

# Strengthening legislatures: implications from industrial countries

*The factors affecting legislative performance in industrial countries offer a framework for examining the issues facing reformers of legislatures in developing and transition economies.*

With more developing and post-communist states embracing democracy, improving the performance of their congresses, parliaments, and other legislative assemblies has become a must. These bodies make laws, hold the executive branch accountable, and represent citizen interests. Good governance demands that each of these tasks be done well. Thus aid agencies have begun supporting programs that train legislators and their staff, provide computers and buildings, and otherwise strengthen the legislative branch of government. But while some programs have succeeded, the overall results have been disappointing (Carothers 1999, pp. 177–87).

One reason is that many programs have ignored a key principle of public sector reform: success requires changing the incentives facing public officials (World Bank 2000). More effective legislative aid programs will require donors to understand what motivates legislators and how those incentives can be altered. This note surveys the main factors shaping incentives for legislators in industrial countries and suggests how these factors can inform legislative reform in developing and transition economies.

## Degree of legislative independence

Constitutional structure and party cohesion are key determinants of a legislature's inde-

pendence (Olson and Norton 1996). At one extreme is the U.S. Congress. Because its members are elected separately from the U.S. president, their electoral fortunes are only loosely related to his—a setup reinforced by a weak party system. As a result members of the president's party face few constraints in opposing legislation he backs or in calling his cabinet members to account.

Legislators in Germany, the United Kingdom, and other parliamentary systems face very different incentives. Parties typically control candidate selection and campaign finance, so voting against one's party can be far more costly than in the United States. The electoral interests of legislators in the majority are also much more closely aligned with the executive's than in the U.S. system. The executive is drawn from the majority in parliament, and that majority will have to stand for reelection if it defies the executive on an important vote. Thus legislators in parliamentary systems are considerably less independent of the executive than their U.S. counterparts.

A major determinant of parliamentarians' independence is whether the executive is formed by a coalition of parties, as is typical in Germany, the Netherlands, and other continental countries, or whether it is drawn from one party, as in the United Kingdom (Lijphart 1999, pp. 116–42). Mul-

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tiparty governments cannot exert as much control over members of parliament as single-party governments.

The organization and operation of a parliament's committees also affect its ability to act independently of the executive. Legislators from different parties can more easily resolve differences in the small group settings that committees provide—and the more united the parties, the more influential the legislature. Interparty agreement is often fostered when committee meetings, if not closed to the public, at least attract little notice.

Other features that increase a legislature's influence include whether committees are permanent or temporary and whether they parallel or cut across executive agency responsibilities (Shaw 1997, p. 508). Members serving on permanent committees and committees with responsibilities that track those of executive agencies develop greater expertise and hence have more scope for independent action.

### **Rights of opposition parties**

When the interests of a legislative majority and the executive branch coincide, the majority has little incentive to oversee the executive. Doing so could hurt the party's reelection prospects. Absent pressure from the public, the majority will be reluctant to expose malfeasance or missteps by fellow party members in the executive branch—and will have even less reason to support opposition efforts to do so.

In all legislatures it is the party or parties out of power—the opposition—that has the incentive to oversee government. The more government incompetence, malfeasance, or corruption that is revealed, the better the opposition's chances of winning the next election. But the opposition's task is complicated by a conflict of interest that arises when the party controlling the executive also has a majority in the legislature. The legislative majority sets the rules for investigations and debates, and it has a responsibility to ensure that those rules are fair. But the majority also has an interest in shielding party colleagues from embarrassing revelations.

Industrial countries have devised different ways of resolving this tension. The procedural rules or standing orders of many legislatures contain explicit safeguards protecting opposition rights. These norms are often supplemented by long-standing practices. In the United Kingdom tradition provides that the opposition chairs the committee responsible for auditing government spending. Although a legislative majority can always change the rules or flaunt convention, it can do so only at some cost to its standing with the public.

In Germany the constitutional court serves as the guardian of opposition rights (Kommers 1997, pp. 166–80). Over the years the court has issued a number of rulings upholding the opposition's right to participate in parliamentary committees and obtain information from the government.

Despite the protections afforded to parliamentary opposition in Western Europe, parliamentary oversight has declined in recent years (von Beyme 2000, pp. 81–88). The most likely explanation is the electorate's lack of interest. Although the occasional corruption scandal may capture their attention, voters pay little heed to the details of budget audits and performance reviews (Bach 2000). As legislators have become more attuned to voter concerns, their interest in sustained, in-depth oversight has waned.

In Australia, by contrast, the legislature vigorously oversees government (Uhr 1999). The legislature reviews the budget, audits spending, examines proposed regulation, and ferrets out abuses of office. The legislature has two chambers, and the second chamber, the Senate, is the locus of oversight. Several small opposition parties hold the balance of power, and opposition control provides the incentive to hold government accountable.

The Commission to Strengthen Parliament (2000) recently proposed reforms to increase oversight by the British House of Commons. One reform would ease partisanship in committees by reducing parties' power over the selection of members. Another would provide more time for members to question ministers and foster more

give and take during the exchanges. A third reform would provide the parliamentary opposition with a separate research budget.

As parliamentary oversight has declined in Western Europe, other institutions have started to perform this function. Constitutional courts and pan-European courts now play a significant role in holding governments accountable. An ombudsman is another widely used accountability device. In the United Kingdom ombudsmen and independent authorities oversee several aspects of executive branch performance (Vile 1998, p. 398). And in all Western European societies the media and pressure groups help hold governments accountable by fueling public pressure for parliamentary action.

## Implications for developing countries

The experiences in industrial countries suggest several considerations for reformers in developing and transition economies.

### *Assessing party cohesion*

Political parties can have an enormous effect on legislative performance—indeed, in industrial countries party cohesion is the most important determinant of legislative behavior (Mezey 1993, p. 346). Thus legislative aid programs should begin with a thorough analysis of parties' impact on legislative performance.

### *Securing independent analysis*

Several legislative aid programs have sought to create offices resembling the U.S. Congressional Budget Office and U.S. Congressional Research Service, which provide the Congress with independent analysis of the budget and other issues. But these efforts have had little success, and industrial country experiences explain why. The majority in parliamentary systems has no need for—or interest in—information provided independently of government. Only the opposition does. And the more the opposition uses such information to criticize government, the greater the majority's interest in abolishing or weakening the units that provide it.

### *Improving oversight*

Industrial countries offer examples of steps that can be taken to bolster a legislature's oversight role. One is to ensure that rules or conventions enable opposition parties to oversee government. A second is to make sure that members of the majority respect these rules and conventions. Where commitment to minority rights is weak, a constitutional court or other third-party enforcer is one option for protecting minority rights. Another is for donors to emphasize the importance of this issue in their discussions with recipient countries. A more significant reform would be to create a "house of review," as in Australia.

### *Providing training*

Experiences in industrial countries caution against relying solely on training programs to change legislators' behavior. Legislators respond to incentives—and in the absence of incentives to scrutinize government, respond to citizen pressures, or otherwise pursue the public interest, training is unlikely to have an effect. Training legislators can provide benefits, however. It can inform deliberations on legislation, and if—as in many industrial countries—serving in a developing country legislature is a means to higher office, training may reach future decision-makers at an important point in their careers.

### *Strengthening committees*

Some legislative aid programs have tried to strengthen legislative committees. Industrial countries show that partisanship and committee effectiveness are inversely related: the less partisan the committee, the more effective it is likely to be. Partisanship is greater when committee meetings are open to the public. While there are risks to conducting public business in private, there are tradeoffs between the benefits of open meetings and the need for more effective legislative committees.

## Further reading

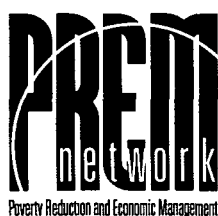
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