

## CHAPTER TWO: SYSTEMS OF GOVERNANCE AND PARLIAMENTARY ACCOUNTABILITY

By Mr. Geoff Dubrow

Parliaments are multidisciplinary creatures. They play many roles. They deliberate, pass or reject legislation. They also ostensibly hold the executive branch accountable, a function which one Canadian MP defined as “holding people responsible for the performance of their duties”. Accountability has traditionally been at the heart of checks and balances. The importance of parliament’s role in holding the executive branch accountable has increased significantly as of late. This emphasis on

governance. When it comes to anti-corruption initiatives, in most cases, the executive branch cannot be relied upon to reform itself. The notion of a “national integrity system”, developed by Transparency International Tanzania, therefore views other institutional actors, including parliament and civil society, as critical partners in building systemic integrity. Thus, it is principally through the use of accountability mechanisms that parliaments can hold the executive branch accountable.

Figure 1: Accountability Mechanisms in Different Institutional Systems

	Parliamentary	Presidential	Semi-Presidential
Oversight/Review Appointments	X	X	X
Impeachment		X	X
Question Period	X		X (some countries)
Election/Ratification of Cabinet	Elected	Ratified	PM ratified
No-Confidence Votes	X		X

parliamentary accountability has been fuelled by an increasing focus on good governance among developing and transition countries as well as by the international donor community. Included in the World Bank Institute’s definition of governance is the “capacity of the government to effectively manage its resources and implement sound policies”. Parliaments have a key supervisory role to play in this capacity. The importance of strengthening parliament’s supervisory capacity has become even more critical recently, amidst increasing consciousness about corruption as an obstacle to good

As the notion of working with parliaments to utilise and strengthen built-in accountability mechanisms is becoming increasingly prevalent, understanding how these mechanisms vary among different political institutions is being accorded a greater importance. In other words, generic definitions of accountability need to be replaced by definitions that are reflective of different institutional structures. This chapter therefore examines the accountability mechanisms that generally accompany different institutional arrangements. Three institutional designs are

discussed here—parliamentary, presidential, and semi-presidential. Each design possesses its own accountability mechanisms, which need to be taken into account in order to effectively harness parliament’s capacity to supervise the work of the executive branch.

### **COMPARING INSTITUTIONAL DESIGNS**

Each of these three systems place different types of checks on the executive branch. According to Mezey, “the crucial question is the degree to which the legislature is capable of constraining the behaviour of the executive”—watching and controlling it. For our purposes, constraints or accountability mechanisms will be divided into two categories—those that hold the government to account and those that compel the government to give account. The former pertains to specific mechanisms, based either in law, convention, or stated in the constitution, that allow the legislative branch to hold the executive branch to account for its actions. Votes of no confidence or censure motions (forcing the government’s resignation); impeachment; and the election or selection of members of the cabinet to or by parliament are several pertinent examples. The latter category includes parliamentary oversight over the executive branch, question periods and the ratification of government appointments.

The trademark of a pure parliamentary system is that the executive and legislative branches are fused together. The head of government, the Prime Minister or Chancellor, and the cabinet (the government) sit together in the legislature, and depend on its confidence. Presidential systems are characterised by the separation of powers, meaning that the president and his cabinet are not and cannot be members of parliament and do not require parliament’s confidence. Semi-presidential systems are characterised by a dual executive, with both the head of state and head of government wielding considerable power. Semi-presidential regimes are characterised by popularly elected presidents possessing considerable powers, who has, as Duverger points out, “opposite him, a PM and ministers who possess executive and

governmental power and can stay in office only if parliament does not show any opposition to them”. The President does not rely on parliamentary confidence, but rather is elected for a fixed term. This system, invented by the French, was designed to avoid both the instability associated with pure parliamentary systems in interwar Germany and the French Fourth Republic, as well as the rigidity of US-style presidential regimes in Latin America, many of which ended in coups d’états.

### **COMPELLING THE GOVERNMENT TO GIVE ACCOUNT**

#### **Question Period**

The accountability function is performed on a day-to-day basis when the government gives account to the legislature. Question periods and the oversight function are two such methods for carrying out this responsibility. Regarding the former, question period presents a unique opportunity for opposition MPs to directly face their ministerial counterparts and demand that individual ministers explain their actions. The alleged purpose of questions is to elicit information from the administration, request its intervention, expose abuses and seek redress. It is commonplace for the resignation of a minister to be demanded by the opposition for an alleged wrongdoing, although resignations occur infrequently. Some semi-presidential systems, including France and Russia, have weekly question periods, entitled questions for oral answer, attended weekly by the PM and members of the cabinet. The President does not participate in these sessions; given the dual executive system, the president does not undergo the same scrutiny as does the PM. In presidential systems, question period simply does not exist. While in many countries question period has become increasingly rambunctious, driven by performance in front of television cameras, it continues to exercise an important accountability function. It also forces a measure of bureaucratic accountability, since departments need to warn their ministers of potential scandals that the opposition might raise in question period.

## **The Oversight Role**

Perhaps the most important function exercised by parliament is the oversight function, carried out mostly through committee hearings in all systems, but also through question period in parliamentary systems. Both mechanisms allow the legislature to “detect and publicize instances of executive misfeasance or malfeasance as well as compel the government to account for its actions”. Regarding parliament’s budgetary oversight function, parliaments do not only approve budgets, they need to oversee their implementation as well. After all, Parliaments’ rights and obligations do not end when the budget and the reflected estimates are agreed. It still has to make sure that effect is given to the measures that it has authorized. Only then can it be satisfied that the executive has duly carried out its injunctions. In most cases, an audit office or controller-general is responsible for a detailed audit of expenditures post-facto. Parliaments usually also have a public accounts committee, finance, or budget committee responsible for assessing the government’s expenditure of the state budget.

In both parliamentary and presidential systems, the strength of parliament’s oversight role is very much contingent upon whether or not the governing party controls a majority of seats.

### **Parliamentary Systems**

In parliamentary systems, when the governing party holds a majority of the seats in the Lower House of parliament, the domination of committees by members of the governing party significantly limits the effectiveness of parliamentary oversight. Frequent turnover of pro-government committee members by the governing party can also weaken the cumulative knowledge of the committee. In cases where the government does not hold a majority, parliamentary systems can provide for effective oversight over the executive branch, given the dependence upon the legislative branch by the executive.

### **Presidential Systems**

In presidential systems, the separation of powers can provide an independent legislature with significant oversight powers. This is certainly the

case in the United States, where congressional committees are charged with supervising how the executive branch carries out laws passed by Congress, and with monitoring possible abuses of power by members of the executive branch, including the President. The US Congress plays a strong role in approving provisions of the state budget and in supervising their implementation post-facto. Indeed, the United States Congress has its own congressional investigative bodies, including the Government Accounting Office (GAO), and the Office of Technology Assessment. Hearings are designed to send signals from relevant committees to the respective bureaucratic department housed in the executive branch. The US Congressional model demonstrates how effective oversight can be when undertaken by strong committees with high quality staff support. The record in other presidential systems is mixed. Chile and the Philippines, despite their respective legacies of authoritarian dictatorship, have also developed strong committee systems. The Philippine Senate, for example, has developed a Committee on Parliamentary Accountability and Investigations, with powers to recommend prosecution, the ability to compel witnesses to testify before it, and the power to jail those in contempt. Many other countries employing presidential systems suffer from lack of access to information about government activities and therefore find oversight difficult. Mexico, for example, which had been dominated until recently by the governing Institutional Revolutionary Party (PRI), was historically dominated by the executive branch, with the president being almost immune from criticism in national politics. The overwhelming control of Congress by the PRI made opposition a rarity. This situation in Mexico has now begun to change for the better, but a number of other Latin American countries continue to suffer from weak legitimacy vis-à-vis the executive branch. The domination of the Congress by the same governing party as the president, and the lack of access to information about government activities make oversight difficult.

## **Semi-Presidential Systems**

Semi-presidential systems, including the French system, provide less opportunity for supervision by parliament. The French system is heavily dominated by the executive branch thereby limiting parliament's role, especially when the President on one hand and the Prime Minister and government on the other come from the same party. While the six French parliamentary commissions have some limited input over the policy process and are responsible for the review of proposed legislation, few independent parliamentary commissions of control or inquiry have existed, and they have been wholly ineffective in investigating government misconduct. In the semi-presidential systems of former Soviet republics such as Russia and Ukraine, weak political parties, combined with the legacy of totalitarian rule, and strong hostilities between the executive and legislative branches have created a system whereby parliament has little knowledge of and no control over decisions made in the ministries.

## **THE IMPORTANCE OF STRONG COMMITTEES**

### **Parliamentary Systems**

The above examples demonstrate the critical importance of committee systems in determining the ability of parliaments to hold governments accountable. Committees tend to be strong when party control over committees is weak, especially in parliamentary systems. Specifically, single party dominance tends to weaken committees. In Canada and to a lesser extent in the UK, committees are weak, partly as a result of strict party discipline and majority government rule. Countries with strong committee systems capable of providing independent oversight also tend to have procedures that provide for more committee input into the legislative process. For example, a procedure is employed in most Western European parliamentary systems allowing consideration of draft bills before they are introduced in plenary. In the UK and other Westminster-inspired models, bills are referred to committee only following their debate in plenary. This weakens the scope of committee debate, since it narrows consideration

to the merits and demerits of a government introduced draft, usually along partisan lines. In Japan, despite the existence of well-staffed committees, most compromises on legislation are made before committee consideration, therefore limiting the effectiveness of committees. In India, the absence of standing (permanent) committees again results in marginalization of legislation being debated on the floor of the Lok Sabha, rather than in committees. In many executive-controlled parliamentary systems, committee membership is changed frequently, thus preventing members from acquiring any significant policy expertise.

## **HOLDING THE GOVERNMENT TO ACCOUNT**

Mechanisms that hold the government to account are generally not employed frequently. They include parliament's role in both selecting and removing the government.

## **REMOVING THE GOVERNMENT**

### **Parliamentary Systems**

In parliamentary systems, the government can be removed through votes of no confidence. Votes of no confidence allow the Lower House of parliament (the 'confidence chamber') to dismiss the government should half of the MPs vote to defeat a major government bill, especially the budget, or should a censure motion succeed. Frequent use of this mechanism has caused political instability historically, especially if the parliamentary system was characterized by weak political parties, resulting in the frequent dissolution of parliament and turnover of governments. To counter the threat of dissolution, some systems (Germany, for instance), make votes of no confidence contingent upon the Bundestag's (Lower House of the German Parliament) selection of a replacement PM and government. This is also the case in India.

### **Presidential Systems**

In presidential systems, the separation of powers precludes parliament from shortening the president's constitutionally-fixed term in office. The president can only be removed through a complex impeachment process, and only for a

serious violation of the constitution. Unlike a no confidence vote, which topples the government instantly, impeachment processes can be long and arduous, usually involving a vote by the lower house of parliament, and if successful, a subsequent trial by the upper house of parliament.

### **Semi-Presidential Systems**

Given the president's fixed term in office, Presidents in semi-presidential regimes are only removable under a complex impeachment procedure that tends to include a vote of at least one chamber of parliament, and a trial by a Constitutional or Supreme Court. Conversely, the lower house of parliament can vote no confidence in the Prime Minister and cabinet. In Russia, this vote serves only as a recommendation that the President dismiss the government. In Ukraine, a no confidence vote results in the immediate dismissal of the government. Again, this vote does not effect the President's fixed term in office.

## **SELECTING THE GOVERNMENT**

### **Parliamentary Systems**

In most parliamentary systems, there is no separation of powers. Members of the government are selected from among members of parliament belonging to the single political party that has received the most seats in the Lower House, or from among a coalition of parties. The fact that members of parliament also serve as members of the executive branch has two effects in strengthening accountability of the government to parliament. First, members of the government have to run for election and are therefore scrutinized by the public and often by the media. Second, and more importantly, the government of the day must always bear in mind that it needs to face the electorate both collectively and individually come election time. In Bulgaria's parliamentary system, cabinet ministers cannot sit in parliament (sitting deputies must temporarily relinquish their seats for the duration of their cabinet appointment), and the Prime minister's nominees for cabinet must be ratified as a slate.

### **Presidential Systems**

In presidential systems, the separation of powers precludes cabinet ministers from being members of parliament. Members of the president's cabinet, require ratification by the legislative branch, and are usually scrutinized by a committee before receiving approval. This is the case in the United States.

### **Semi-Presidential Systems**

In semi-presidential systems, cabinet ministers are usually precluded from sitting as members of parliament. While under the French system the PM is an elected Member of Parliament able to command the confidence of the Lower House of the French National Assembly, his cabinet need not be drawn from among the elected members. In Ukraine and Russia, Prime ministers are not selected from amongst members of parliament. Rather, Prime ministers are executive appointments, nominated by the president and requiring the ratification of the Lower House of parliament. In all cases, the cabinet is appointed at the pleasure of the president, on the Prime Minister's recommendation. Arguably, the fact that cabinet ministers in semi-presidential systems are appointed without parliamentary scrutiny weakens the concept of governmental accountability. Ministers do not need to seek re-election and are not subject to parliamentary scrutiny.

## **OTHER FACTORS AFFECTING STRONG PARLIAMENTS**

While each system has its own structural constraints and formal mechanisms, the strength of legislatures is also dependent upon a number of mutually reinforcing factors.

### **MPs Access to Research and Information**

Parliament's research and information capacity is one such area. Well-informed parliaments tend to be more effective parliaments. The strength of legislative staff; the quality of parliamentary libraries; the quality and to opposition MP's access to independent research on general policy issues as well as research on the ramifications of draft bills; all of these factors can strengthen debate and focus discussion within parliament. In short, an informed MP can better do her or his job in

holding the executive branch accountable for its actions.

### **Cohesion of Political Parties**

The strength or cohesion of political parties is another important factor in determining the effectiveness of parliaments in the employment of accountability mechanisms. The lack of cohesion among political parties by the new parliaments in the semi-presidential systems of the former USSR is a major explanatory factor for the weakness of the popular chambers vis-à-vis their presidents. In these countries, political parties are fluid, meaning that elected MPs change party allegiance frequently, or run without party affiliation. The lack of coherence of political parties was a logical consequence of the seventy years of totalitarian government that wiped out all political opposition to the Communist Party.

### **Electoral Systems**

In parliamentary systems, strict party discipline, coupled with a majoritarian, first-past-the-post electoral system (which tends to create artificial one-party majorities) can also weaken the effectiveness of parliaments in the employment of accountability mechanisms. Continental European parliamentary systems, such as Germany's, have more complex electoral systems that combine first-past-the-post with an element of proportional representation. This system has provided for strong political party representation, while precluding any one party from holding an absolute majority of seats. Not surprisingly, this has reduced executive domination, thus according opposition parties a greater role in holding the government accountable.

### **STRENGTHENING PARLIAMENTARY CAPACITY**

The relationship between the executive and legislative branch usually comprises a complex equilibrium influenced by political culture and historical circumstances. Therefore, attempting to

radically alter a country's institutional structure could have dire, unpredicted consequences. It is important to bear in mind that representative institutions need to balance accountability with stability. Returning to an earlier example, while a parliamentary system using pure proportional representation as an electoral system without a threshold might give the opposition more power to hold the government to account, this system has brought notorious instability to some countries, resulting in the frequent turnover of governments. Bearing in mind the trade-offs between stability and accountability, what can realistically be done to strengthen parliamentary accountability mechanisms?

### **Strengthening Access to Research and Information**

All else being equal, informed parliamentarians are usually more effective parliamentarians. Strengthening parliamentary research services and providing highly-qualified research staff can help parliamentarians to make informed decisions both on specific issues and on general policy matters.

### **Strengthening Political Parties**

As mentioned above, weak political parties often hinder parliaments from playing a strong oversight role, since they are fractured and undisciplined. Some electoral systems have been modified to elect half of parliament's seats through proportional representation with a threshold of four or five percent of the popular vote<sup>2</sup>. This threshold encourages the consolidation of political parties, since unified parties are more likely to pass the threshold and win seats.

### **Strengthening Parliamentary Oversight**

Strengthening or establishing an independent auditing institution can help both to raise concerns about irregularities in the implementation of the budget and to provide parliamentarians with the information they need

---

<sup>2</sup> Proportional representation with a threshold prevents parties with less than four or five percent of the popular vote (depending on the set limit; higher in some countries) from gaining seats in parliament. This system creates an incentive for small parties to join forces, thereby contributing to the cohesiveness of political parties

to argue for greater accountability of the executive branch. Does the auditing institution have the ability to compel members of the executive branch to provide information that can expose irregularities? Can it subpoena documents it needs to conduct an intensive audit? Such mechanisms tend to strengthen the independence and effectiveness of the auditing chamber.

### **Strengthening Committees**

Given the important role played by parliamentary committees, the strengthening of these bodies can have a profound effect on accountability. Limiting turnover of committee chairs and members; strengthening committee research capacity; and amending regulations to ensure that committees can compel members of the executive branch to testify can all strengthen parliament's accountability function.