited consideration of how its implementation and sustainability may be affected by political factors and realities. While discussing the need to revitalize the reform process, Addison and Scott (2011, 1) point out, “Initial increases in the amount of aid delivered did not lead to the anticipated development impacts. The aid effectiveness agenda brought to centre stage that not just how much aid that is spent, but also how aid is delivered that enables it to be successful, or not, in achieving its aims.” Another essential factor for determining the most effective methods of reform is an appropriate working relationship with legislative actors. Not only does this give international donors a unique insight to the country context, but it also assures a working relationship between all parties. Guinn (2015, 5) cautions, “In attempting to support the development of the legislature as an independent entity, the legislative strengthening implementer
must walk a delicate line between promoting a certain vision for the legislature while not becoming entangled as a political player within the legislature’s internal politics.” Thus, a balance must be struck between engagement and interference, which is made possible through comprehensive understanding of the country history and current enabling environment.

In many other ways, cross-sectoral work also faces the same recurring challenges as traditional legislative strengthening projects. Lippman (2001, ix) was an early analyst to consider democracy and governance cross-cutting programs in health, education, economic growth, and environment as “significant and, at times, remarkable,” but he also identified a lack of institutional structures as a fundamental challenge for their continued implementation. Although short-term successes may be feasible, problems with implementation and sustainability were likely to arise farther down the road if the mechanisms to implement them sustainably were not identified. Purcell et al. (2006) cited similar issues in a report on Rwanda assessing budget support. Despite efforts to link governance practices to cross-cutting issues such as gender, environment, and HIV/AIDS, limited resources forced the reform efforts to triage its choices regarding project activities.

A key component of attaining in-country support is through a working relationship between the legislature and civil society. Crawford (2004) highlights the presence of both the media and civil society as two key factors in determining the ability of citizens to advocate for their representation. Success in Ghana was achieved through several initiatives to decentralize and involve civil society, allowing USAID’s work in sectors such as education, human rights, and health to be incorporated. Thus, a relationship between constituents and legislators is advised to most effectively communicate goals and foster collaboration. The benefits to both donors and legislators of including members of civil society as a central element in programming is manifested in many ways. Kroenig and Karan-Delhaye (2011, 2) further elaborate on the value of including civil society in legislative support programming directed at socioeconomic development. Where power is dispersed, they argue, “Power holders themselves have an economic incentive to promote the economic well-being of a broader sector of society. Moreover, the public in such countries can better hold their leaders accountable for economic mismanagement.” Thus the legislature has the potential to play a significant role in promoting accountability and transparency in achieving sustainable development goals.

Poverty reduction is a key development goal that is often found on legislative agendas. Paradoxically, however, strong institutions and parliaments already in place will greatly help to sustain efforts to combat poverty (Stapenhurst 2003), while it is often weak countries with low functioning legislatures that face the most formidable poverty problems. In this context the involvement of civil society is an especially influential factor for both cross-sectoral missions and the enhancement of democracy and governance (Lippman, 2001). The UK Department for International Development (Roth, 2004) has also placed significant emphasis on the relationship of legislative strengthening and poverty reduction.

Poverty reduction has proven to be one of the most common cross-cutting issues, greatly stimulated by the Millennium Development Goals. The UNDP Manual for Parliamentary Engagement Development with the Millennium Goals (UNDP, 2010b) outlines the importance of legislatures in implementing these goals and the practices through which action can be taken, effectively encompassing the general rationale for legislative engagement programming. Combatting poverty entails diverse approaches, including the development of institutions to give citizens the necessary resources for involvement, education to ensure that citizens have an
understanding of the political processes, and the creation of an environment in which legislatures are both willing and able to listen to their constituents’ needs. In order to make lasting change there must exist the means through which new policies can be executed. Kroon (2008) emphasizes the challenge of poverty reduction in highlighting the legislature’s unique ability to embody the needs of the citizens throughout analysis, implementation, and evaluation of the policy process.

*Economic development* is a logical sequel to poverty concerns. Sharkey (2006) emphasizes the role that national legislatures can play both in promoting poverty reduction strategies and encouraging national “buy-in” to the donor efforts to stimulate economic development. Not only can legislative actions contribute to promoting widespread support for economic reform, but greater involvement of the legislature may also provide invaluable insight and a second look at the actions of the executive in determining the path of economic growth. Generally, strong political institutions lead to stronger economic institutions, as the importance of the legislature is acknowledged by Kroenig and Karan-Delhaye (2011, 1): “Without secure property rights and access to economic resources, individuals will lack the ability and the incentives to invest in the economy and to participate in economic activity.” In cases where reform is just beginning to take root, economic growth may be the means through which political reform is measured (Camacho 2014, 19). There are many implications to “understanding the role that mass support for democracy might play in democratic consolidation. Citizens of new democracies tend to expect the new regime to deliver economic prosperity to the same extent as they expect it to deliver political goods.” Thus economic growth may not be merely a cross-cutting option but an essential factor for the success of reform.

In the environmental sector, Lippman (2001) identified positive program results linking relevant issues to democracy and governance. (Note that the concept of cross-sectoral programming was being considered long before it became as prevalent as it is currently.) While problems of corruption and implementation methods persist, there are several generally agreed upon targets for environmental reform. In the case of the Philippines, Lippman (2001, 20) stated that “The environment was a natural setting for cross-sectoral linkages because it combined the mission’s local governance and natural resources management programs with the government’s commitment to decentralization and concern about the environment.” The legislature is constantly cited as a key to mitigating corruption in the area of natural resource extraction through increased transparency. Bryan and Hoffman (2007) emphasize that in many resource-rich countries in Africa the lack of accountability and transparency in the management of natural resources has fueled cycles of corruption, conflict, and poverty. Thus, legislative strengthening plays a key role in capacity building to obtain information and exercise power in order to mitigate excessive corruption. Bryan and Hoffman note that a growing number of African states have passed legislation intended to ensure the sustainable and accountable management of their countries’ natural resources. The linkage of legislative and cross-sectoral programs is therefore essential, as the key to addressing environmental conflicts in many cases is through the development of effective governance institutions, the passage and implementation of appropriate legislation, and increases in operational transparency.

*Health care and education,* like democracy and governance, are well-developed target areas for reform in themselves; however, there are benefits from combining efforts. Lippman (2001, 40) elaborates on the value of cross-cutting aid, stating that “DG linkages can enhance development.
They promote DG and sectoral objectives, creating added results. DG linkages have spawned self-reinforcing attitudes and behavior through which citizens and government have worked together.” Health and education were two of the key areas cited. Foresti and Wild (2014, ii) synthesize the Millennium Development Goals and the MY World survey of what people feel is most important for themselves and their families, pointing out that “Among poor people in low-Human Development Index countries, [better governance] comes third, with only health and education ranked as more important.” Thus, work to support these goals would likely generate a positive response from civil society. Cross-cutting work involving the legislature in health, and education may allow the government to play a larger role in effectively carrying out the implementation of services and allocation of resources.

B. GENERAL

A review of the literature suggests that for legislative support projects to be integrated into cross-sectoral approaches, USAID, legislatures, and CSOs need to have a focus on similar issues and priorities. Although their interests may not all align simultaneously, at some point they should converge, and this should be taken into consideration in project design. Analysis of past programs suggests that a flexible approach to implementation is desirable, as it is necessary to take advantage of opportunities when they present themselves in an evolving political environment rather than adopting a predetermined set of specifically desired outcomes, especially as some governments are not fully and continuously in favor of reform efforts. By focusing on long-term institution and capacity building, programming is more likely to result in significant accomplishments (Rocha Menocal and O’Neil, 2012). Throughout all stages of reform this tactic is underscored. As Wehner (2007, 54) points out, “Ad hoc, flexible and small-scale support can play an important role in addressing immediate needs and challenges, but significant achievements are only likely to be entrenched through comprehensive and long-term support.” Thus, not only should the timing be opportune, but programs must also be equipped to endure in order to ensure support and ultimately gain the capacity to continue without assistance.

Efforts to involve civil society in policy development are a valuable component of the linkage of human development and democratic governance. The heightened political awareness of civil society is recognized by Azevedo-Harman (2012) in sub-Saharan Africa. The demands for transparency and representation have already increased substantially, and these demands are likely to further motivate legislatures to improve their own functioning activities as well as the promotion of cross-sectoral issues important to their constituents. Cheema and Maguire (2002, 13) posit that “Democratic governance is the best system to ensure citizen participation in decision making because it demands the participation of the citizens in selecting their leaders and holding them accountable.” The Millennium Development Goals reveal civil society has invested as much interest in governance as reforms have focused on civil society. As Foresti and Wild (2014, 16) note, governance goes hand in hand with several issues: “increases in citizens’ voice and demand, for example, may not be very meaningful without support to increase elements of the supply or the capacity of governments to deliver.” Thus, while the main focus on poverty is commendable, an additional spotlight on governance is merited. Cheema and Maguire (2002, 13) point out that, “Also critical to human development performance are characteristics in a society that are more difficult to quantify but are more revealing. These include access to services; participation in decision making; income disparities; equality of opportunities; level of employment; economic growth by community; health and education indicators; and human
security.” The relationship between CSOs and legislators has evolved greatly, contributing to favorable prospects for cross-sectoral work.

In summary (and this will be further developed in the next section), the literature notes an evolution in legislative support programming from more directly targeted legislative “strengthening” and “modernization” activities to the more integrated, cross-sectoral approach with USAID mission-identified developmental priorities and sectors. It notes that “hard” development goals such as health, education and agriculture often require supporting public policy initiatives, which, while usually developed by the executive, often require legislative input and approval. Despite this, while the state of the art of USAID legislative support programming continues to evolve, and there is a strong rationale for a move towards more integrated programming, its long-term impact is not yet clear.

III. EVOLUTION OF LEGISLATIVE ASSISTANCE PROGRAMING: FROM STRENGTHENING TO MODERNIZATION TO ENGAGEMENT

Since the advent of democracy and governance programming, USAID has included support for legislative development as an important component. This programming has been based on the recognition that nascent democracies need to build legislatures strong enough to act not only as checks on executive power, usually in contexts in which the executive has been long dominant, but also as independent and influential actors in their own right, including representation and law-making functions. Particular elements have included servicing constituents; crafting, amending, debating and voting on legislation; and the development of perspectives and positions on a wide range of policy issues.

USAID has undertaken dozens of projects designed to support the various facets of legislative development. This approach has resulted in some successes but it has also generated questions about its effectiveness and sustainability. As USAID has gained more experience within this field, and budgetary constraints have increasingly become a reality, USAID’s emphasis has tended, in general terms, to evolve from assistance focused on internal, technical aspects of the functioning of the legislature (strengthening) to the generation of support within legislatures for reform (modernization) and now to integrated programming with other USAID developmental goals and sectors (engagement).

A. LEGISLATIVE STRENGTHENING

According to USAID-generated data, the first wave of legislative support programming was initiated in the mid-1980s. This was oriented towards the provision of “nuts-and-bolts” basic-type assistance regarding legislative functioning, with the plausible expectation that providing legislatures with the tools and information regarding the legislative process would by itself result in stronger legislatures. Programming began in Central America, as the USG sought to support the advent of democratic institutions as that region emerged from years of crisis in the 1970s and 1980s. A regional legislative support program was initiated in 1985; at the same time a project specifically targeted for El Salvador was initiated. The mandate for the former was to provide “Training on developing and improving legislative procedures in Central American parliaments;
technical assistance, training and study tours for MPs to the United States and other democratic countries”, while the latter’s was to “Strengthen the Legislative Assembly’s capacity to engage in more informative and analytical policy dialogue; enhance the operational effectiveness of the Legislative Assembly through the provision of technical assistance, training, equipment and study tours”.  

Similar legislative strengthening programming blossomed in central and eastern Europe after the fall of the Berlin Wall and the dissolution of Soviet-style authoritarianism. The “Gift of Democracy to Poland” was authorized by Concurrent Resolution by the Congress in 1989, and it was followed by establishment of a Speaker’s Task Force initially chaired by Representative Martin Frost of Texas which expanded technical assistance efforts to other central and eastern European legislatures. The latter received support from the Congressional Research Service. This assistance was focused primarily on the provision of durable goods such as computers, other hardware such as electronic voting tally machines, and information on legislative procedures and processes. Other Congressionally supported legislative support programming initiatives in the early years were directed through the National Endowment for Democracy.

As this assistance was precedential, and in many cases the legislatures being assisted were functioning in a democratic environment for the first time, there was a paucity of benchmarks by which its impact could be measured in any rigorous fashion. Few post-project evaluations appear to exist. What data are available present mixed results. For example, the impact of assistance through the Gift of Democracy program was judged, in at least one major study, to be “surprisingly modest”. Another perspective, however, articulated by a senior Polish parliamentary source, was that the project provided “very significant help”. 

In the wake of movements in the late 1980s and early 1990s towards democracy in Latin America, Asia and Eastern Europe and Africa, the administration of George H.W. Bush increased overall funding for democracy assistance, and USAID significantly increased its work with legislatures. As a result USAID began to learn from experience in what, after all, was a new area of activity. One lesson that became apparent was that while technical assistance in the form of legislative strengthening could be helpful to nascent legislatures, legislatures needed to be open to assistance and it should be put in the context of a broader strategy articulated and embraced by the legislative leadership itself. In the absence of this, assistance risked being ephemeral and non-sustainable. It was not sufficient to do information and hardware “drops” in nascent legislatures; such efforts could be wasted if there was not a receptive environment and a sustained commitment to improvement on the part of the recipient legislature. In one critique of a legislative strengthening programming, for example, Carothers noted:

2 Bridle-McMahon e-mail March 13, 2015.
The training sessions for legislative staff do not deal with the facts that the trainees are beholden to powerful political bosses and are not given much of a role. Shiny new computers sit unused on legislators’ desks or disappear. New parliamentary committees are formed at the urging of outside advisers but end up as fiefdoms of the senior legislators who are the root cause of the parliament’s poor performance.5

In addition, recognition increased that the level of turn-over of members of parliaments through competitive elections contributed to the sustainability problem. It presented clear evidence that dealing with legislatures could carry with it different dynamics than with working with executive branches or civil society.

B. LEGISLATIVE MODERNIZATION

The approach towards legislative strengthening began to involve largely as a result of these factors. By the late 1990s and into the early 2000s more legislative projects began to focus on or at least include an emphasis on the concept of legislative “modernization”. This refers to projects designed to identify and encourage the development of a core of support amongst influential legislators and staff who could serve as key interlocutors over time. Projects began to include specifically targeted assistance to modernization committees within legislatures, whether or not they had that actual nomenclature. Some illustrative examples included:

• Guatemala Congressional Modernization (1997). USAID’s provided technical assistance to the Guatemalan Congress as part of the second stage of its Master Plan for Legislative Modernization.

• Colombian Congress Strengthening Program (2002). This provided support for the creation of the Modernization Commission formed by representatives of the Congress in charge of implementing the Modernization Plan.

• Iraq and Jordan Legislative Support Projects (2005). These projects had a mandate to modernize legislative processes.

The theory behind the legislative modernization approach contained two main elements. First, the identification of influential supporters, or “champions” of modernization could help legitimize external efforts and provide a committed core of legislators and staffers to take ownership of initiatives to strengthen legislatures over an extended period of time. Second, the approach called for, when possible, the development of institutional and policy roadmaps designed to root modernization efforts within the legislature. Thus, the concepts of modernization committees and modernization plans gained currency. In substance, however, the heart of modernization efforts remained focused on legislative strengthening tactics and tools. A central component of modernization thus included significant technical assistance and staff training for capacity-building.

During the legislative strengthening and modernization phases the role of civil society became increasingly identified as an “outside-in” component of legislative support. The role of CSOs as

5 Thomas Carothers, “Aiding Democracy Abroad”, p.182
articulators and advocates of various interests in society was increasingly noted, as was its function in exercising oversight over legislative activities, although their ability to influence legislative functioning has been uneven. As noted in the evaluation of a legislative support project in Morocco, “CSOs can contribute to the legislative process if provided the resources and training to lobby Parliament. While the Project opened the door to citizen participation in the legislative process, greater stimulation is still needed to cultivate these new linkages.”

Various forms of aid to the legislature have also been described as “top down” versus “bottom up.” Carothers gives a succinct description, stating:

In the top-down conventional model, assistance goes directly to a parliament for training, equipment, information centers, materials, and so on. In the bottom-up model, which is less common and generally more recent, assistance flows to organizations or groups (usually civic advocacy NGOs) within a country to enable them to carry out activities that aim either to change particular aspects of the functioning of parliament or to shape relations between parliamentarians and citizens.

Positive results have been noted with regard to “bottom up” programming. It is suggested that legislatures that were previously unreceptive to aid from international donors may have a better chance at successful implementation through sources of nontraditional strengthening. Experience with the modernization approach has been mixed. Several evaluations suggest positive results from such programming. For example, the Ukrainian legislature, the Verkhovna Rada, was the subject of sustained USAID-funded programming in the early 2000’s. One assessment determined that this effort contributed to its functioning due to “the huge increase in staffing, the expansion in the number of Rada offices and buildings, the larger parliamentary budgets, and the greater utilization of computerization and information technologies.” A review of a project in Jordan highlighted similar activities to establish a legislative resource training center and a budget office. With the support of legislative leaderships these assistance efforts contributed to providing a foundation for strengthened legislatures.

There is also, however, evidence suggesting that the modernization approach may not be a panacea. As previously noted, legislative member turnover has complicated efforts to create sustainability. The level of members’ commitment to modernization is invariably impacted by political or other contextual considerations. Carothers suggests that “by far the biggest obstacle, however, is the paucity of interest in reform among the main power-holders in the legislatures of many transitional countries.” In some cases, a sense of entitlement or a lack of motivation has made legislators passive about providing sustained leadership in modernization efforts. In many projects it is clear that success was impacted to a significant extent by the level of support and cooperation provided by the legislative leadership, and often this proved ephemeral or otherwise absent.

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7 Thomas Carothers, “Assessing Democracy Assistance: The Case of Romania”, p. 63
10 Carothers, op. cit., p. 183.
This lack of buy-in is reflected in a number of project evaluations. One evaluation of a USAID project in Peru observed that, “The greatest challenge was the lack of concrete support and participation by the Congress, with a few exceptions, in OTI’s efforts to collaborate on a reform process.”

Similar results were noted in a USAID Nigerian project: “There was a lack of buy-in on the part of the political leadership of these beneficiary institutions/organizations. Where this occurred, there was a disconnect between the needs (as perceived by the implementing partners) and what the leadership of the beneficiary institution considered its wants.” A 2013 evaluation of a USAID funded legislative modernization project in Liberia stated that “Legislators were uniformly candid in admitting that the Legislature’s commitment to modernization—and thus to the program—has been limited and that they have not fully benefitted from the program. Of the services developed, the Legislative Information Service (LIS) was well-used as a source of information, but was not used very often as a research service. The Legislative Budget Office (LBO) has not been consulted frequently and has not been as proactive about building a constituency at the Legislature.” An evaluation of legislative support programming in Iraq notes, “Those programs whose primary focus has been on institutions building—strengthening the capacities of the legislative and executive branches of the transitional governments, and assistance to the constitutional drafting process—have not achieved their long term results.”

Thus although aspects of modernization in a number of projects may have endured, the extent to which this approach by itself has resulted in lasting contributions to legislative functioning remains an open question. Modernization requires finding champions—those who wanted to strengthen the legislature for solely the legislature’s sake. However, these ‘champions’ are limited in number as legislators’ paramount concern is often continuity in office. At the same time, in many legislatures there is often considerable turnover, which greatly complicates legislative modernization. Experience thus demonstrates that the implementation of projects whose primary focus is simply strengthening the legislature has proven questionable. Lack of buy-in from legislative leadership, along with the cost and challenges in terms of identifying credible indicators contributed to donor fatigue on these types of projects.

C. LEGISLATIVE ENGAGEMENT

In the wake of USAID’s experience with the approaches cited above, legislative support programming assistance has evolved in recent years to include more emphasis on integrated, cross-sectoral project design, projects with potential for meeting multiple developmental goals. This is due in part to the growth of initiatives such as Feed the Future, Power Africa and PEPFAR, and other poverty reduction, economic growth and DRM initiatives. Budgetary

14 Find Afghan Report, (2008, p. 4)
15 The role of legislatures on the revenue side of the budget — setting tax rates and other government income — has received relatively less attention in legislative support programming, but this may change with increased attention to domestic resource mobilization as a key to sustainable development.
realities constraining the amount of funding available for legislative programming have also contributed to this evolution. The shifting of resources away from democracy and governance activities into other sectors has resulted, in some cases, in more innovative and integrated project designs reflecting heightened recognition that legislative buy-in can be a critical element in promoting development initiatives. Conversely, the absence of such involvement can stymie, retard or otherwise impede development initiatives.

Legislatures pass, amend and (less frequently) initiate legislation and budgets that shape government policy, development programs and social services. Legislative actions can also shape implementation and result in better or worse service outcomes. A paradox exists in that heightened legislative involvement can lead to delays and inefficiencies as legislators may review, alter, impede or otherwise slow things down and “gum up the works.” This may be true in some instances, but it is a reality that democracy involves a set of trade-offs between democratic principles such as transparency and inclusiveness and the operation of checks and balances, on the one hand, and short-term operational efficiency on the other. The bottom line is that without the former, the latter risks being ephemeral, as a range of stakeholders may not have had a say in the decision-making process and may thus not be supportive of the initiative or policy in question.

A key question has been how to most effectively operationalize the recognition of the need to integrate a legislative role in the development process. What are the most appropriate entry points? Is there a primary programmatic “vehicle” for programming to positively impact the legislature’s ability to contribute to economic and social development goals? While apparently not based on any formal USAID decision, the weight of evidence points towards particular emphasis on the articulation and promotion of policy decisions that can impact progress in other developmental sectors. There is recognition of a need to promote “an informed legislative community” (e.g., civil society, constituencies, research institutes) to both advocate for policies and to serve as an information resource for the legislatures, to help strengthen their engagement and input into policy development.

This in turn could result in legislators engaging in more pro-active dialogue with constituents and stakeholders on a variety of specific development issues, including additional and more regularized flow of information into the legislative process. The growing number of recent legislative engagement project designs thus reflect a determination that the most appropriate vehicle is that of influencing the policy debate, providing informed data and information, and shaping the culture of information flow for legislators to use and guide their decisions (n.b. these include not only the development and passage of legislation itself but also amendments, oversight, regulations, and other relevant actions).

This approach, in turn, can be divided into two main areas of focus. The first is the development of empirically driven research that can contribute and feed into policy debates. This can flow from research capacities within the legislature itself, civic and advocacy organizations, as well as non-partisan research and/or university-based bodies. Experience shows, however, that it is not sufficient to create the basis for sound policy decision making; the legislature must be aware of and empowered and willing to use it. Policies must also be effectively implemented, which

16 Another result of the more constrained funding environment has been the subsuming, or “bundling”, of legislative support activities with other D/G programming emphasizing the diffusion of power away from highly centralized executive authority, such as municipal governance (e.g. Colombia) or broader decentralization efforts (e.g. Bolivia).
usually requires the cooperation of the executive. Thus, the second focus area includes the processes and modalities by which this information can be fed into the legislative (and executive) branch(es), and how perspectives between these two branches can be mediated and synthesized, in the best of circumstances, to produce effective governmental policies and positive developmental outcomes.

Another related area in which legislative engagement can function concerns advocacy. The provision of technical assistance on advocacy efforts has long been an element of demand-side legislative support programming, in which the capacity of non-governmental stakeholders to articulate their needs with executive and legislative branches is enhanced. Unlike past activities, however, legislative engagement programming integrally links generic advocacy capacity building with specific issue areas. There are many actual or potential opportunities for this. Issues such as education, health care, gender issues, and poverty reduction are often cited as key themes around which supporters mobilize to advocate for critical policies and reforms.

Legislative engagement work has the potential to generate results in the specific sectors in which the programs are carried out. To cite one illustrative example, a report on USAID’s approach to addressing disability issues noted the significant effects of linking reform to policy issues, stating, “These reports [on impact of efforts to meet the Action Plan objectives] are closely read by the disability community and have influenced congressional interest and legislation.” The programs have taken place throughout Africa, Asia, the Middle East, and Latin America and have seen impressive results, such as the combining of efforts with the Armenian Legislative Strengthening Program and new legislation to assist people with disabilities in countries such as Bosnia-Herzegovina and Georgia.17

Another example of the legislative engagement approach has been the CEPPS Natural Resource Management Strengthening Program in Niger. The evaluation of this project noted the “free reign over natural resources] that successive authoritarian governments and foreign mining companies enjoyed for most of the country’s history creates a problem that is only likely to be solved through working both directly for this issue, while dually addressing the governance issues involved.”18 This led the implementing organizations to develop policy objectives focused on legislative strengthening through capacity building and collaboration with civil society, as well as the key goal of addressing natural resource management, respectively. Thus, efforts channeled at reforming legislative practices had a specific policy end goal of improved oversight of the mining sector.

The project evaluation also noted what appears to be a significantly more positive perception of the project among stakeholders than that found in many traditional legislative strengthening efforts. It stated “NDI received almost universal plaudits from Nigerian interlocutors for its activities…IFES was also appreciated and received praise for its work in raising citizen

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awareness and increasing knowledge on laws and regulations pertaining to extractive industries as well as facilitating dialogue between actors touched by or members of the extractive industries.”

Carothers provides an insightful articulation of what has come to, in part, underlie the legislative engagement approach:

The point is not that weak, troubled legislatures can never change. It is, rather, that treating legislatures as self-contained entities that can be fixed by repairing internal mechanisms is unlikely to get very far. Rather than seeing the task as legislative assistance per se, it is more useful to think in terms of helping a society develop the capacity to enact laws that incorporate citizens’ interests and reflect sophisticated knowledge of the policy landscape. Ultimately, helping bolster this capacity will mean working with many people and groups outside the legislature, including political parties, citizens groups, the media, officials from the executive branch, jurists, and others.

The emerging conclusion thus suggests that legislative strengthening targets should be married to policy issues in order to provide a sense of relevance and impact. In order to be successful, there must be focus on policy issues that generate interest from legislatures. Thus, legislative engagement seeks to strategically involve and partner with members of parliament.

IV. THE CASE OF INDONESIA

A. INTRODUCTION

This country case study is a key piece of this report. It and the companion Vietnam desk study are designed to provide examples of the trend towards legislative engagement programming. The experiences from these case studies help to identify issues related to the overall utility of such an approach and to effectively design and implement related programming.

The case study is divided into several main parts. It begins with background and country context, describing the evolution of Indonesia’s democratic transition and assessing the current state of its democratic consolidation. It includes consideration of the overall relationship between the legislature and the executive, as well as the strength of non-governmental actors in influencing policy.

The second section examines the legislature, especially the more powerful lower house, the Dewan Perwakilan Rakyat (People’s Representative Council - DPR). We pay particular attention to the impact of the legislature in promoting economic and social policy objectives. The discussion also includes a discussion of the structure and functioning of the legislature, the role of

20 Carothers, “Aiding Democracy Abroad”, op cit., p. 182.
21 The author gratefully acknowledges the assistance of Lydia Munyi Baynham in the preparation of this section of the report.
political parties in legislative actions, and a discussion of some of the factors and constraints affecting the legislature’s ability to play an active role in policy formulation.

The third section outlines previous USAID legislative support projects. These were mostly legislative strengthening in nature: they sought to provide the tools with which the legislature could achieve its functions of representation, legislation, and oversight. The section outlines specific programmatic activities and reflects on the extent to which these projects achieved their goals. The section also considers the extent to which the evolving strategy on the part of USAID to strengthen the legislature shaped these projects.

The fourth section examines the current USAID Project, ProRep. This project is designed to support the ability of civil society organizations, in addition to university and independent think tanks, to positively engage with the executive branch and the legislature. Ultimately this engagement is expected to improve the quality of public policy discourse and legislative actions designed to promote development.

The final sections offer observations, analysis, and concluding thoughts and recommendations on how USAID’s work in this area could be structured and focused.

The criteria used in selecting Indonesia for this case study were straightforward:

- There needed to have been a significant USAID investment over a sustained period of time.
- This must have included legislative programming.
- There must also been significant programming in two or more other areas of USAID’s development focus (e.g., health, environment, economic development).
- Overall, there should be a relatively positive story to tell in developmental terms.

Given these criteria, we selected Indonesia as our case. Legislative strengthening programming began in the late 1990s, after the fall of the authoritarian Suharto regime and the advent of the period of democratic reform known as “reformasi.” USAID has also been very active in other areas including education, health, and economic growth. Indonesia has experienced significant developmental gains over this period and is now the largest economy in South East Asia. Annual GDP has increased at an average of about 5.8% over the past decade. Between 1980 and 2012, Indonesia’s HDI value increased from 0.422 to 0.629, an increase of 49% (UNDP, 2013).

Indonesia is one of six countries chosen by USAID’s DRG Center as case studies for a research project on strengthening the integration of DRG activities with other USAID programming. The case study visit was undertaken in collaboration with a USAID-led team examining contextual, programmatic, and organizational commonalities and differences in order to offer recommendations for scaling up integrated programming.

22 Ivan Kushnir, “Gross Domestic Product (Gdp) in Indonesia.”
http://kushnirs.org/macroeconomics/gdp/gdp_indonesia.html
While Indonesia is undertaking a wide-ranging policy of decentralization, there are a number of key policy issues that are the focus of action at the national level (this is also true in many other decentralizing countries). Some of the key issues include:

- determining the national budget;
- defining decentralized boundaries and the powers of different levels of governance;
- defining minimum standards in distributing block grants at various levels of government administration;
- setting the future of the national health insurance program, a centerpiece of President Jokowi’s policy platform;
- consideration of a bureaucratic reform law; and
- mining and natural resource exploitation and management laws.

A research protocol (attached) was developed containing an illustrative list of questions underlying the conceptual approach to the case study. Questions were specifically targeted for various types of USAID stakeholders. These included other donors, implementing organizations, Indonesian stakeholders (including MPs, legislative staff, and engaged Civil Society Organizations (CSOs), and other Indonesian actors with knowledge of the programming (e.g. journalists and academics).

During the June 3-13 country visit, and in subsequent Skype calls, approximately 35 interviews plus sidebar conversations took place. A list of individual meetings is attached.

B. BACKGROUND AND CONTEXT

Indonesia is a diverse and expansive nation of over 250 million people spread over an archipelago of more than 10,000 islands. The Islamic faith majority is tempered by the influence of the preceding Hindu and Buddhist religions, which existed until the arrival of Moslem traders beginning in the 13\textsuperscript{th} century. Dutch mercantilists began to take control of the main island of Java in the 16\textsuperscript{th} century, and most of what is now Indonesia became a part of the Dutch empire until the Japanese conquest in World War II and subsequent independence in 1949.

The main figure in the struggle for independence, Sukarno, became President and adopted an activist foreign policy of neutrality between the West and Communist powers. Sukarno hosted the Bandung Conference in 1955, which witnessed the birth of the non-aligned movement. At home Sukarno increasingly sought to manage a fractious alliance between the military, his own supporters, and the Communist party of Indonesia. Tensions erupted in 1965 when the military staged a de facto coup and bloodily suppressed the communists. Sukarno was subsequently eased out of power by army chief of staff General Suharto, whose autocratic rule lasted until the late 1990s, when the Asian economic crisis devastated Indonesia’s growing economy and triggered a popular movement that unseated him.

Since 1998 the country has undertaken a democratization process known as \textit{reformasi}, which has included the development of most checks and balances, the retreat of the military into the barracks (although it still wields behind-the-scenes influence), the growth of civil society,
liberalization of the media, and significant decentralization. Democratic elections were held in 1998, 2004, 2009, and 2014. A moderately populist leader who rose from modest origins, Joko Widodo—known as Jokowi—was elected president in 2014. The country faces ongoing challenges, however, in dealing with corruption, managing economic growth, and consolidating its democratic institutions.

Indonesia has a deferential political culture characterized by patron-client relationships and an emphasis on the development of a collective perspective through “solidarity-making.” Woodward encapsulates this by stating that, “Deference towards and respect for authority are among the central values of Javanese and Indonesian political culture.” The political environment also reflects deep cleavages, reflected in, for example, the anti-Communist pogrom of 1965 and anti-Chinese riots in 1990s. This stems from a political dynamic in which direct criticism and clashing ideological and policy perspectives are generally masked by apparent expressions of consensus and collegiality. For example, former president Susilo Babang Yudhoyono (2004-2014) sought to create a broad-based coalition, what is termed a “maximal winning coalition.” Such coalitions often do not end up helping the formation of debate over policy alternatives, because they fail to provide alternative points of view for consideration.

Four main parties form the core of the contemporary political landscape. These include the **Indonesian Democratic Party of Struggle** (PDI-P), led by Megawati Sukarnoputri, the daughter of Sukarno, Indonesia’s father of independence, and a former president in her own right. The PDI-P has a base of support in population-rich Java. The mantle of leadership is somewhat uneasily shared with President Jokowi, who rose to prominence largely independently of the PDI-P as a furniture retailer and businessman and then as the popularly elected mayor of the city of Surakarta. In addition to Jokowi’s election to the presidency, the PDI-P received the plurality of votes in the 2014 legislative elections, garnering almost 20 percent of the vote and seats in the DPR.

**Golkar** is the party of former authoritarian president, Suharto. It continues to have a core of support in the bureaucracy, several entrenched interests, and the military. Geographically, its following is based in West Java and Sulawesi. It won 16 percent of the vote in 2014.

**Gerindra** served as the political base of the 2014 presidential candidate and former general Prabowo Subianto. The party reflects a yearning for the creation of an Indonesian “renaissance.” Its core leaders “are a group of politicized retired officers whose careers rose under the New Order. Their main ideology is the sacredness of the unitary state and the 1945 constitution.” It nearly tripled its vote total and seats in the DPR between the 2009 and 2014 elections, making it the third largest party in Indonesia.

**The Democratic Party** is the party of former president Susilo Bambang Yudhoyono, generally known by his initials as SBY. He founded the party in 2004 and since then it has served as the vehicle for his election to the presidency. Its popularity has suffered as a result of several

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corruption scandals and SBY’s constitutionally required departure from the presidency in 2014 after serving two terms. The party came in fourth in the 2014 legislative polls, with 10 percent of the vote.

Jokowi was elected in 2014 with much popular fanfare, arising from a support base eager to give an outsider a chance. The Jokowi governance policy platform is comprised of nine priorities. These include infrastructure development, legal justice sector improvements, education, and further consolidation of decentralization. Considerable resources are needed to achieve these objectives. The budget needs to be carefully managed through raising taxes, increasing income from natural resources, and/or foreign assistance. In the first year of its existence the government and legislature have taken action on some policy fronts, including cutting subsidies for fuel, and increasing funding for health and education.

Reformasi has, in general, resulted in the creation of a set of representative institutions that could lead to consolidation of the nascent democracy. The environment for civil society and think tanks is fairly good. The growth of the middle class results in more emphasis on advocacy. Indonesians overwhelmingly support democracy and the electoral process despite several high-profile corruption cases, declining trust in the House of Representatives, and open acknowledgement of the disproportionate and corrupting influence of money in politics.

C. DEMOCRATIZATION CHALLENGES

i. Public Attitudes toward Policy Formulation

There is a common perception that public policy is formed in a sort of “black box,” with decisions being made in a non-transparent and unaccountable fashion. This has been somewhat attenuated under the Jokowi administration due to many changes, such as CSOs appearing to have relatively greater access to the executive branch. Part of the challenge of policy formulation has been low expectations on the part of the population as to what to expect from the government. Three years ago a survey found that 75 percent of the people interviewed expressed satisfaction with government service delivery. The national ombudsman revealed that he was receiving only about 7,000 complaints a year; a very low figure for a country with a population the size of Indonesia’s.

Since the election of Jokowi, however, this has begun to change. Trust in government (meaning the executive branch) appears to have increased somewhat. There are more stakeholders than before on various issues. This is translated into an essentially peaceful public discourse, although some very controversial issues remain under consideration. These include the question of alcohol limitations, the anticorruption challenge, and environmental issues. With increased interest and involvement in a wide array of topics, a central challenge has become the translation of public and CSO perspectives into specific public policy initiatives.

26 Indonesia is rated as Free by Freedom House’s 2014 Freedom in the World Index and a “flawed democracy” (49th of 167 countries) in the Economist 2014 Democracy Index. The Polity IV 2014 Authority Trends dataset presents Indonesia as having moved from an autocracy to a democracy between 1998 and 2014.
ii. Decentralization

A core component of reformasi has been the decentralization of governance institutions. Significant powers have been devolved to the local entities, which are administered by directly elected officials. Decentralization has reduced the power of the central government, distanced the legacy of Suharto’s rule, and increased local participation in politics and the economy. It has also helped broaden and spread growth and in some ways has helped promote competition for economic development. However, the policy has not been an unmitigated success. It has been costly and created new opportunities for corruption. Corrupt local politicians, for example, have used their influence to block decisions and actions of national-level courts, regulations, and politicians, decisions that often are devoted to more constitutional, liberal applications of the law.27

iii. Anti-Corruption Efforts

Indonesia is ranked 107 out of 175 countries in Transparency International’s Corruption perceptions Index. It is also rated the 16th largest economy in the world.28 These facts suggest considerable opportunities for corruption. The fight against corruption has been a hallmark of successive reformasi administrations, with mixed results. A Corruption Eradication Commission (KPK) was established in 2002. By 2009 it had investigated, prosecuted, and achieved a 100 percent conviction rate in 86 cases of bribery and graft related to government procurement and budgets.29 More recently, however, officials of the KPK have been accused of malfeasance, which they claim reflects attempts by corrupt interests to discredit the KPK’s work. Another factor contributing to corruption in Indonesia is a significant problem of police impunity, as the police are widely seen as being part of the corrupted system.

iv. Political Parties

The influence of money in politics is endemic in Indonesia. The Institute for Economic and Social Research at the University of Jakarta (LPEM) recently concluded a study indicating that would-be MPs and other political aspirants must contribute significant resources to their parties; i.e., they had to “pay to play.” This limits the policy-making capacity of parties and therefore the DPR. One important sector less reflected in this democratic evolution has been the internal functioning of political parties, as parties are suffering from internal splits. While candidate lists have to be approved by party head offices in order for parties to compete in upcoming local elections, the internal rifts complicated their ability to fulfill this legal requirement. Additional functional setbacks include the limited formal policy analysis capacity of parties.

v. Civil-Military Relations

The president has broken with the reformasi tradition of rotating the chief of the armed forces’ position between the three armed services. In June, 2015, he nominated another army general to succeed the current army general as Chief of the Armed Forces. Some observers view this as a

29 Ibid.
setback in the process of limiting the military’s influence. This comes on the heels of other
decisions Jokowi has made that involve the Indonesian military’s development initiatives,
potentially blurring the civil-military divide.

vi. Media

There is a huge difference between the current period and the Suharto era, when journalists had to
get licences and approval by the government to be able to publish. Now, it is free flow for all.
Perhaps paradoxically, trust in media, with a couple of exceptions such as the Kompass and
Tempo publications, has decreased. Sources suggest that this is due to the perception that the
media are beholden to certain special interests, especially through ownership practices.

vii. Diminished Foreign Aid

Overall, the aid environment is shrinking in Indonesia. The country is achieving middle-income
status and thus nearing “graduation” from the ranks of countries receiving foreign aid, although
there are concerns about the consolidation of democracy. UNDP has halved its areas of activity.
There is not much cross-sectoral activity of legislative programming and other projects. Financial
support for environment, poverty reduction, democratic governance, and crisis prevention has
decreased even from the traditional donors: Australia cut its budget by 40 percent, and the EU
plans to pull out of Indonesia. UNDP, therefore, now has only two sectors left – Environment,
and Democracy and Governance.

viii. Empirically Based Public Policy Decision Making

To solve a problem it is first important to acknowledge that there is a problem. The new
government, unlike previous administrations, has displayed a willingness to operate from a
factually based point of departure rather than manipulating numbers to achieve ideal conclusions.
However, Indonesia is still in the early days of dealing with this new approach. It is important to
have a strong middle class to push the public policy agenda forward, and this is beginning to
happen. Former president SBY initiated a movement in this direction when, for the first time in
Indonesia’s political history, he placed considerable importance on information gathered from
public opinion polling. He chose his vice presidential candidate in 2004 largely because he was
judged to be most likely to garner support for the ticket. Other policy decisions were also based
on polling, and the current Minister of Education has emphasized the need for research-based
policy. In many of these cases, the new government is responding by reaching out for information
from think tanks.

An interesting example regarding the limits of possible reform relates to the Jokowi
administration’s approach to energy pricing. The administration felt that it could undertake
important reforms in this area because the political elite supporting Jokowi was not heavily
invested in the energy sector, figuratively or literally. Thus the “losers” as a result of the
elimination of price subsidies were political opponents and others to which Jokowi is not
beholden. By contrast, there have not been similar policy reforms in areas in which the PDI–P has
significant interests, such as the tobacco sector.
D. THE LEGISLATURE AND DEVELOPMENT

i. Overview

The current parliamentary structure dates from 2004, when constitutional revisions resulted in the adoption of an upper chamber, the Dewan Perwakilan Daerah (Regional Representative Council – DPD). This chamber, unlike the lower house, is based on equal representation from the provinces. The lower house, the DPR, is based on population. The upper house is designed to provide a regional perspective on national deliberations, but its powers are significantly weaker than those of the DPR, as it has only limited abilities to submit opinions and advice. The DPD can draft bills for consideration by the DPR, but it has no independent legislative authority.

While decentralization has been a core feature of reformasi Indonesia, the national legislature remains extremely important. The national budget must be approved by the DPR, and it significantly impacts policy choice and implementation. Fiscal policy and other elements of national law constitutionally trump regional regulations. Constitutional reforms passed in 2004 strengthened the DPR’s legislative powers and gave it a role in the appointment of a range of state officials, including members of the independent audit agency, the Supreme Court, constitutional court, and judicial commission, as well as Indonesian ambassadors. 30

At the same time, the DPR’s powers are circumscribed compared to many other legislatures in emerging democracies. Cabinet ministers do not have to be approved by the DPR, and the presidential system does not include a Prime Minister or other executive branch officials accountable to the legislature. In a reaction against the previous era of authoritarian government, however, the president does not have the power to formally veto legislation passed by the legislature.

The structure of the lower house is multifaceted. It consists of 560 members elected for five-year terms. As in most legislatures, there are standing committees, totaling 11, with competence over various thematic issues. There are also special committees with members drawn from all the standing committees; one determines to which commission legislation is addressed, while another is the budget committee. There can also be select committees for ad hoc issues. The work of the DPR is supported by a Secretariat and expert staff both on personal staff and committees. There are additional party caucuses called fraksi, which also have expert staff. The fraksi, although not officially recognized in the DPR statutes, receive logistical and administrative support from the legislature.

The apportionment of committee chairmanships is determined by the parties’ respective number of seats in the parliament and the negotiating and deal-making skills of their leaders. Thus the division of chairs usually works out as roughly proportional to party representation, but some parties (particularly Golkar) have proven themselves to be particularly adept at gaining more leadership positions than is strictly warranted by their number of seats. 31

Elections to the lower house are determined by a proportional representation electoral system. As seats are allocated by population, the island of Java is holds by 60 percent of the seats. The DPR

31 Ibid. p. 19
has a rather unique election system in that it has an “open list” proportional representation system. While parties present a slate of candidates for each electoral district, voters can specifically choose the individual candidates for whom they wish to vote. Voters can thus choose to vote for individual candidates on the party list. In the 2014 election, over two-thirds of voters chose to vote for individuals rather than simply voting for parties. This has the effect of increasing intra- as opposed to inter-party competition. Candidates on the party lists are generally aware of the number of party members from their list who will be elected. This has created an incentive for the various party candidates to seek to maximize their own share of the party vote, consequently increasing competition against their fellow party candidates.

The proportional representation electoral system, including a low threshold of two percent of the vote required for representation, has also resulted in a multiplicity of parties with representation in the DPR. Currently there are 10 recognized parliamentary groups (fraksi), of which four different parties each have over 10 percent of the vote and seats. The PDI-P party to which President Jokowi belongs presently has the plurality, but with only 19 percent of seats cross-party support for each legislative initiative is required. There is some discussion of a possible electoral reform that would result in a German-style mixed electoral system, with the effect of reducing the total number of parties represented, but to date there has not been a serious push to adopt this.

In the wake of the 2014 presidential elections political life appeared to be becoming more bipolar, oriented around the Awesome Indonesia Coalition that backed Indonesian President Joko Widodo, and the opposing Red-White Coalition led by unsuccessful candidate Prabowo Subianto. Subsequent negotiations undercut the role of these coalitions, however, and the DPR speaker later claimed that there was no partisan divide in the parliament.32 The situation is complicated by the fact that at least two major parties, Golkar and the Islamic United Development Party (PPP), currently suffer from serious internal splits. This is largely the result of a lack of internal party democratic procedures and processes. The DPR has also been characterized by considerable turnover in each election cycle. After the 2009 elections about 70 percent of the deputies were new; the figure for the 2014 Parliament was about 50 percent. Finally, there is a 30 percent quota for women to be candidates on party lists, but this does not necessarily translate into women actually being elected.

The DPR’s structure and functioning should not be viewed in isolation from other aspects of Indonesian political culture. In addition, the authoritarian practices of the Suharto regime continue to limit the influence of the DPR and to impede its functioning. Adiputri points out, for example, that concepts such as mutual assistance (gotong royong), family principle (asas kekeluargaan), the Sukarno-introduced political philosophy of Pancasila, and a tradition of deliberation (musyawarah) do not necessarily facilitate the efficient or democratic functioning of the legislature. Small cliques of leaders make many key decisions, and there are elaborate and time-consuming formal procedures that provide an appearance of broader input and consensus. In

addition, rigid social stratification impedes the ability of DPR members to benefit from substantive contributions by their own staff members.  

As a result, the extent to which the DPR and the larger political process reflect the needs, concerns, and priorities of citizens and groups in the policy-making process is debatable. Opportunities for interaction between citizens and DPR members are relatively limited. For the DPR to effectively and democratically represent the interests of the larger society, legislators must communicate with and be politically accountable to the public. Public credibility is essential. Moreover, robust, inclusive representation provides the political basis for legislative effectiveness in carrying out other functions, including the enacting of well-crafted legislation and the provision of effective oversight of the executive.

A 2008 governance assessment determined that the legislative branch scores reasonably well on key governance criteria, including authority, transparency, capacity, and accountability. It also determined that despite substantial improvements in preceding years, the DPR still lacked sufficient professional staff and did not have control over its budget. At the time it was deemed not to have the capacity to oversee the public budget.

Decision making within the DPR is largely a function of collective leadership groups in charge of the DPR leadership and various commissions and fraksi. Decisions are not made by open votes but by so-called consensus (mufakat), where agreement is reached in private meetings amongst the leaders and subsequently communicated to ordinary members. The ordinary business of the DPR is reflected in a publicly stated reference to official rules, while real decision making occurs in quiet negotiations between different power brokers.

In terms of the broader policy-making framework, there are both annual and five-year legislative plans. The executive branch has introduced approximately 80 percent of legislation. Regardless of its origin, however, only a limited percentage of the proposed legislation in the annual plans is enacted each year. Before legislation reaches the floor it goes to committees where changes take place, allowing for some power to rewrite legislation. The DPR holds hearings and oversees and approves the budget. There is a complex formal procedure once legislation is docketed in the legislature by which every party caucus submits its comments on the draft legislation. These are then discussed and harmonized as much as possible. Part of the backlog problem is that each commission can only nominate two laws for inclusion in the annual legislative work plan (ProLegNas). According to the ProLegNas there should be approximately 50 bills passed, but typically only 10-15 become law. Current priorities include revising the criminal law (draft legislation includes 760 articles) and increasing food security.

A unique feature of the Indonesian policy-making process is that, in the absence of a presidential veto power, draft legislation must by law be approved by a joint legislative-executive branch committee before it is submitted to a final vote. These meetings are closed door, which can

facilitate reaching agreements, but this also creates a lack of transparency that in turn can contribute to public concerns about the deals being cut (there is a risk of backdoor deals taking place, as in the case of tobacco legislation). The subsequent DPR plenary votes are largely formalistic. There are some examples to the contrary, such as a failed attempt in 2014 by then-President SBY to have local governors be voted in by local assemblies rather than by direct vote.

This process in theory transgresses the separation of powers concept, but in reality most observers view it as a means of ensuring buy-in, as well as a way to facilitate executive branch implementation and compliance with legislation once passed. This feature appears to be reflective of the more consensual nature of the Indonesian political culture.

With the advent of reformasi hopes were high – perhaps unrealistically so – that the legislature would be an active partner in formulating policy and checking the executive branch’s power. Current perceptions of the legislature’s effectiveness suggest that it has not met these expectations. This is due to a number of factors. The highly complicated legislative process results in a level of legislation passed that is much lower than anticipated. In addition, corruption has certainly sapped the legislature’s legitimacy; concerns about corruption are widespread, as reflected in a current controversy regarding the anticorruption body. Relatively weak party structures, which tend to be based upon regional and personalist affiliations as opposed to common policy positions, increase the popular perception that MPs lack principles and engage in corrupt practices.

The DPR can move quickly on development-related issues when it needs to; an example has been local government legislation. By contrast, more controversial legislation, such as that related to the oil and gas industry (the object of considerable lobbying—both pro and con) has languished. Member-introduced legislation can pass through the legislative process more quickly compared to government-introduced legislation, although there is much more of the latter.

Apart from the nascent and loose Megawati/Jokwi-SBY/Probando coalitions, partisan lines are not deeply drawn within the DPR; as one ex-MP stated, “No one wants to be in opposition, because then they do not benefit from the distribution of resources.” The decision-making process is characterized by a more consensual atmosphere than is found in many legislatures around the world. The cohesiveness of the DPR depends on the particular issue under consideration. The so-called opposition is larger than those parties oriented towards the government. However, party alliances and distinctions between the blocs are extremely fluid. In fact, the term opposition is not used as much as the term “balancing parties,” which connotes a minimization of partisanship. This lack of clarity can serve to confuse the voter and decrease confidence in the robust functioning of the DPR. It is, however, reflective of a political culture in which open disagreements tend to be minimized and emphasis is placed on harmony and collective action. This has implications for public policy, as there is not a strong tradition of alternative policies being presented and considered.

Members of Parliament are somewhat responsive to public opinion. When public attention is focused on an issue, DPR members do tend to look at it more closely. CSOs play a role in channeling this attention. While MPs are elected on regional lists through proportional representation, there are only four or five MPs per region, so they do have a fairly close identification with a particular region or constituency. MPs are not adverse to taking actions that
are favored by the public as long as this does not interfere with their “obligations” and political and financial debts that they may have incurred.

To expand the information base regarding certain policy issues, the DPR will at times solicit information from the outside. For example, the vice chair of the environmental commission asked to meet with two leading environmental CSOs to solicit their views on certain issues. The chair of that commission subsequently sent a message on Twitter saying that he agreed with the policy positions of the CSOs, thus demonstrating, in at least this case, an openness to interacting with outside influences through both social media and direct involvement with civil society.

E. KEY LEGISLATION

The DPR has affected economic and social development in a number of varying, substantive ways. It should be emphasized, however, that this influence is not as strong or broad-based as that of the executive branch. And there is a potential for parliamentary overreach in terms of legislation, such as the draft Organizations Law under consideration, which would target radical Muslim organizations.

Budgets

The legislature does amend the budget, sometimes significantly. There are many examples of changes to the recent budget that were made by the DPR. These included:

- Allocations in subsidy amounts;
- an education endowment added to the education budget;
- support for state-owned enterprises reduced from 75 trillion rupiah to 65 trillion rupiah; and
- increases in the Social Security system.

Another significant area of DPR impact on the budget process is that it has at times delayed approval of some parts of the proposed budget. This is especially likely if particular DPR Commissions do not agree to certain spending proposals. The DPR has begun to realize the power of this provision and, on a couple of occasions, has openly threatened not to pass particular parts of the budget bill so as to pressure the government to take some particular action. Despite this, the DPR’s scrutiny tends to focus more on detailed line items than overall budget policy and strategic priorities. To further complicate matters, the legislature is hampered by its lack of capacity in this area, reflecting its largely reactive, rather than proactive, history of involvement in the budget process.

The budget is one of the few pieces of legislation that is approved in the same year. Most years since reformasi have seen greater levels of substantive debate on the budget. As mandated in the Constitution, 20 percent is dedicated to education and 25 percent to transfers to local government. Other current percentages include 5 percent for health and 5 percent for national defense. A large

36 Ibid. p. 22.
subsidy for fuel has been eliminated as of 2015, with the savings transferred into the health and education sectors.\textsuperscript{38}

The government budget preparation process is extremely complicated and includes a number of diverse steps. The draft budget is introduced by the executive branch; the DPR does not prepare an alternate budget. The government first submits a preliminary “fiscal policy and budget priorities” document to Parliament. The Ministry of Finance and the Ministry of National Development Planning (\textit{BAPPENAS}) have discussions with the Budget Committee and with the commission dealing with economic and financial affairs. The Ministry of Finance and the relevant committees in the DPR seek to reach an agreement on proposed ranges for the key economic assumptions and revenue forecasts. Individual spending ministries also have discussions with their respective sectoral commissions on their ministry-specific work plans and proposed expenditures. These parliamentary pre-budget discussions take approximately one month to conclude. Ministries then develop their own specific budgets, and the package is submitted to the DPR in August. The DPR only has from August to October to review and discuss the budget, and once it is voted on in October it cannot be changed.\textsuperscript{39} Therefore, timing is essential in understanding budget cycle.

Limited access to information presents a key challenge to fuller DPR engagement in the budget. This includes identification of assumptions upon which forecasting is based; these may include economic growth, inflation, oil price, currency rates, and quantity of natural energy extracted. It is of course important to know what the government’s assumptions are and if they are realistic. The DPR does get information from other sources including academics and think tanks, but in the past this appears to have been limited and ad hoc in nature.

Budget staff indicated that they rely on information provided by the executive branch, to a significant extent, although at times they believe that the data are overly optimistic. In some cases the committees may develop their own assumptions, in which case there could be multiple assumptions including those of the executive branch, the Central Bank, and the Budget Committee. Staff members cited a recent example of the finance committee projecting growth rates of about 5.5 percent while the government growth rates were more optimistic, at 6 percent. The government has sought to keep the budget deficit well below the internationally accepted average of 3 percent of GDP, which may be a factor in encouraging the executive branch to have an optimistic view of expected revenues.

The budget committee’s role in the process is to initiate dialogue with the government about the fiscal and macroeconomic policies and to negotiate with the commissions and ministries on the level and allocation of the budget. Sometimes public hearings are held, and MPs do go back to their constituencies to receive public input and feedback during some of the four one-month recesses during the year. In terms of the current power structure in the budget committee, \textit{Golkar} and two other parties apparently have a plurality of the seats. The 98-member committee includes

\textsuperscript{38} It is useful to note that public opinion polling, which DFAD has supported, indicated that the public would be willing to accept the end of fuel subsidies. This appears to feed into the government’s decision to move ahead on this issue. It is a good example that public opinion can impact policymaking. There is much more that can be done in this arena; it is a promising avenue to include in a policy making approach.

\textsuperscript{39} For more detail on the budget process see Seknas Fitra, “Overview of Indonesian Budgetary Process”, \texttt{http://seknasfitra.org/analisis/tentang-anggaran/?lang=en}. 
legislators from all ten recognized party groups, plus some additional members. It operates on a consensus method, whereas the full plenary votes at the end of the process on the budget.  

While there are currently only six professional staff members on the budget committee, the size of the DPR staff, including that of the budget committee, is being increased. There is a need to have better communication and coordination with other committees on substantive issues in order to understand their priorities; too often the discourse has been solely focused on budget numbers. The staff expressed the wish to have an Indonesian version of the Congressional Budget Office. There apparently has been some discussion about this, but it is not clear whether the executive branch supports the idea of institutionalizing an alternative source of information in the legislature. It is evidently a question of “political will.”

A recently created public accounts government audit committee, to which ProRep had provided technical support, was abolished last year. The justification for the abolition of this committee included the argument that its functions have been transferred to the relevant competent thematic committees that have particular expertise to engage in oversight on the specific topic. Another reason, however, may have been concerns that it might prove to be too active and become a thorn in the side of some vested interests, as has been the case with the anti-corruption commission.

An Indonesian survey conducted by the Open Budget Institute analyzes the extent of governmental transparency by country. In the case of Indonesia its 2012 report finds that, “Indonesia’s score is 62 out of 100, which is much higher than the average score of 43 for all the 100 countries surveyed. As the highest in the Southeast Asia region, Indonesia’s score indicates that the government provides the public with significant information on the national government’s budget and financial activities during the course of the budget year. This makes it possible for citizens to hold the government accountable for its management of the public’s money.” By way of contrast, Indonesia’s global standing in Transparency International’s broader Corruption Perceptions Index has remained unimpressive, increasing modestly from 118th to 107th in 2014.

Examples of Legislation Impacting Economic and Social Development since Reformasi

When President Suharto left office in May, 1998, it marked the beginning of a new period in Indonesian history called Reformation (Reformasi). This marked the onset of a democratization process which continues to the current period. Since 1998 a number of laws have been passed with profound implications for Indonesia’s economic and social development. These include laws on decentralization, the law on freedom of the press and the Human Rights law; all of which have contributed towards the country’s socio-economic development and increased democracy. While this legislation may have been affected in some instances by legislative perspectives and actions, in general these laws reflected the will of the executive branch.

40 This would appear to be a very unwieldy structure and decision-making process.  
43 http://www.indonesia-investments.com/culture/politics/reformation/item181
1. Decentralization under Law No. 22/1999 and Law No. 25/1999

Law No. 22 addresses administrative decentralization, while Law No. 25 deals with financial aspects of decentralized governance. They were both passed in 1999, and the first set of implementing regulations were later published in May, 2000. All public service delivery functions except defense, foreign affairs, monetary and trade policy, and legal systems were decentralized to subnational governments, and the role of delivering most public services, including education, health, and infrastructure, was transferred to the districts and cities, with provinces performing only a coordinator role.\(^{44}\)

Implementing the process of decentralization has proved challenging given that the laws did not have a good transition or implementation plan.\(^{45}\) This led to mixed results following varying interpretation of the laws. In some cases, sub-national governments have used their newfound authority to implement conflicting rules and regulations. For further information and examples on this refer to the World Bank's Prem note No. 43 (Sept, 2000), footnote No 2.

2. Indonesian Press Law No. 40 of 1999

Following issuance of Law No. 40 in 1999, Indonesia granted the press freedom to operate without fear or the former restrictions of the dictatorship. Article 4 of the 1999 Press Act states: “Freedom of the press is guaranteed as a basic right of the citizens … Toward the national press, there shall be no censorship, banning or broadcasting prohibition.”\(^{46}\)

Whilst this was an important reform, its implementation has not been without difficulty. Prosecution of journalists and editors started again during Megawati’s presidency (2001-2004), given that she regularly and publicly took issue with the press. This carried on even under President Susilo Bambang Yudhoyono (SBY). In addition, newly introduced laws, such as the Pornography Law, the General Election Law, and the Electronic Information and Transaction Law, also contradicted parts of the 1999 Press Law. Given that decentralization led to a transfer of power from the central to local levels, local elites and other influential stakeholders have been able to influence some trials against journalists, resulting in unfair rulings.

3. Anti-corruption Commission Law No. 30 of 2002 and Money Laundering No. 15 of 2002

The KPK (Komisi Pemberantasan Korupsi) was formed under the Corruption Eradication Commission Law No. 30 of 2002. Parliament had made previous efforts towards eradicating corruption under Law No. 31 of 1999 on Eradicating Criminal Acts of Corruption (which was later amended through Law No. 20 of 2001). However these efforts had failed to deliver, as they had focused on repressive actions: pre-investigating, investigating, and prosecuting corrupt acts, which even though vital in corruption eradication had lacked significant preventive actions that are needed in the medium to long term. The KPK was designed to represent a new approach to combating the corruption epidemic in that it was expected to act as a trigger mechanism in empowering authorized institutions to become more effective. Moreover, KPK was created with a number of unique features. First, it is independent from the interests of the executive, legislative, judiciary, and any other political entities. Second, it is also audited by the Indonesian Supreme Audit Board. And finally, it has the authority to supervise and coordinate the Attorney General’s Office as well as the National Police in handling corruption cases.\(^{47}\)

The Indonesian Parliament also committed to combating money laundering in the same year under Law No. 15 of 2002, which declared Money Laundering a crime. This law was later amended through Law No. 25 of 2003. Even though the country still has a long way to go in completely eradicating corruption,

\(^{45}\) http://mpra.ub.uni-muenchen.de/18097/1/Decentralization_and_Good_Governance-The_Case_of_Indonesia.pdf
these efforts have paid off, as indicated by the country’s improving Corruption Perception Index (CPI) score shown in Table 1 below:


This Law aims to create environmentally sustainable development through an environmental planning policy and the rational exploitation, development, maintenance, restoration, supervision and control of the environment. In addition, it encourages reduction of greenhouse gases in the country through reduced deforestation rates.

Every business and/or activity expected to have substantial impact on the environment is subject to an environmental impact analysis (Amdal) in order to obtain a license to conduct such business or activity as discussed in detail in the Law.46 The lack of implementing regulations for this law has impeded its ability to have its full intended impact.

5. Elimination of fuel subsidies and increased budget for infrastructure

President Jokowi’s government implemented a fixed diesel subsidy of 1,000 rupiah ($0.08) per litter that became effective on Jan. 1, 2015. The reform reduced the amount of funds allocated in the original 2015 state budget for fuel subsidy by 211 trillion rupiah, which in turn provided the government fiscal space for infrastructure development. The parliament approved the new 2015 budget in mid-February, 2015. In the lead-up to the fuel-subsidy reform, the government took steps to mitigate the impact of higher transport and food prices on vulnerable households. This included providing 15.5 million disadvantaged households with 200,000 rupiah per month in November and December as well as expanding publicly funded education and health care. Importantly, cash assistance was provided as electronic money, which is expected to help address Indonesia’s low financial literacy.49

50 The need for understanding the impact/cost and benefit implications of draft legislation appears to be an important area for legislative cross-sectoral work. This has been a key element, for example, of the USAID Bosnia legislative engagement project.
is caused in part, he suggests, by reduced clear-cut policy differences, and in increasing homogenization of politics as parties vie to access resources and power has reduced attention to principles and well-grounded policy positions. In addition, political parties are not well institutionalized. MPs tend to be under the control of their political parties, which exercise considerable discipline given their autocratic nature. This has been noted not only from an observational perspective, but also through empirical findings in surveys of party leaders and officials. The Indonesian think tank CSIS surveyed over 2000 officials regarding the level of party institutionalization. They asked about such issues as the frequency of party branch meetings, information about their headquarters, the presence of people engaged in full-time party activities, and the extent to which they have formalized bottom up chains of transmission of information. The results indicated that parties had generally low levels of institutionalization and that party dynamics were mostly top-down in nature.

There is a legislative research office within the DPR, but its effectiveness is widely acknowledged to be extremely limited. Its staff is not answerable to the legislature, as they are employed by LIPI, the Indonesian Institute of Sciences, a quasi-government organisation. Every draft law must be accompanied by an “academic paper” (Naskah Akademik) that is supposed to provide context and supplemental information about the law. MPs often do not refer to them, and their relevance and utility for legislators is widely questioned. They tend to approach the proposed legislative topic in an abstract and theoretical fashion; a commonly expressed view has been that these papers should be more practical and problem-solving in orientation. They often lack, for example, analysis of the fiscal implications of proposed legislation or costs necessary to ensure their proper implementation or execution. Researchers are evaluated upon the number of academic-type publications they produce. However, there does not appear to be an ethos of collaboration with and for members of Parliament. Most legislators do not actively solicit information from this office, either because they are not aware of it, because they do not feel the work is relevant, or because they do not have faith in the information coming from this office. The library in the DPR is not widely used, and MPs use their own fraksi staff to do the research.

In recent years donors have limited their direct assistance to the DPR. USAID’s 2014-2018 strategy (discussed below) does not include a specific focus on the DPR. Australia, a major donor, has moved away from directly funding the Indonesian legislature because of a perception that their assistance was not resulting in the desired impact. Rather, these donors have adjusted their assistance; they are now emphasizing the build-up of civil society advocacy and the capacity of think tanks to contribute to the policy-making process.

The Australian aid agency, in the Department of Foreign Affairs and Trade (DFAT), for example, is undertaking a “knowledge sector” project. This is focused on supporting public policy development of think tanks and CSOs, particularly targeted towards the executive. Contracting is generally a complicated process for the executive branch if it wants to obtain valuable outside opinions and information; this project is designed to help address that problem. At the same time, some think tanks are starting to become more entrepreneurial about generating income outside of the traditional donor sector. For example, Transparency International has begun a separate

corporate social responsibility wing. Another anticorruption NGO has a collection box at the airport, which apparently generates several thousand dollars a month. It is possible for research organizations that engage in public opinion polling to include space on the questionnaires for companies and others who wish to have questions posed to the public.

It can be difficult and even risky working with a legislature such as the DPR. The UNDP ran into problems with its previous legislative strengthening project. It had been going well until the press noticed, towards the end of the project, that the UNDP logo was in the hallway of the parliamentary building. This apparently inflamed some nationalist sensitivities, and the project was terminated. Some observers believed that the project was collateral damage and a diversionary tactic by the DPR’s leadership to deflect attention away from other problems.

A recurring issue involves the implementation of legislation. Knowledge about laws and the actual or potential impact of laws is limited, which contributes to an uneven track record of translating laws on paper into reality. Members of Parliament vary considerably in terms of their capacity to address complex issues of governance. Many of them are beholden to particular political interests that got them elected. There is also some gridlock in the parliament because of the number of parties represented and the rough parity between government and other parties. This is true even though it is difficult to clearly delineate partisan and ideological differences. This contributes to limited output in terms of legislation enacted. MPs do not get much technical expertise on substantive issues from their parties, although the bigger ones do have some experts on staff. Perhaps ironically, some observers argue that the DPR actually spends too much time on hearings rather than legislating. In this view, hearings distract the executive branch from engaging in good reforms.

In many ways it is easier to seek to influence executive branch policy making. This is due to several factors. Most legislation comes from the executive branch. Furthermore, the politics of the DPR can be very complicated and difficult to manage, which can limit the productivity of advocacy efforts.

The diverse nature of the DPR’s representation makes generalizations about its public outreach difficult. Some individual members are active on social media, but this takes place very much on an individual basis. It is probably fair to say, however, that the DPR as a whole does not have an effective public relations strategy. Relating back to the potential for influencing policy making within different sectors, the executive branch is much better at communicating to the public than the DPR.

The DPR is criticized due to its lack of production, in addition to the perception that its members are beholden to special interests. However, the gridlock is also due to two factors exogenous to the DPR itself. It reflects a political environment in which political parties are personalist rather than ideologically oriented and one in which the corrosive effects of money are very evident.52

Financing for parties generally comes from two sources: from the oligarchs who are in charge of the party, or from potential contenders seeking to secure places as candidates on the party lists.

52 LPEM has conducted research on the costs associated with campaigning, and concluded that the average cost per candidate in the 2014 election quadrupled over that of the 2009 poll (http://www.antaranews.com/en/news/93268/legislative-candidate-spends-rp118-billion-for-campaigning-survey).
The term in Indonesian for the latter process is “nutrient,” as in feeding the coffers of the party. These entities tend to be in debt financially and politically, which can seriously color perspectives and limit interest in policy initiatives that are at variance with the interests of those to whom they are in debt. In addition, the proportional representation electoral system encourages balkanization and a multiplicity of parties in the DPR.

V. PREVIOUS USAID LEGISLATIVE PROJECTS

The USAID legislative-oriented projects that took place prior to the current PROREP project included:

- Legislative Strengthening Support Project (LSSP). This project lasted from 1997-2002 and was implemented by the Center for Institutional Reform and the Informal Sector (IRIS) of the University of Maryland.

- Consortium on Elections and Political processes (CEPPS). NDI, IRI, and IFES were all involved in this multi-faceted project from 2005-2010, during which NDI focused principally on the role of political parties in the legislative context.


USAID programming has continuously included a direct or indirect focus on the legislature since 1998. These projects have had an impact on the four legislatures that have been elected since then, although the magnitude of this impact is debatable. The USAID projects most clearly identified with legislative strengthening have reflected a range of emphases and priorities, including infrastructure support, MP and staff training, constituency relations, demand side civil society advocacy support, political party legislative functioning, and policy community support. In roughly sequential term of projects, the initial LSSP project focused on generating the information from think tanks and civil society that could be useful to the DPR. It also included a small amount of capacity building. The NDI project focused on political parties, including an element on political party interactions within the DPR. DRSP later focused on civil society and legislative strengthening.53

Taken as a whole, there does not appear to have been a clear, sustained, and long-term strategic approach to working with the legislature. In reality, this would have been difficult to achieve given changing personnel at the USAID mission, varying USAID strategic imperatives both in Indonesia and, more generally, the realities of functioning in the Indonesian context. The projects have taken place, for example, against the backdrop of a weak party structure, high turnover in MPs, and at times a lack of support from the DPR leadership. It is due to this continuing at best ambivalent attitude amongst the DPR leadership that these projects did not primarily reflect the USAID modernization approach that emerged in the late 1990s and early 2000s.

53 Chemonics implemented a Civil Society Support and Strengthening Project (CSSP) from 1999 to 2004. This project focused on the development of civil society advocacy activities at the local level. It did identify several areas for national advocacy efforts but did not specifically have a program component addressing the national-level legislature (Chemonics, Indonesia CSSP Final Report, 2004).
A. LEGISLATIVE STRENGTHENING SUPPORT PROJECT (LSSP)

The LSSP emphasized improving the legislative processes and capacity building through support and research staff in the national legislature as well as supporting the capacity of the Institute of Economic and Social Research of the University of Indonesia to deliver fact-based policy analysis that could be factored into legislative branch deliberations.

An evaluation of this project was undertaken in 2002. It concluded that some results were subpar, as “planning and implementation flaws have contributed to disappointing outcomes.” With regard to legislative strengthening, the evaluation determined that IRIS was unable to achieve many of its goals because of a lack of infrastructure and civil society involvement as well as inefficient use of preexisting networks of influence. The evaluation notes, “The IRIS project in Parliament has failed to produce self-sustaining institutional advances.” IRIS’s work with the university-based - Institute for Economic and Social Research, University of Jakarta (LPEM) think tank came closest to achieving its aims. Interviews with personnel involved in the project suggested that legislative staff (some of whom continue to work at the legislature) had benefitted from training from this project. For example, IRIS funded direct DPR capacity-building activities in which LPEM staff would write short issue briefs for the DPR secretariat and suggest areas in which DPR members and staff could solicit information from the executive branch.


IRI focused on the challenges of political decentralization. Its programming was conducted at the provincial and local levels and focused on improving legislation drafting, coalition-building, and the representational role of sub-national elected officials in the parliaments. IFES worked with the electoral authorities.

NDI conducted wide-ranging programs to strengthen political parties, elected bodies and civil society organizations. It especially emphasized strengthening legislative bodies, including bodies at the national level, to enable them to effectively play their roles as independent and influential branches of government. The project provided assistance to fraksi, legislative commissions, and the DPR’s leadership to support the legislature’s capacity.

A key focus of the NDI program was increasing women’s political participation. NDI also partnered with the Women’s Political Caucus of Indonesia (KPPI) to increase women’s leadership within political parties and elected bodies. The 2009 DPR election resulted in an increase of women’s representation in the national legislature of seven percent—the biggest increase in Indonesian history.

Subsequent to those elections NDI worked with fraksi in the legislature as they generated and reviewed new legislation, conducted government oversight, and reached out to constituents. NDI conducted focus groups with fraksi and the Women’s Parliamentary Caucus of Indonesia to demonstrate how qualitative research could be used in policy development. In addition, NDI brought in experts from around the world to share advice and comparative examples. The

54 Roger Paget, "Evaluation of the University Collaboration and Parliamentary Assistancy Activity," in IRIS in Indonesia, (USAID/Indonesia, 2002).
Institute also generated information, mentoring, and training to party representatives and parliamentary staff at the national and local levels.

The Indonesian Parliamentary Center, which was set up with NDI assistance, continues to function. The IPC is working at both the national and subnational levels in 30 regional assemblies. It was established in 2005 through the good offices of NDI. It started out by setting up a youth parliament simulating legislative activities. IPC also created an internship program whereby young Indonesians could actually work for DPR members. This has proven to be extremely useful: at least five of those interns now work as legislative staff and a few others have been elected to regional parliaments. IPC’s methods of activity are centered on discussions with expert staff. They also create policy briefs to summarize key issues for time-pressed legislators. A third aspect of IPC’s programming has been the engagement of CSOs that have particular substantive expertise. In this case the IPC acts as a convener; an example has been engagement in the “Publish What You Pay” initiative. Subsequent inquiries by the IPC indicated that those MPs that had received training through the NDI project tended to be more open-minded to reforms.55

An interview with a former Indonesian legislative expert associated with the project suggests that it continues to make an impact. While a significant percentage of legislators who had been trained were no longer in Parliament, many had other positions of importance and had provided input based on information gained from that project to subsequently elected numbers of Parliament.

C. DEMOCRATIC REFORM SUPPORT PROGRAM (DRSP)

The Research Triangle Institute (RTI) implemented this project to assist Indonesia’s democratic development by fostering open institutions, citizen participation, and increased transparency. The project focused on strengthening the parliamentary processes and institutions of legislative councils, as well as the Constitutional Court, elections, and media. The project included collaboration with local implementing agencies and civil society organizations to strengthen key democratic institutions and policies, as well as the quality and quantity of public participation in the legislative process. Support consisted of formal intensive trainings and workshops on issues such as coalition building, stakeholder analysis, development and implementation of advocacy strategies, and communications/media strategies, in addition to ongoing mentoring by DRSP staff and consultants.

DRSP engaged civil society leaders throughout the program to determine the demand for direct assistance on the CSO legal framework. This resulted in a CSO partnership that advocated for and directly helped design the framework for civil society functioning in Indonesia’s nascent democracy.

DRSP helped improve its partners’ advocacy and strategic approaches which contributed to the passage of a Freedom of Information law in 2008, and it subsequently worked with the Ministry of Communications and Information on its implementation. As part of the focus on the package of key election laws known as Paket Politik, and as a subset of the national decentralization policy assistance, DRSP supported the development of a legal framework for democratic regional and local-level elections.

55 It is not clear whether this was a result of the training, or whether those that participated in the training were more likely to be open-minded.
DRSP provided direct assistance to the DRP, including helping individual members and staff as well as the functional commissions and boards. DRSP increased their recipients’ capacity in legal drafting, legislative management, budgeting and personnel, and organizational management. DRSP also provided some technical assistance to the upper chamber, the DPD.56

One DRSP study noted that owing to a lack of experience of the legislature in working with citizens, advocacy remained a nascent feature of the Indonesian political landscape. “NGO capacity to aggregate citizens’ interests and articulate their preferences to policy makers is weakly developed in Indonesia: the social and cultural gap between NGOs and common people remains wide,” while “the legal and administrative framework have constrained NGO efforts to expand democratic space and to engage with the state.”57

Despite these difficulties, DRSP contributed to progress in promoting freedom of information and the involvement of civil society in policy formulation. It provided, in effect, a basis for the conceptualization of the ProRep project.

VI. CURRENT USAID PROJECT: PROGRAM REPRESENTASI (PROREP)

A. ORIGINS

The current (2011-2016) USAID-funded ProRep project reflects the evolution of USAID programming towards the concept of legislative “engagement, in which support for the legislature is integrally tied to the achievement of other development goals. It thus supports the development of civil society and think tank “policy communities” to inform and advocate with the national legislature and the executive branch for health, education, and environmental policy reforms. It is innovative in that it is integrative; it utilizes a democracy and governance institutional approach to engage policy makers in specific sector policy reforms.

As noted, the previous DGSP project influenced the design of the ProRep project. Perceptions, however, remained that the legislature lacked influence in the articulation and adoption of key policy development issues. In addition, some of the imperatives underpinning project design included concerns about the broader health of Indonesia’s democracy and the possibility that it could deteriorate. The Chinese model of authoritarian governance loomed as an attraction. Corruption and dissatisfaction with the functioning of the legislature were viewed as potential contributors.

The ProRep program components included a) strengthening the representational capacity of CSOs; b) building the policy research and analytic capacity of research organizations, universities, and think tanks; and c) supporting more effective, responsive, and transparent legislative processes. While the idea of connecting parliament, think tanks, and civil society was

in the initial project design (along with constituency service), it emerged as the principal thrust partway through the project’s life.

The project RFP was issued in October, 2009, but the award to Chemonics was not actually made until March, 2011. This was in part because USAID wanted to ensure that the implementing organisation had strong technical capacity in all three project components: legislative strengthening, policy research, and advocacy. The project cost totals about $20 million, and one third of the budget was set aside for grants.

**B. IMPLEMENTATION**

The project faced challenges early on, as the speaker of the DPR was not particularly receptive to donor assistance. He was under considerable political pressure not to appear beholden to donors, and it was under his tenure that the UNDP legislative project was terminated. In addition, the abolished public accounts committee had received technical assistance from ProRep.

The first half of the project focused considerable attention on promoting the development of a CSO community that could function in a policy advocacy capacity. Through a grants process, a number of CSOs were eventually identified. The project underwent a mid-course transition due to several factors. New USAID mission leadership advocated subordinating legislature-specific activities to broader cross-governmental policy approaches. The 2014-2018 mission country development cooperation strategy included a general emphasis on strengthening of democratic institutions as well as foci on augmenting essential human services for disadvantaged sectors of the population and an increase in emphasis on science, technology, and innovation.

As a result, the specific legislative strengthening and constituent outreach elements were eliminated from ProRep. The focus was subsequently placed fully on the policy “cluster” or “community” concept with civil society organizations and think tanks. This approach was buttressed by a midterm evaluation in 2013, which provided an overall positive assessment of the ProRep project to date, emphasizing the importance of the project leveraging “synergy among reform-oriented legislators, elite think tanks, and national advocacy CSOs that are prepared to work on national policy and ultimately may influence the behavior and practice of a newly democratic national legislature that is still maturing as an institution.”

This approach eventually led to engagement with other USAID developmental priorities. Initially, other policy sectors were somewhat skeptical about the utility of the ProRep approach and the fact that this initiative was being spearheaded by the Democracy and Governance sector rather than by their own technical experts. A positive synergy appeared to evolve, however, as the other sectors recognized that they could benefit from ProRep’s relationships with policy makers and its understanding of the nuances and intricacies of the policy development process, especially in the legislature.

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58 This raises the more general question of how or whether to engage legislatures when the leadership is hostile or otherwise opposed to donor assistance.

The creation of policy communities flowed from a recognition that policy in lawmaking often occurs within executive branch ministries with insufficient input from policy experts, civil society, and ordinary citizens. Policy clusters are composed of organizations with common interests, which can develop shared advocacy groups’ goals and visions. This approach took place during the elections and was given impetus by the election of the Jokowi government, which has espoused virtues of openness and participatory governance. The clusters must negotiate between themselves on priorities given the limited amount of legislation passed by the DPR each year.

ProRep used an iterative process of dialogue between civil society organizations to identify key issues for the policy clusters. Seven issues were initially identified. In consultation with USAID three issues were subsequently selected, all of which corresponded to USAID sector foci. The three themes selected were education, health, and the environment. ProRep has also provided technical support to CSOs and grants in order to engage in evidence-based policy advocacy. IPC engages with the expert staff in the relevant commissions and uses two-page policy briefs to present ideas and recommendations to the DPR members. IPC does not have the expertise to write the briefs, but other partners, such as Publish What You Pay (PWYP), carry out this function. Some of the IPC alumni from the internship program have become expert staff. The development of such long-standing relationships with the expert staff, who tend to remain, is useful given the high rate of turnover of legislators.

In this context there is also increased demand for policy relevant information from the DPR. Voters are expecting action from the DPR, and MPs feel under some pressure to produce results. In response there is some collaboration and cooperation between think tanks, a move that has been promoted by the ProRep project. One of the initiatives of this project has been the development of a Policy Research Network (PRN). The network is broad, and participating organizations complement each other in their areas of focus and interest. One important aspect of the initiative is the focus on how the network can educate the public. There is a need for immediate strategy, and the PRN has had to move ahead expeditiously on identifying and determining specific issues. The PRN provides a mix of advocacy and research. Some organizations are stronger on one side of the equation than on others, so they can achieve best results by acting complementarily to one another.

Technical assistance from ProRep has encouraged CSOs to undertake initial “situational mapping” of the stakeholders, which helps them to determine their advocacy strategy, e.g. whether to raise the issue in the public media or to first advocate directly with the DPR expert staff or with MPs. For example, one ProRep-supported CSO with an interest in mining has undertaken a project identifying DPR members whose backgrounds suggest that they are potential champions of reforms. They have subsequently enlisted former MPs with expertise on the topic to advocate with them to review or amend the national mining law.
**PROREP’S MPS CONSTITUENCY-BUILDING PROGRAM**

USAID’s ProRep project implemented a ‘Reach Out and Engage’ program called JABAT which supported parliamentarians in improving their interactions with the constituents from their electoral districts. The program, which ran between 2012–2013, supported 18 MPs, 2 MPs from each party caucus. The MPs conducted between two to five recess visits to their constituencies, where they participated in stakeholder and community meetings, radio/TV talk-shows, seminars, trainings, field visits, workshops, and media gatherings aimed at improving their understanding of their constituents’ socio-economic needs.60 Over 11,000 Indonesian citizens participated in the program. As a result, some areas experienced immediate socio-economic benefits. For example, in Central Java, following the locals’ request, the MP improved one of the main roads, which increased accessibility to and from the villages. In East Nusa Tenggara II, the MP helped them get two additional ferry boats, which improved accessibility between two main land points, enabling more movement of goods and people.61 In addition, the program supported the publication and dissemination of a community handbook designed to educate constituents on the roles and functions of DPR members and how they can effectively communicate their concerns and issues to their representatives.

The various organizations involved in environmental policy had already informally met or worked together, making it easier to launch this policy cluster. The education cluster has a wide membership that has spent time seeking to identify common issues. The question of basic education is one concern, for which CSOs such as Article 33 are particularly interested in the issue of how it is to be financed. ProRep has provided members of this policy community with grant support, which has led to its focus on teacher deployment issues, the establishment of a parliamentary caucus, and civil society monitoring. The current education caucuses are just getting off the ground.

The sustainability of the policy cluster approach once the DRSP projects ends is an open question. The environment cluster is less a coalition than a network of coalitions. For the education cluster, a work plan until November, 2015, is in place, but it is questionable whether they will be able to carry on with these efforts post-ProRep funding. Coalition members are discussing how to sustain efforts through other funds or individually. There is varying achievement for each cluster; the environment cluster, for example, is more advanced than the health grouping.

Though distinct from the cluster approach, the Policy Research Network appears to be a promising approach. It links very strong, rigorous research organisations that lack expertise in disseminating information to policy makers with those organizations that have the opposite attributes. PRN members are planning to have a conference showcasing all their research work and to network and strengthen their collaborative advocacy efforts to mark the first year of Jokowi in power. The PPPI has a leadership role in the policy research network. One of the approaches of the network is sharing information about research methodology, such as how to develop policy briefs. The initial membership of the PRN is broad-based, as it includes the Center for Strategic and International Studies, the Institute for Research and Empowerment (IRE), the Women Research Institute, and the Institute of Economic and Social Analysis at the University of Jakarta (LPEM).

60 http://www.representasiefektif.org/newsroom-detail&id=49
61 http://www.representasiefektif.org/view-video-gallery-detail&id=3
The PRN is seeking to reach consensus on issues of common interest; networks usually are based on common issues but the PRN’s efforts are to raise the metabolism of the policy community more broadly. It also aims to increase focus on the budgetary impact of legislation and develop regulatory impact assessments. Participating CSOs that were interviewed opined that it is good to be part of the network and to learn how to produce multi-disciplinary research by synergising efforts from member organizations.

ProRep has also continued to provide technical support and advice to civil society organizations and think tanks on areas such as communications, effective advocacy, and specific modalities of functioning, such as the development of letters of collaboration (i.e., memoranda of understanding) with government policy branch organizations.

It is not a simple matter to foster the establishment of issue-oriented caucuses in the DPR. For example, a prospective mining caucus did not develop, and the “Green Economy” caucus is no longer functioning. In addition, there is a challenge getting the policy communities to prioritize their work. The education cluster, for example, had initially sought to identify one common issue. They were not able to do this, however, and they ended up with a list of six issues. They recognize the need to reduce this to get the DPR’s attention, and they are looking to at least prioritize the six issues.

ProRep has had limited connections with other USAID projects. According to USAID staff there had been some connection with Kinerja, and they are possibly looking into working together at the local level. Other than that there are few connections. This is partly because there is no current project in the environment sector, and projects in the area of health are uncertain.

C. SOME ILLUSTRATIVE RESULTS

While this case study is not an evaluation of the ProRep project, it is fair to note some illustrative examples of impact by the policy community approach. These tend to be modest in nature and are more centered on the executive branch side, although this may end up impacting the legislature as relevant legislation is proposed and enacted. The project has not ended, and the nature of its substance suggests that its impact may be identifiable more in the medium-to-long term. However, in the opinion of USAID officials, ProRep has done good work. The policy research network is viewed as a useful initiative. Both the health and education communities worked well and provided some results; the environment cluster took the longest to agree upon its set of issue areas, but it is now bearing fruit. The ProRep cluster approach has resulted in some achievements. Examples include:

- ProRep education grantees and policy cluster members have developed comprehensive reform recommendations in six education issue areas. These recommendations were submitted to the national government and were the subject of a major conference sponsored by the Ministry of Education in February, 2015. Signifying its ownership of the content, the ministry held this conference in the ministry itself. The new minister of education has been a close ally of the education cluster community.

62 It would be useful if USAID had evaluation capacity to assess ex post facto these types of projects’ impact, not simply at the end of the life of the project.
• Cluster members have testified at hearings on several education issues, including the question of teacher deployment management. Subsequent to policy cluster advocacy on the issue, the government made the decision to provide more teachers in rural areas. Similarly, in the environment area the cluster was requested to provide a blueprint for the organization of the newly rearranged ministry of environment and forestry. Its recommendations have been largely adopted.

• The upcoming SOROT environmental project includes a governance component. As a reflection of the success of the ProRep project, the environment sector has put money into ProRep to serve as a bridging mechanism until this new project begins sometime next year. This decision is based partly on the fact that ProRep was the natural vehicle for this, but it also reflects confidence in the ProRep project.

• Reflecting the perceived utility of the policy cluster initiative, USAID has recently made funds available for a fourth cluster; that of anti-corruption. The project will be working with accountability NGOs. This reflects the reality that corruption has the potential to undermine Indonesia’s democratic experiment, and it takes place against the backdrop of the challenges and threats the anticorruption commission is facing as well as the current reconstituting of its leadership.

• The Ministry and Deputy of Education have already requested a CSO member of the ProRep environmental policy cluster, Article 33, to conduct some research. A DPR member was identified as a champion within DPR who was interested in Article 33’s research and recommendations on the BSM of forestry revenues with the local communities and willing to exercise leadership on the relevant issues.

• LPEM was approached by the secretariat to provide training on Econometrics in 2010, and it had previously helped the secretariat build a simple excel budget example. LPEM has also provided advice to the executive, e.g., the impact of reducing the fuel subsidy, which the government has used to support its strategy. Commission staff often invite LPEM to present on topics being discussed in the DPR, especially on economic implications.

• The ProRep environmental policy community, particularly ICEL, was called upon by the new ministry to provide advice on how to structure the ministry. About three quarters of their recommendations were accepted.

• The vice chair of the DPR Environment Commission invited a ProRep-affiliated CSO to meet following its successful online petition against wildlife trafficking. After the meeting the Chair took to Twitter to declare his commitment to addressing this issue.

• ProRep has enabled CSOs to influence the legislature’s priorities when deciding which bills or laws should be shortlisted on the annual calendar of legislative action (the Prolegnas).

ProRep appears to be having some impact largely due to its ability to weld together a multi-stakeholder approach, in addition to the relationships it has built up in the CSO sector and legislative and executive branches. It has some access to the DPR. However, a U.S. based development expert familiar with the project suggested that the current organizations in the
ProRep network could do a better job of providing quality policy options. He also expressed the belief that while the project’s emphasis on issue-based advocacy is appropriate, there should also be emphasis on non-partisan and empirically based presentations of the potential impact of proposed legislation.

D. USAID PERSPECTIVES

A challenge has been building a constituency within the other sectoral offices for ProRep. The COTR had to do excessive lobbying and to thoroughly explain to other sector offices that ProRep sector work is responsive to the needs of all the mission sectors. It takes times to generate a consensus on identifying and prioritising the issues to pursue. Some offices felt that they could be doing some of the ProRep activities themselves. Over time, however, confidence was built. Emphasis was placed on providing comprehensive explanations and including other sectors in the information flow of the project.

An operational challenge faced by ProRep was that the original USAID design of the project made the last two years optional, at USAID’s choice, which meant that it was harder to plan adequate sub-grant periods. The implementing partner, Chemonics, had to plan to finish at the end of year four without knowing if it would have to close down or be able to carry on for a fifth year, which is in fact what occurred. This resulted in uncertainty and limited the ability of the policy clusters to accomplish their goals.

Including a grants mechanism as a key component of the project has been successful in ensuring that the specific reform agenda is driven to a considerable extent by the grantees themselves. In addition, from an operational point of view the project would have needed considerably more staff had the grants element not been included.

The future poses major questions marks. The USAID DG funding amount has been cut from $35 to $6 million annually, and even that figure could be subject to further reductions. This raises fundamental issues about the future of democracy and governance programming in the country.
KINERJA – A SISTER PROJECT TO PROREP

Kinerja (Performance in Indonesian) focuses on improving service delivery at the local level. It is housed in the governance sector. It has been functioning since 2010 and has recently been extended to 2017. It has a tripartite approach, working with local government, regional parliaments, and civil society. It focuses on education, health, and business licensing. The project takes both a supply and demand approach, with a focus on strengthening the capacity of local government to deliver services and integrating demands represented by local elected bodies and civil society organizations. The latter two both act in an oversight capacity, providing feedback and ideas on how service delivery could be improved. The project includes the development of multi-sector fora, which include local government, legislators, and civil society. These serve as bodies in which communication can occur between these different stakeholders and implementers. In a sense they seem to be partly analogous to the policy cluster concept that ProRep utilizes in its project.

The demand function includes creating awareness about what citizens can and should expect from the government in terms of service delivery. Working with local legislatures presents a challenge for several reasons. There is considerable turnover; for example in Papua (where they focus their work with the local legislature), the last elections saw a 70% turnover in members of Parliament. Politics are extremely transactional in nature. Most local legislatures are dominated by local elites who have varying levels of capacity, social awareness, and understanding of legislative processes. There is a real need to strengthen the legislature’s ability to oversee the budget process. These challenges mirror the situation ProRep has encountered with the DRP, although the local legislatures have even less access to information than do national MPs.

Some indicators that are used to determine success in the project include amendments to budget presentations, maternal health statistics, teacher functioning, and time it takes to receive business licenses. An innovative mechanism that the project uses to determine how well services are delivered is a complaint survey. This is administered to recipients of services such as students or those receiving healthcare. It was not clear if the complaint survey is administered as a baseline or subsequent to the receipt of services. It is presented to the local legislature for their follow-up and action. Training is also provided to civil society organizations to undertake advocacy efforts over the legislature and the local government, both in light of findings from the complaint survey and other needs of the citizens. The extent to which Kinerja interacted directly with specific USAID-funded projects is minimal. There has been interaction with the AID sector personnel but apparently less so with the implementing organizations on the ground.

Some results of the project to date include shorter times for business licensing, the redistribution of teachers to rural areas, and improved maternal health statistics. The project was audited in 2013. While it was judged to be meeting some of its goals, the recommendation was made that it advance the engagement of local district governments in service delivery, improve its monitoring and evaluation, and provide additional technical support.
VII. ANALYSIS AND CONCLUSIONS

This section identifies specific elements of the Indonesia case study of particular import and which may also have broader implications.

A. Diminished Donor Appetite for Legislative Modernization

There is considerable fatigue among donors regarding traditional legislative strengthening in Indonesia. This has led to a sense that the modernization approach has not worked very well there. This in turn has resulted in a significant drop-off in these efforts. The issue of corruption is widely seen as central to the problem. In addition, political parties are at the same time too strong and too weak. Parties have dominant leadership structures that are fairly authoritarian, but they lack the internal capacity for policy review and consideration of options. The DPR is viewed by some as being dysfunctional in that it lacks accountability, does not undertake the representation function very well, and at times issues laws that are contradictory.

B. Trajectory of USAID Indonesia Legislative-Oriented Programming

The 1998-2003 IRIS project included both a think tank and legislative strengthening aspect. It was then followed by the NDI and IRI projects that focused on political party activity in the legislature. These were followed up by the RTI DRSP project that had a broader focus but still included some traditional legislative strengthening. The current program project, which had an element of traditional legislative strengthening in the first half of its LOP, now utilizes the civil society think tank policy approach. While this may suggest that USAID’s legislative programming has circled back to its original starting point, the current project has a much more sophisticated design and focus. USAID legislative programming since 1998 appears to have “done no harm” and in fact to have modestly contributed to the DPR’s functioning.

C. Context

The lower house of the national legislature (DPR) is widely seen as exceptionally unproductive. However, the gridlock comes from factors exogenous to the DPR itself. It reflects a political environment in which political parties are personalist rather than programmatically oriented and in which the corrosive effects of money are very evident. In addition, the proportional representation electoral system encourages balkanization and a multiplicity of parties in the DPR.

The fact that “no one wants to be in opposition” has direct implications for public policy formulation, as there is neither a robust tradition of alternative policies being presented and considered (and perhaps synthesized), nor a tradition of the relative merits/demerits of the policies being subject to debate. Other incentives against good policy making include the status of political party and campaign financing. The elected MPs tend to be in debt financially and politically, which tends to seriously color their perspectives and limit their interest in policy initiatives that are at variance with the interests of those to whom they are in debt.

D. Legislative Leadership Buy-In Challenges

As noted previously, the ProRep project had problems early on, as the speaker of the DPR was not interested in pursuing donor assistance. This is somewhat resonant of the early days of the USAID-funded Kenya legislative program and also was a problem with the DRSP Indonesia
project. This in turn raises the more general question of how or whether to engage legislatures when the leadership is hostile or otherwise opposed to donor assistance.

E. Mid-Course Correction

The thrust of the ProRep project changed with the 2014-2018 country strategy document, a document stating that assistance to the DPR would not be a focal point, and with the arrival of the current mission director. This has resulted in the somewhat strange situation in which the current project is officially deemed not to have a significant legislative focus, even though in reality the DPR is a key indirect target and beneficiary of the intervention.

F. Development of Policy Community Concept

ProRep is widely seen as being successful in that it has mobilized the advocacy and think tank elements of civil society into a series of three “policy communities” oriented around the themes of health, education, and environment. The choice of the three policy communities, mirroring that of the USAID mission sector offices, could imply that USAID was driving selection of the thematic topics; but at least in this particular context the civil society organizations definitely seem to have ownership of the issues. These policy communities have had modest but positive impacts on the legislative and policy implementation processes to date. It is representative of what can be called a “legislative engagement policy” approach (LEP) as opposed to the traditional modernization approach focused on improving the legislature’s internal functioning without a specific policy reference.

As an example, consider the case of bio-fuel policy and palm oil. Who are the tycoons? Who has interests and holds power? This in turn is related to politics and political parties, and the parliament. Working from the analysis, future programming could begin with a modest related strategy in the DPR. There should be, for example, an effective legislative caucus for the environment, perhaps focused on issues by region.

G. Other Sector Perspectives on D/G Legislative Engagement Programming

Other USAID entities in which ProRep is involved include the health, education, and environment sectors. Initially the health and education offices in USAID took an arms-length approach to ProRep, most likely because they had concerns about the governance project impinging on their turf. They became much more supportive, however, after they saw that the project was yielding benefits, and some awareness emerged that their programs could be aided by the inclusion of a policy-related element. This represented a similar dynamic to that of ProRep and other related projects, such as in Bosnia.

H. D/G Sector LEP Perspectives

There is not a unanimity of views on this subject, although funding and bureaucratic considerations suggest that LEP-type projects may well represent a growing trend in USAID programming. While lauding the ProRep project, a D/G officer cautioned against embracing a LEP approach without reservations. He suggested that, “It is possible to have too much integration.” This implies that a logical conclusion of the integration process is that other sectors could ask “why do we need to have the democracy governance sector since we’re now doing it
ourselves.” In addition, the instrumental approach represented by LEP does not *ipso facto* address the intrinsic value of D/G work.

**I. Needed DPR Structural Reforms**

To an outsider, it would appear that the DPR could benefit from some management consulting advice to improve its functioning. The legislative process is slow and cumbersome. Committees are large and do not have subcommittees (the budget committee has 98 members from every political party group – an example of inclusive political culture). The low level of legislation passed (about 20 percent of its annual work plan) seems to be delegitimizing the DPR. At least 80 percent of legislation typically comes from the executive branch. It also suffers from low public esteem due to corruption. The DPR does not have an effective public relations strategy. Given the realities of the indirect and consensus-oriented Indonesian political culture, this may not happen anytime soon. It is also very important to boost the research capacity of the legislature, recruit more expert staff, revise the MP3 (legislation governing the functioning of the DPR), be more transparent, and advocate for a congressional budget office.

**J. Continued Lack of Independent Information**

Members of the DPR and DPR Budget Committee explicitly emphasized their weakness in relying to a large extent on government-provided information. This is a critical problem. A CBO would be extremely useful, but this has been resisted, apparently for political reasons. Important staff skills that are needed include expertise and accountability, and budget issues. The ProRep project and the Australian think tank project are helping to address this, but more still needs to be done.

**K. CSO Coordination**

It is important to note that the collaborative nature of the Indonesian political culture probably contributes to the significant amount of apparent coordination between CSOs, a factor that ProRep has used to good advantage. It has sponsored the development of the Policy Reform Network. One of the things the network is doing is sharing information about research methodology, such as how to develop policy briefs.

**L. Party Caucuses**

Repeated references were made regarding the fact that party caucuses, or “*fraksi,*” play a strong role within the DPR, which slows down the legislative process. Owing to the PR system there are 10 such *fraksi.* Given the consensual ethos upon which the DPR’s functioning is predicated, widespread consultations have to occur before legislature moves ahead (prior to final passage, legislation even has to be approved in a conference committee with the executive branch). Until recently NDI had a well-regarded project that included working with the “*fraksi.*”

**M. Kinerja Similarity to ProRep**

The sister Kinerja project, which focused on local-level service delivery, had a similar dynamic to ProRep. An innovative part of Kinerja includes the development of multi-sector fora that include local government, legislators, and civil society. These serve as bodies in which communication can occur between these different stakeholders and implementers. This seems to be somewhat analogous to the policy cluster concept that ProRep utilizes its project.
N. Limited Project Coordination

There does not seem to have been a significant amount of direct interaction between ProRep and projects such as Kinerja. It may be that the extent of interaction encompasses AID sector offices but not the implementing organizations on the ground. If that is the case, this raises the question of whether it would be useful to have interaction at that level.

O. Comparison with Other Contexts

The Indonesian visit overlapped with that of a team from the USAID Democracy Center office of dealing with project integration and cross-sectoral initiatives. In general, they did not see many institutional impediments at the mission level to this integration. They noted that there were some mechanisms to facilitate integration, such as the willingness to share staff. One of the team members had previously made case study visits to Ethiopia. He expressed the opinion that the environment was much more conducive to integration in Indonesia than Ethiopia. There was less integration between sectors in Ethiopia. A valid question is whether there is a connection between the fact that the Ethiopian political culture and context is much more polarized than that of Indonesia and what the atmosphere seemed like within the mission.

The impressions gained from the team’s visit reflected the view that other sectors need the DG sector to get good policy results. In addition, this suggests that cross-sectoral policy reform initiatives should perhaps be focused not solely on the legislature but oriented towards a more holistic approach targeting both the legislative and executive branches.

P. Viewing Legislatures: Collectively or Individually?

It is important to recognize that while the DRP is often discussed in an aggregate and collective sense, legislatures by definition are composed of many different interests and individuals, with varying skill levels, perspectives, orientations, and agendas. This needs to be taken into account when considering sector program strategies and individual project design.

Throughout these interviews, contrasting perspectives were raised regarding the dynamic within the DPR. Some have emphasized that the DPR is a collective entity in which partisan interests are subordinated (reflecting a cultural aversion to direct discord); others have suggested that it is in fact highly polarized and that this contributes to the dysfunctional dynamics. It is likely that both perspectives may be true to an extent.

This case study of USAID support for legislative development in Indonesia reflects both the challenges and opportunities that are presented by working this arena. USAID’s work has reflected, to an extent the broader trends of legislative strengthening, modernization and engagement, although the modernization approach has been hamstrung by a lack of sustained support on the part of the leadership of the DPR. The latest approach, of integrating a multi-sectoral issue and policy-oriented focus, with elements of legislative strengthening, is a promising approach. Economic and social development objectives may be well-served by this, although given the recent adoption of this approach, the jury remains out.
A. POLITICAL AND ECONOMIC BACKGROUND

Vietnam is a single-party state dominated by the Communist Party of Vietnam (CPV). The legislature is subservient to the executive branch. Despite this seemingly closed political environment, which would not ordinarily be propitious for traditional legislative strengthening or modernization activities, USAID has determined that support for economic policy reform development and implementation can usefully include engaging with the legislature.

This perceived window of opportunity began to emerge in the wake of the Doi Moi economic reforms, which began to be implemented in the late 1980s. These reforms included changing laws on land ownership, agricultural initiatives and commercialization, in addition to reforms strengthening the role of market forces in pricing, decollectivization, and greater integration into the international economy. The reforms have had an impact; one analysis states that, “It is generally agreed that Vietnam’s macroeconomic performance following the reforms that began in 1989 has been impressive. Until 2009, there were some striking successes. Unlike pioneering East Asian reformers, Vietnam had a latecomer’s advantage, which accelerated the catching-up process and enabled it to adopt foreign know-how and mobilize capital. International aid donors and investors have assisted.”

In 2013 Vietnam implemented a new constitution. Given the continued monopoly of power within the hands of the CPV, this change is modest, but the constitution does provide for, in theory at least, freedom of expression and other basic rights, an end to arbitrary arrests of critics and political trials, and checks on executive power. It does, therefore, provide some possible avenues for the gradual adoption of more open and pluralist forms of governance as occurred in Asian Tiger countries such as Taiwan and South Korea.

While the Constitution identifies the 500-member National Assembly (NA) as the “highest organ of state power,” in reality the legislature’s powers are severely constrained. It does not, for example, have the power to draft or introduce legislation. It does, however, have the authority to review legislation and undertake some oversight activities of the executive branch. Despite its subservience to the CPV the NA has in recent years featured more open debate and “has become more active in government affairs.”

B. USAID PROGRAMMING

In the wake of the war in Vietnam, US-Vietnamese relations gradually improved. A 1995 USG report examined the political and economic relations environment of the two countries in an effort to determine whether further actions should be taken to normalize relations. While acknowledging that change generally comes slowly in Vietnam, developments including the Doi Moi policy and Vietnam’s gradual integration into the international stage were highlighted as

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63 This desk study consisted of relevant documents review and interviews with implementing organization and USAID officials.
64 http://thediplomat.com/2013/11/vietnams-disappointing-new-constitution/
65 Chemonics, “Program Collaboration with the National Assembly: Proposed Approach for Governance for Inclusive Growth Project”, p. 4.
positive steps which could facilitate closer ties between the two countries.\textsuperscript{66} The US also viewed Vietnam as an important potential regional partner and possible counter to Chinese foreign policy goals in Southeast Asia. Formal diplomatic ties were established in 1995.

USAID has had a presence in-country since 2000. The U.S. government’s key goals were reflected in a 2009 USAID document; peace and security, governing justly and democratically, investing in the people, and economic growth. The document states that, “In order to support these efforts, USG technical assistance targeted Vietnam’s judicial, legislative, and education systems, which will serve as a foundation for sustained economic growth. In all areas of assistance, the USG stressed the need for responsive, transparent and accountable governance as essential elements of equitable development.”\textsuperscript{67}

In recent years USAID’s country development strategy has emphasized supporting Vietnam’s transition to a market economy and facilitating essential government reforms to make Vietnam a more competitive player in the global market. Vietnam has been moving from a hybrid legal framework based on Napoleonic Code and Russian law to a contemporary, rule-based, international best practice system. Programming has been designed to deepen regulatory reforms, improve the capacity and independence of Vietnam's judicial and legislative bodies, and promote more effective public participation in the law and regulation-making processes. In support of this change, one area of focus has been on legislative strengthening and engagement.

An inception document from USAID’s most recent legislative-related project notes, “The transition from central planning to a market economy started in 1986 with the \textit{Đoì Mới} reforms and is much advanced, but is not yet complete. To be successful, Vietnam has to tackle core challenges, including modernizing, strengthening, and developing public institutions, including the NA.”\textsuperscript{68}

Two sets of USAID projects have informed the design of the current Governance for Inclusive Growth (GIG) project: the STAR (Support for Trade Acceleration) project and the Legislative Research Project (LRP).

\textbf{C. STAR}

From 2001-2010 a set of USAID-funded projects were undertaken, known collectively as STAR and individually as STAR I, STAR II and STAR +. STAR I began in late 2001 with DAI as the technical lead and continued for four years, followed immediately by STAR II which was implemented by DAI, and included a one-year extension (STAR +) ending in late 2010. STAR was based on the premise that economic growth was an appropriate subject for focus, as it was politically acceptable to the Vietnamese government, addressed clear needs, and could serve as a gateway to work in other sectors, including democracy and governance.

During this time much of the private sector benefitted as exports increased, new firms were created, and foreign direct investment increased. As befitting an initial country activity, STAR’s

\textsuperscript{68} Chemonics, “Program Collaboration with the National Assembly: Proposed Approach for Governance for Inclusive Growth Project”, p. 1.
agenda was very broad and flexible, in order to react, as appropriate, to avenues of activity requested by the government. STAR I activities contributed to legal reforms; STAR II continued on this path while promoting the acceptance and diffusion of newly created legislation. In fiscal year 2011, the support for law implementation on economic integration emphasis of STAR + expanded its focus area of economic development by creating an initiative designed to facilitate the success of trade and investment agreements. Training and technical assistance was provided to governance, trade, and investment programs. Additional initiatives included the judicial branch, universities, and Vietnamese academies.

The STAR Project Final Evaluation Report determined that STAR had been an extremely successful project and that it had impacted legislation on economic development: “STAR’s assistance to the Government of Vietnam (GVN) on the Law on Laws helped the GVN change from a focus on individual commercial laws to a broader focus on the foundation of the legal system. Interview respondents noted that the Law on Laws was a singularly important GVN legislative accomplishment and one of the GVN’s most transformational legal reforms.” The Evaluation reflected the extensive range of the projects included legal support, as “the Government of Vietnam carried out the major revision or drafting of 166 laws.” Aimed largely at codifying and implementing Vietnam’s economic reforms and international commitments in the economic sphere, these included a bilateral trade agreement (BTA) with the US and accession to the World Trade Organization (WTO).

D. LEGISLATIVE RESEARCH PROJECT

Although Vietnam remains a single-party state, USAID has sought to identify approaches through which it could support the development of the legislature as an actor in its own right. In the wake of a USAID Democracy and Governance Assessment in 2009, and in response to a request for assistance from Dr. Dinh Xuan Thao, the head of the Institute for Legislative Studies (ILS), a research and policy-support body for the National Assembly, the USAID Mission designed a multifaceted legislative support project, the Legislative Research Program (LRP). The LRP was an 18-month, $2.2 million project. It was supposed to be longer, but delays and the end of life of the project’s contracting mechanism shortened it.

The USAID mission, which previously had little entrée with the National Assembly, determined that this project could be a useful method of supporting the Assembly, which has had the potential to become a more active branch of government. LRP was designed to build the skills, capacity, and expertise of ILS staff while improving the institute’s overall organization, administration, and management. It embodied USAID’s approaches to legislative strengthening and modernization through four main components:

70 Ibid.
71 The ILS undertakes research on theoretical and practical issues related to the organization and operation of the National Assembly and provides information, research, and analytical services to support the activities of the various National Assembly committees and members and staff of the National Assembly.
• Assist the ILS in creating a five-year strategic plan.
• Improve the quality, relevance, and timeliness of the information, research, and analytical skills provided by the ILS.
• Build the skills, capacity, and expertise of the staff of the ILS to provide high-quality legislative research and policy analysis.
• Improve the organization and management of the ILS.

The project succeeded in achieving its deliverables and strengthening the ILS. Institutional strengthening seminars and workshops addressed specific topics, including communication policy and strategy, budget analysis, conducting oversight hearings, and promptly handling member requests for assistance. Due in part to the project, the percentage of requests answered by ILS staffers increased by 14 percent, from 8 percent in 2011 to 95 percent in 2013. The project fit in with the USAID’s emphasis on institutional development and has served, along with STAT, as a precursor for the GIG project.

The project also encountered challenges. It was never clear, especially given the opaque decision-making within the NA and government as a whole, how much authority the ILS had to undertake its activities. The project was not able to obtain a signed memorandum of understanding from the office of the Prime Minister, which limited its ability to function. Some key project indicators declined from 2012 to 2013. This may in part also have been to a fundamental challenge facing the project – that of the existence of another research unit within the NA which in effect served as a competitor to ILS.

E. GOVERNANCE FOR INCLUSIVE GROWTH (GIG) PROJECT

The process of developing the USAID strategy for 2014-2018 resulted in a determination that a more coordinated and integrated agency approach was advisable, given both the challenges and constraints of operating a legislative strengthening project, and the effects of an economic downturn given the post-2008 global economic slump. In addition, the reality that many sectors of Vietnamese society had not benefitted from the previous years of economic expansion created a need for programming that could contribute not only to a reprise of growth, but also for that growth to occur in a broader, more inclusive fashion. USAID thus designed the GIG project to support a more comprehensive and holistic economic policy-making process and an improved implementation of laws. An integral component would be the legislative engagement approach. The project design thus built upon both GIG and the LRP and can be seen in a sense as fusing the two approaches – and in fact is overseen by a joint economic growth and governance office within the USAID mission in Hanoi.

A principle underpinning of the five-year project has been that it would be “working at the intersection of economic growth, governance, and inclusion.” The project contains three major components, which were designed to reflect this coordinated and cross-sectoral approach; a project document noted that “our activities simultaneously support
policies for inclusive growth and strengthen underlying capacity and systems at each phase.”

The components include:

- Improving legal and regulatory frameworks through a dynamic, inclusive policy-making process.
- Improving accountability of public institutions.
- Improving inclusion and equality for historically marginalized groups.

The intended trajectory for the project life has included:

- a) problem identification by the government and CSOs;
- b) public consultation and stakeholder engagement;
- c) drafting, debate, and enactment of proposed reforms;
- d) implementation and communication; and
- e) oversight and evaluation.

The project emphasizes increasing transparency and broader input into the formulation and implementation of reform policies. This has included a specific focus on technical support, including workshops among government staff and media coverage to engage a wider range of stakeholders than had previously occurred. Support has come in a variety of forms, including technical assistance, committee training, university programs, and the provision of legislative resources.

The project is largely focused on skills-building and creating opportunities for the NA to engage the public and oversee the work of the government. The project’s aim is to support the further development of a legal and regulatory environment to support a stronger market economy, the benefits of which are spread more widely. It has also included the provision of technical input to the NA and Ministry partners to develop legislation required to implement the new Constitution, including Law on Laws, Law on Administrative Decisions and Civil Code. The project has also focused on methods of implementing Resolution 19, a broadly based regulatory reform program introduced by the government in March 2015. It is designed to improve the business environment and streamline the time and cost of doing business.

Trade and Investment is also a primary area of focus. Participation in the Trans Pacific Partnership is a key substantive focal point, as are issues related to Free Trade Agreements, including at times sensitive issues such as environmental protection and labor rights, requirements of WTO membership, and governmental auditing processes. The project also seeks to provide data valuable for policy making and to support think tanks, academic institutions, research institutes, and professional associations through support for analysis of policy issues and the development of evidence-based options and recommendations. The project has also worked with the NA press office through a media dialogue and other specialized training. It has provided technical assistance to the NA Library and research offices and undertaken a mapping exercise of social feedback mechanisms and civil society coalitions. The project has developed software for the NA Library to respond to questions from MPs. It has also engaged with the legislature on oversight issues.

In 2014 a project document noted that the Vietnam National Assembly (NA) has been an integral part of the GIG program since its outset; asserting that, “The NA is probably the most important of the six GIG Program partners in developing a transparent legal and regulatory framework,

72 “Governance for Inclusive Growth (GIG) Project First Year Workplan”, p. 2.
overseeing the Government to enhance accountability of public institutions, and in ensuring inclusive growth.”

This is clearly an ambitious and aspirational perspective. Its emphasis on inclusiveness reflects a presumption that effective collaboration can be fostered in which public/private sector interactions are heightened to create a more inclusive policy-making process, with greater influence and oversight from previously marginalized actors.

The project is providing technical assistance related to implementation of the newly passed Law on Laws, which provides the framework for the development and adoption of legislation, and on legal drafting. It is also familiarizing various project stakeholders with the means to assess the likely impact of laws and other governmental regulations through training in Regulatory Impact Assessment methodologies.

In activities with the counterparts, and the NA in particular, the project has engaged non-state actors including CSOs, independent experts, the media, and think tanks through legislative forums and other consultative events. These events have included discussions on specific laws (e.g., the Civil Code and the Law on Local Governments), policy discussions, and skills trainings. While in general representatives of the government have shown an eagerness to engage non-government stakeholders, some actors have demonstrated a reluctance to engage CSOs, which has led to previous delays in implementation. Project staff have to be careful to not move faster on implementing programming than their Vietnamese counterparts.

In terms of a policy research strengthening component, GIG works with the NA Library and its former LRP partner, the Institute for Legislative Studies, both of which serve as key information resources for MPs and various NA agencies. In addition, GIG works with various government research bodies to enhance their ability to conduct research and analysis – one example is the Ministry of Finance’s National Institute for Finance. While the project anticipates future work with non-government bodies, to date its research strengthening support has been focused on the government and the parliament.

No independent evaluation of the project has yet been undertaken. Given the fact that it is only completing its second year of operation, it is too soon to draw any conclusions regarding the success of the GIG project. However, according to project implementers, the project has received buy-in and support for the project from the National Assembly leadership (n.b., this is in contrast to the LRP). The National Assembly is a formal counterpart of GIG and has approved the project. The Committee for External Affairs serves as the NA’s focal point for the project and coordinates project requests from various Committees and Departments. The NA leadership has expressed its appreciation to GIG for its support to NA. There are, however, areas of support which GIG avoids due to political sensitivities, including comments on votes of confidence and matters relating to elections (such as how qualified candidates are selected).

The members of the NA are a combination of “full-time” members and “part-time” members, the latter being officials from Ministries and other bodies. This composition complicates efforts to improve government oversight, as the members themselves are often government officials. As with any parliament, there are differences of opinion. However, how these differences translate to public debate or disagreements over policy is less straight-forward than in other countries. Project

implementers suggest, however, that there is much more diversity in opinions and belief within the NA than the overall political context would suggest.

The project is accurately characterized as supporting the infrastructure for economic growth. This, in turn, requires a cross-sectoral policy-oriented focus, including the bolstering of legislative input and research capacities. A considerable portion of project activities also fit into the traditional definition of legislative strengthening. It is necessary to have the policy-making and implementation capacity in order to get the desired results. This in essence is what can be called a “legislative engagement plus” concept in which an emphasis on cross-sectoral and integrated policy formulation is buttressed by project activities that can increase the capacity of the legislature to deliver policy reform.

Although not specifically articulated as an objective, the project could contribute to the evolution of a more democratic governance system. The focus on economic growth gives cover. It does seem that in relative terms more emphasis to date has been placed on activities and processes internal to the legislature rather than in the more sensitive external and non-state stakeholder community. The project design, however, definitely reflects the legislative engagement approach and appears appropriate given the political context. Its integrated nature seems to be appreciated within the Mission, with other sectors recognizing the need to support the development of the public policy dialogue process through legislative engagement and executive branch outreach activities. The project’s mandate, for example, has recently been widened to include a “Combating Wildlife Trafficking” scope.

F. COMPARATIVE ANALYSIS: INDONESIA AND VIETNAM

A number of observations – including both identification of commonalities and differences – can be made based on the Indonesian field study and Vietnamese desk study. This, in turn, can inform thinking regarding the relationship between legislative support programming and broader development goals.

The history of USAID engagement in the legislative arena has been longer in Indonesia than in Vietnam. In the former country it began soon after the initiation of reformasi in the late 1990s. In the latter the STAR projects did not directly target the legislature; such engagement did not happen until the 2011 LRP was initiated.

Most legislative engagement projects, such as ProRep and GIG, appear to focus on support for policy formation and development. They often include emphasis on the provision of empirically sound data which can be used to promote informed policy debates, and in theory, at least, enhance the quality of decision making.

Comparison of the two projects demonstrates that legislative engagement projects can take place happen under different political contexts. Even in an officially single-party state, such as Vietnam, a desire for economic and other types of development can lead to acceptance by the authorities that some legislature-related programming should take place. This, in turn, can help to further open up participation in the political process and contribute to an evolution toward more democratic governance.

In both cases there is a sub rosa aspect to the legislative aspects of the project. In Indonesia the mission is reluctant to characterize the project as legislative strengthening in nature, as the history
of such projects in-country has been decidedly mixed. The closed political environment in Vietnam precludes highlighting the legislative strengthening outcome as a stand-alone component. In a way, however, this can be seen as a “Trojan horse” approach to legislative strengthening: in both cases the integrated, cross-sectoral approach provides “cover” for activities that contribute to legislative strengthening.

In both cases the legislature is not yet a functional counterweight to the executive. There is, as a result, a need for the more traditional approach as a sub-component of the cross-sectoral, integrated approach. The legislature to be functional in order to contribute to development objectives of the project and because of a need to provide incentives for MP buy-in.

While the ProRep project has some positive accomplishments to date, it is still too early to make a definitive assessment of the GIG project. It seems to have gained acceptance among its Vietnamese interlocutors and therefore may have a positive impact. Both projects do appear to be successful in the sense that they have had supplementary activities requested from other sectors (ENV in Indonesia and Combating Wildlife Trafficking in Vietnam). The ENV add-on comes with additional funding.

Both projects have sought to support the development of a non-partisan and neutral policy research capacity. In the ProRep project this is external to the legislature in the form of university-based, non-governmental research institutes. GIG’s approach targets both the legislature and organizations outside it. Given the differences in political context this is a more ambitious task in Vietnam than in Indonesia. Civil society organizations, for example, have a more central and integral role in the ProRep project, probably because the environment for the functioning of non-state actors is more open in Indonesia than in Vietnam.

In Indonesia the project is overseen by the USAID mission DG office; its USAID Vietnam counterpart is the joint economic development and governance office. There is greater specific focus of USAID programming on economic issues in Vietnam; in Indonesia the target areas of health, education and the environment obviously relate to economic development but are not generally considered to be part of USAID’s economic growth sector.

Both programs focus on the national legislature. In Vietnam there are no sub-national legislatures. ProRep included some focus on sub-national legislatures but only in a subsidiary fashion. In GIG there is stated emphasis on including marginalized groups but the main concern regarding civil society was increased participation/engagement.

IX. CONCLUSIONS AND OBSERVATIONS

Legislative strengthening activities are an increasing part of USAID’s legislative support approach. This trend is likely to grow and, although the jury is still out on this point, could yield positive results. Given this background, this document provides an opportunity for building bridges between advocates of legislative support within DRG and other sectors. This can help DRG realize the importance of reaching out to other sectors to identify areas of common interest. Conversely, there is a need to generate understanding and support in other sectors for engaging with legislatures. The process by which funds are earmarked for thematic initiatives, for example, may need to undergo reforms to be flexible enough to permit legislative engagement activities.
The current emphasis towards integrated programming undoubtedly does not represent “the end of history” in terms of the state of the art of legislative support programming. This is especially true given the lack of a significant sample of evaluations and assessments regarding outcomes linked to legislative engagement programming. Nonetheless, if the programming can be designed properly, legislative engagement activities have the potential to represent a judicious and cost-effective use of limited resources. They can serve to improve policy dialogue, promote development goals, improve the functioning of the legislature, and create “buy-in” on the part of key legislative personnel. They can also result in more effective communication and dialogue between the legislature and the executive branch, as well as dialogue with other stakeholders and sectors of society.

Legislative engagement programming is not, however, a panacea. Results may not accrue quickly. Decision making on policy issues does not always reflect political considerations often trump informed policy choices. Legislatures can slow down the policy-making and implementation process.

A. LEP PLUS

If legislative engagement with other sectors simply consists of facilitating the passage of specifically desired legislation without reference to the internal dynamics of the legislature, the approach is unlikely to be successful. A prospective way of dealing with this would be what could be considered a “legislative engagement plus” strategy. This would mean the main focus is on policy development processes, but it should be accompanied by some ability to undertake legislative strengthening activities. This is both for substantive and political reasons. Simply taking a purely sectoral (e.g., health, education, environment) approach may not be sufficient. The legislature needs to be empowered to do its work. The slow movement of the legislative process is an impediment to effective advocacy. There are often structural problems in terms of legislative functioning that can impede the efficacy of the policy-making process.

Moreover, members of legislatures want to see tangible benefits from programming for the legislature and themselves; they do not like simply being used as the means to an end of a desired policy output. Dealing with the legislature must involve building up trusting relationships and support for legislative capacity development. Merely providing support for specific legislative initiatives from other sectors is not likely to be a productive approach unless there is some sort of legislative capacity-building element to the project, hence the LEP Plus concept.

B. CONDITIONS FAVORING POLICY-ORIENTED LEGISLATIVE ENGAGEMENT PROGRAMMING

To enhance the potential for success of a LEP project, there should be a convergence of several elements. First, USAID priorities should include issues that call for policy initiatives for reform. Second, civil society organizations should be interested in and focused on the same issues. Third, there should be some level of willingness on the part of at least some elements in the legislature, and also probably the executive branch, to receive input on these issues from civil society and the broader population as well. The reality is that these elements probably won’t all need to be present, especially in the same magnitude at the beginning, but a successful project may result in their coming together.
This type of approach can be effective in closed political environments. In others, especially ones in which civil society does not command a meaningful presence, the project may not work well. Civil society must have sufficient capacity to articulate and advocate policy interests.

C. POLITICAL-ECONOMY ANALYSIS

Prior to implementing an LEP policy, donors should first conduct a political economy analysis on the ground to determine the best strategy, since working on policy with CSOs or think tanks can only go as far as the legislature is willing to engage with them. Also, as the context changes (e.g., when there is a new minister), the strategy needs to be revised to suit the new change.

D. EXECUTIVE FOCUS?

Most legislative initiatives emanate from the executive branch. It may well be that legislative engagement policy-oriented projects cannot be focused solely or specifically on legislative policy development but more holistically, on the policy formation process on the executive branch side as well as with the legislature. Note that a number of ProRep activities and accomplishments are not specifically legislature-oriented, as this is how the Bosnia project has also been organized. The extent to which cross-sectoral policy reform initiatives should be focused solely on the legislature or whether they should be oriented in a more holistic legislative and executive branch perspective.

E. POLICY COMMUNITY PARTICIPANTS: HOW WIDE A NET TO CAST?

ProRep is not the first example in which a policy community approach has been attempted, but it is precedential in that it includes close dialogue with the relevant ministries. The idea is that eventually this could be expanded to include parliamentary caucuses (or at least legislative staff) when they get established.

F. EMPHASIZE PUBLIC OPINION POLLING

For example, in the Indonesian case it is useful to note that public opinion polling, which DFAT has supported, indicated that the public would be willing to accept the end of fuel subsidies. This appears to have fed into the government’s decision to move ahead on this issue. There is much more that can be done in this arena, and it is a promising avenue to include in a policy-making approach. There also needs to be room for non-partisan and empirically based presentations of the potential impact of legislation, rather than just policy options.

G. MONITORING AND EVALUATION

The importance of monitoring and evaluation for legislative engagement programming is significant, but it also poses considerable challenges. Often projects are not long enough to allow adequate analysis of project activities’ impacts. This is especially true for many policies and other legislative actions that may not have immediate effects. It would be useful to identify mechanisms that could assess project impact at some point after the end of the life of the project.
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