

The Politics of Parliamentary Oversight

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Everyone agrees parliamentary oversight needs to be strengthened ...

- Anticorruption (uncovering fraud or other government abuse)
- Promoting accountability/representation in between elections
- Ensure compliance with legislative intent
- Evaluate value-for-money and program effectiveness
- Prevent executive/government encroachment on legislative prerogatives
- Inform future policy making
- Protect individual rights/liberties
- Balance competing policy priorities

As a result, there have been a number of efforts by parliaments and parliamentary partners to address weaknesses in oversight capacity

Weaknesses in Institutional Capacity to Conduct Oversight

- Limited Capacity to Obtain Information
 - Legal Framework Issues (FOI laws, procedural rules governing Q&A, interpellation, inability to effectively use legal process to compel testimony, etc.)
 - Practical Issues (superficial responses to questions, delayed responses, failure to reply, limited enforcement mechanisms to compel production of information)
- Limited Capacity to Process Information
 - Lack of specialized staff to support financial and policy oversight
 - Lack of training/experience on oversight techniques and approaches
 - Limited number of decision-makers and a lack of decentralization of power and decision-making in parliament

While most parliamentary assistance to strengthen oversight seeks to address weak institutional capacity, this is often insufficient – the problems with oversight are not just technical, but are also political ...

Political Constraints on Oversight

- Varies, of course, by system of government – but in pure parliamentary systems, the lack of “divided government” or “cohabitation” limits incentives for oversight
- Traditions of strong executives/governments; single-party dominance or limited political competition, lack of political alternance
- Where government corruption is pervasive, there is a strong economic incentive to preserve this revenue (and resources to help ensure continuation of the revenue stream)
- Career paths of politicians lead through the executive branch; limited institutional loyalty to parliament, and the importance of loyalty to party leadership, rather than to party ideology /constituents
- Lack of parliamentary “clean hands” – if the system requires members to “play ball” to get elected, it may be difficult for them to cast the first stone
- Limited menu of oversight sanctions short of no-confidence (particularly where budgetary role of parliament is limited)

So, given the political nature of the problem, what are political strategies for addressing weak oversight?

Strategy 1: Remember oversight shouldn't always be adversarial

- When oversight is viewed only in terms of exposing government weaknesses corruption, oversight is immediately cast in terms of a zero-sum game of government/executive vs. parliament/legislature.
- It often better to treat oversight issues in the context of government-parliament relations generally, e.g., access to information issues can be dealt with in the context of improving better two-way communication between parliament and government.
- It is in parliament's interest (both government and opposition) to occasionally use oversight mechanisms to highlight and recognize government successes, where government programs are successful (oversight can strengthen multi-party support for successful initiatives).
- Using oversight to recognize successes, where this is merited, can create precedents for oversight even when programs are less successful

Strategy 2: Strengthen alliances between parliament and civil society

- Politically, it may help if parliament has “no choice” but to conduct oversight of a particular issue, due to pressure outside parliament from civic groups.
- Cooperation with appropriate civil society groups can also remedy some weaknesses in institutional capacity to obtain and process information.
- There is a lot of donor focus on improved cooperation between domestic civil society organizations and parliament (budget monitoring projects, citizen scorecards, etc.)
- Good resources exist on this issue (particularly on budget monitoring)
- Parliament can help enable its own oversight by creating an enabling environment for civil society allies (support for policy think tanks or academic research)

Strategy 3: Use international community where it is helpful

- Politically, plays out differently in different countries depending on how the international community is perceived.
- Where the international community has expressed a concern about an issue, it may be politically helpful for parliament to be “pressured” into oversight (e.g., external evaluations of financial transparency, or issues related to EU accession).
- Where access to information is limited, the international community can sometimes be a useful source of information (IFI policy on testifying before parliament).
- A lot of international organizations are under pressure to engage parliaments more in their programs – World Bank, WTO, United Nations, etc. – use this to your advantage
- USE GOPAC – consider creation of a GOPAC working group to set minimum standards relating to parliamentary powers regarding oversight or anticorruption? Peer review?

Strategy 4: Strengthen relations with, and support for, audit institutions

- Audit institutions are often very underutilized by parliament, even when they often formally report to parliament.
- Supreme audit institutions are often best able to provide political cover to parliamentarians wishing to conduct oversight.
- Audit institutions are crucial in initiating beneficial oversight. By itself, parliament will tend to initiate politically-driven/scandal-based investigations/oversight. Nonpartisan legislative audit institutions are generally better at initiating less sensational, but critical, day-to-day oversight of government operations.
- There is a progressive shift from reactive, financial audits to proactive and performance-based auditing.
- Building better linkages between audit institutions and a supportive, active audit committee.

Strategy 5: Focus on building long-term institutional capacity

- Parliament can be weakened by losing important oversight battles, because it sets adverse precedents that can be difficult to reverse
- Establish institutional precedents on winnable issues, even if the issue may be less important in the short-term (e.g., establishing a precedent for compelling executive testimony on an issue that is not critical to the government)
- Conceding un-winnable short-term fights, “trade” the short-term loss for things that build the institution in the long term (staff, resources, institutional precedents, parliamentary powers, rights (e.g., passing a particular budget bill, in exchange for a greater role in the budget in the future, or more time for review of budget bills, etc.))
- Empowering committees is essential over the long-term to conduct effective oversight – since specialization is required to do oversight effectively – this includes strengthening committee staff but also allowing greater deference to the committee in the plenary as committees are empowered.

Strategy 6: Build Institutional Loyalty and Mechanisms for Cross-Party Dialogue

- In parliamentary systems, effective oversight arguably requires that government backbenchers be able to credibly threaten revolt and to threaten siding with opposition parties on an issue.
- Build pride and loyalty to institution of parliament over time (e.g., third-term issue in Nigeria):
 - Salary levels
 - Induction ceremonies
 - Parliamentary honors
- Make it possible for a permanent career in parliament (rather than having parliament be merely a stepping stone to executive service).
- Strengthen opportunities for informal cross-party discussion in parliament – women’s caucus, business alliances, regional groupings, even a parliamentary cafeteria or gym.

Strategy 7: Build in triggers for future oversight (so-called "foresight")

- When a new, controversial program is started, draft a very easy, simple amendment requiring an evaluation or review of the program after a specified period of time to examine program impacts (politically such small amendments are often not that controversial)
- Make sure staff or system is in place to track such review or reporting requirements to parliament and a procedure in the roles that establish a process or reviewing such reports.
- Use of "sunset provisions" to terminate spending authority in limited cases where programs are particularly controversial
- Were constitutionally permissible, consider a procedure for review of administrative rules

Strategy 8: Increase role in the budget process

- Budget engagement/oversight is often the most important oversight tool. One of the political challenges with oversight is the lack of intermediate sanctions, short of no-confidence motions. Limiting budget authority in programs important to the government is one of the best source of “intermediate” sanctions.
- Parliament requires its own capacity to analyze budget (creation of NABRO in Nigeria)
- Parliament MUST get control over its own budget – as long as parliament is a “petitioner” to the executive for its own resources, oversight becomes extremely difficult politically.
- Parliament needs time to review the budget – timetables for budget production are important, as are the legal provisions that govern what happens when the budget isn’t passed before the beginning of the fiscal year.
- Get program-level budget information, matching government objectives to budget inputs,
- Consider a fiscal estimate process for non-budget legislation.

Strategy 9: Build parliament's reputation and moral authority

- As long as “corruption” exists in parliament, it is politically difficult to raise corruption in government (without fear of retaliation).
- Most serious oversight issues will involve (and may be determined by) public opinion on the issue – this often comes down to who does the public “trust” more.
- It is important that parliament build its moral and reputational authority by ensuring that it has “clean hands” – develop codes of conduct, ethics committees, impose sanctions on corrupt members, etc. – and make sure that parliament gets credit in the media for these actions.
- Use the media --- have a media plan so that parliament gets “credit” for the good things it does on oversight – including, for example, site visits to projects that are the subject of oversight.
- The basis for parliament's authority is its representational nature – build on this by getting out of the capitol, i.e., in addition to constituency work , hold hearings around the country.

Strategy 10: Strengthen internal democracy within parliamentary party groups

- Oversight is difficult as long as parliamentary groups serve primarily as a means for getting voting instructions from leadership.
- Parliamentary groups or caucuses need to focus on developing “internally democratic” methods of decision-making on policy and oversight issues.
- A difference of opinion in the caucus is less problematic for the government than a dispute that is aired publicly; this provides leverage for a greater role in the caucus.
- Backbenchers need to band together to get an incrementally greater voice in the party group meetings.