

## **Supporting Legislative Development within the Political Context: Legislatures as Political Actors and Participants**

by

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Legislatures are important political actors – one of the three major branches of government. In providing technical and developmental support, donors have been very sensitive to the need to deal respectfully with the legislature so as to avoid charges of undue influence or neo-colonialism. While this originally resulted in donors designing their programs as exclusively “technical” in nature, where the work focuses on reforming and enhancing administrative and functional skills, as noted by Tostensen and Amundsen (2010), “Parliamentary strengthening is inherently political in nature and very sensitive.” Moreover, the demand on donors by their citizenry is that legislative support needs to be justified by its effect on achieving broader good governance and development goals. (House of Commons 2015; USAID 2000)

In this paper I want to focus on the problems for a development practitioner in working with a legislature as a political actor and participant in light of the increasing demand by donors for demonstrable programming impact. However, rather than examining the internal politics of legislative change and development, the focus of most of the development literature (e.g. House of Commons 2015, USAID 2000, EC 2010, Power 2011), I want to reflect on the dynamic interplay between the implementer and the legislature examining how the implementer interacts with the legislature and the extent to which the implementer can respond to the demands of the sponsoring donor to deliver tangible results sought by that donor.

As will be described below, there are two primary types of project outcomes associated with legislative strengthening. First, is the development of the legislature as a strong, independent institution capable of carrying out its roles in law making, oversight and representation? The second is working with the legislature to promote improvements in particular areas or issues of concern, such as public health, anti-corruption, and economic development. While legislative strengthening programs have, in the past, concentrated primarily in promoting the former, with the USAID initiative of developing more integrated programming in which governance is incorporated within other types of development programming, it appears increasingly likely that

these non-governance specialist program officers will be expecting the legislative strengthening program to contribute more directly to substantive development outcomes.

In this paper, I will start by reviewing the emerging emphasis on demonstrable impact, not only on institutional strengthening of the legislature but also on the promotion of desired policy reforms. I will also describe how working with a legislature differs substantially from working with the executive. I will then examine the nature of the relationship between the implementer and the legislature and how certain political considerations will affect the implementer's ability to promote institutional development. Finally, I will review techniques available to an implementer to help promote donor targeted development issues.

### **Problems in Legislative Support: The Development Impact Imperative**

For many years now, international development donor agencies have been under increasing scrutiny and decreasing budgets. Impatient government officials and their constituents have questioned the value of international development and demanded that donor agencies demonstrate the effectiveness of their programs in promoting development goals. Democracy and good governance programming, in particular, have been questioned. Donors are impatient for evidence that aid translates into better development results. At the same time, many people in recipient countries, "both inside and outside of government...believ[e] that donors have no right to involve themselves in domestic political issues and that political approaches are excuses for unwanted interventions rooted in ulterior motivations." (Carothers & de Gramont, 2013, 7)

For the most part, donors have adopted the view that poor governance is not only a result of social and economic poverty; it can in fact inhibit developmental programming to remediate those problems. (Carothers 2015). Donors have, therefore, continued to support good governance programming aimed at improving government systems and institutions. With respect to legislatures, this translates into an understanding of effective legislatures as being "essential to democracy, the rule of law, human rights, gender equality and economic and social development" (IPU 2014, 2.)

While all of the major donor agencies (e.g. DFID, SIDA, EC, UNDP, USAID) have acknowledged the promotion of good governance and the development of vibrant governmental institutions as an important developmental objective, in developing the performance and management program with the implementers, the program officers may not be well served by the indicators that they require implementers use. Far too frequently, the indicators represent quantifiable project outputs (such as F indicators including the number of individuals trained, the number of meetings held etc.) rather than measuring the outcomes of a strengthened, more effective legislature. Two problems emerge. First, the development community has failed to develop and utilize effective indicators that measure outcomes based on political change rather than outputs (Minocal and Tortenson 2012). This is not to say that promising proposals do not exist (see, e.g. LSE 2009) but rather that they have not been adapted into readily useable forms. Second, donors continue to utilize short term programming for a process that requires a long time horizon. "Stronger parliaments are better built slowly over time, rather than through intensive campaigns." (House of Commons 2015, 28). This short time frame pushes implementers towards more limited measures that, by default, tend to favor counting outputs.

The flawed alignment between indicators and results also risks distorting project design if or when it is assumed by non-governance program officers. While experienced governance program officers may continue to appreciate the importance of institutional strengthening, a focus on output indicators along with greater emphasis on topic focused support (which is being adopted based on its efficacy in promoting institutional development – not on the promise of favorable topic based outputs - see, e.g. EC 2011, Minocal and Tortenson 2012), could easily lead to programs in which legislative strengthening is viewed as an instrumental means of promoting more general development reforms. For example, while the donor may seek to promote a strong and independent legislature, it will often measure the legislature’s “strengthen” according to the USAID F indicator which measures the number of laws passed with USG assistance. While this would appear to be a neutral standard, legislative strengthening programs do not simply support all legislative activities – they are generally designed to target particular committees identified as important to the mission. Consumers of the program reports will often see indicators being linked to the enactment (or failure to enact) laws identified as important to other development goals.

### **The Challenge of Working with Legislatures**

The mandate to link governance development support with development goals and outcomes applies to both executive branch and legislative branch programming. It is generally accepted that some elements of good governance are necessary to effective development both in terms of setting the political/legal context for development by, for example, supporting fair market systems and in the delivery of necessary government services such as infrastructure support. Certain features of the legislature, however, complicate the donor’s efforts to use governance development support to promote concrete developmental goals outside of institutional development itself.

#### *Legislatures are independent national political entities*

Support for the executive branch is easier to chart than the equivalent support offered to the legislature. The executive is charged with policy development, implementation and service delivery. Assistance negotiated with the executive and delivered to its bureaucrats should result in improvements in their delivery of governmental functions and services. Providing policy training and support to the Ministry of Finance can result in improved tax policies, while training tax authorities on better techniques of tax collection, monitoring and auditing should improve the tax system’s functioning.

In contrast, supporting the legislature stands in one remove from this. Improving the capacity of the legislature to conduct policy analysis empowers the legislature to negotiate over policy with the executive rather than implement it. The legislature does not deliver services, it oversees the executive’s delivery of services and may legislate directions on how to do it better. And in either situation, it acts as an independent agent asserting its own authority as against the executive whereas a donor’s interaction with the executive can be direct. A donor working with the legislature is therefore seeking to shape policy or outcomes through the independent legislature.

The politics of interest and objectives is also much more difficult with the legislature. The legislature includes both those affiliated with the executive (generally the “ruling party”) and opposition party members with potentially conflicting agendas. This not only increases the number of possible areas of interest but also sets up a situation in which support/lobbying for particular legislation can be viewed not only as interference with national affairs but also as favoring one party over another.

*Legislative development requires political buy-in by legislative leaders*

It is widely acknowledged that institutional and/or governmental reform only succeed when the local counterpart are invested in the reform. “[R]obust political commitment relies on key actors recognizing a serious problem or threat and deciding that governance reform is advantageous and feasible result.” (de Gramont 2014, 5). With a legislature, a development implementer is confronted by the problem of identifying and engaging with suitable leaders of the institution as there is no single leadership. One confronts not only the potential of conflicts between majority party/minority parties and their leaderships within the parliament, but also potential conflicts between the majority party within the legislature and the party controlling the executive. Finally, one must consider the differing institutional roles and leadership of the MPs versus staff leadership

*Electoral cycle – support over time necessarily overlaps with electoral cycle*

Development programming requires a significant time horizon. It takes a long time to implement and enculturate systemic reforms. Yet time runs afoul of the electoral cycle where elections sensitize members and donors to the multi-party nature of the legislature and the potential interparty conflicts related to seeking electoral office. Since one of the principle motivators for MP participation in support programming is that it may improve their prospects for reelection, how does an implementer support legislative development without favoring the incumbent?

*Continuity Problem – legislative turnover*

Related to the problem of electoral conflict is that of electoral change. In developing world there tends to be a large turnover of legislative members. Increases in the legislative capacity of members brought about by interventions to train the members of one legislative session may be lost in the next election. One counter adopted by many donors to this problem is to focus attention on training staff. As noted by the IPU *Common Principles*, “[t]he main potential resource for continuity and sustainable change in a parliament is the permanent secretariat” (Principle 3.) Many secretariat staff, if not most, will be members of the civil service and can be the holders of institutional memory for the legislature. Nonetheless, while staff can preserve the skills of policy analysis, research, drafting, and legislative process, they cannot adopt or promote policy reforms.

*Technocratic focus:*

Even assuming that the technocratic focus of this type of support merely improved the institutional practices of the legislature, it does not assure that the development support translates into improvements in governance. Governance programs working with the executive may focus on providing capacity development for an operating entity or agency. Because the staff within the executive is often charged with service delivery and policy development under the direction and/or supervision of a political head, they may constitute part of what is known as the “deep state” – an ongoing form of state function that operates somewhat independently of the electoral offices. In contrast, legislative staff does not develop policy or provide governmental services to the citizenry. They facilitate the work of the legislators.

### **Strategies for Intervention**

In considering programming opportunities to advance larger developmental goals, two programming strategies emerge. First, some on a global level seek to promote a strong and independent legislature to serve as a check or counterweight to the executive. Second, are those interventions that ostensibly support the development of laws and policies to address specific developmental interests in topical areas such as health, security, financial management, and economic development?

#### **Promoting a Strong and Independent Legislature**

From the beginning of their support for legislatures, donors have devoted significant efforts to providing support for institutional capacity development. While this effort nominally rested on the idea that it avoided political interference in the affairs of the host country, that perception was mistaken. Clearly, in providing institutional capacity support, donors were advancing a particular vision of legislatures and their role within the government. Providing support for the review and analysis of legislation or the budget or on techniques for governmental oversight all represent an effort to promote the role of the legislature as a check on or counterbalance to the executive.

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. The implementer must build strong bonds of *trust* with all of the legislative actors to assure them that they implementer is acting in their interest and not the interests of the sponsor for at some point members or other individuals dissatisfied with the work of the implementer or more broadly the policies of the funder will accuse that implementer of being a spy for the donor. This has happened repeatedly with SUNY/CID. In Afghanistan, SUNY/CID’s relationship with the members was so strong that when the accusation was made in 2012 (among other times), the members and leadership of the National Assembly came to its defense and rejected this allegation.

*Relationship: Consultancy versus Partnership*

As noted by the *Common Principles*, “A pre-requisite for successful parliamentary support is a trustful, open, and inclusive relationship between parliament and the support partners.” (P1) According to the IPU *Common Principles*, the identification of project objectives should come from the legislature itself. “Parliament alone is in the best position to articulate its needs and to define broad strategic objectives, as well as tactical approaches for particular activities.” (P1, pg. 6)

Implementers commonly adopt two different relationship models: consultancy or partnership. As argued by Greg Power (2011) “parliamentary support work should be seen less as a process of implementation, and more akin to consultancy – helping the parliament define both the problems and their own solutions” (9). In a consultancy model, the implementer works with the legislature to identify its priority and to develop a work plan to training and support activities which are then met using individual short term consultants (either local or international.) A consultancy model emphasizes the ownership of the legislature – which all acknowledge is critically important. While some implementers appear to use this as a preferred method of support, others have adopted it in conflict/post conflict environments in which it is difficult to provide and support a full-time permanent project office, as was the case with IRI and NDI’s work in Somalia (see ICTB 2013.)

The second approach is the use of what I will refer to as a partnership model. With a partnership model, the implementer will establish a full time project office and will provide staff who will work with their parliamentary counterparts on a regular long term basis providing training, mentoring, and other forms of technical support - though this core staff will generally be supplemented with additional experts brought into the legislature on a short term basis to address specialized needs and provide specialized skills. (This is the approach taken by SUNY/CID.)

There are virtues and liabilities to each of these models. A consultancy model firmly grounds the ownership of the legislative strengthening within the legislature, it potentially reduces implementation costs (because it does not demand a full time office and presence on the ground) and it avoids the risk of project support staff usurping the roles of legislative staff as sometimes occurs where the legislative staff is particularly weak. (For a counterargument on how aggressive project staff involvement can assist in development see Guinn 2014 .) One limitation on this model is that it would appear to require a certain pre-existing level of development within the legislature in which target interventions address weaknesses within the system as opposed to requiring deeper and more sustained engagement. For example, while witnesses reported that NDI’s targeted training and support offered to the Somali legislature were among the programs most successful efforts, the evaluation report also found that it would have been more effective if it were provided by a locally based program office (ICTB 2013 p 19), a finding confirmed by statements made by legislative officials to the author who stressed the need for sustained support and engagement in discussing a future project.

The virtue of the partnership model is that it allows project staff to: build a strong, day by day working relationship with their counterparts; provide sustained support and mentoring; and to rapidly adapt programming to take advantage of changing conditions on the ground. For example, in Cote d’Ivoire, in the summer of 2014 SUNY/CID in the Legislative Strengthening Project quickly adjusted its programming to provide support to a special committee to address

the Ebola Crisis. Given the intense local interest in the topic, this shift provided an excellent learning opportunity for the National Assembly counterparts, supported significant oversight and outreach actions, and generated significant good will for the project. (SUNY/CID 2014). One of the risks, as previously noted, is that project staff can become coopted and view themselves as an alternative to legislative staff.

### *Interests and Incentives*

The tools and strategies for implementers working to promote the legislature as a strong actor within the government are relatively well established and documented in the literature (see, e.g. Power 2011; EC 2010; SIDA 2012). An effective legislative strengthening program will: map the partner legislature to identify key actors and their interests in supporting reform efforts; identify key reform issues (i.e. areas of operation needing improvement); and develop activities suitable to achieving the project objectives of needed reforms/developments.

While it is true that no reform can occur without the engagement and support of the affected legislature, donors can and do influence the development of the legislature through the areas of legislative work that they support. Moreover, successful programming in one area can create what I have referred to as a demand dynamic which may motivate the legislature's willingness to pursue additional reforms (see, e.g. Guinn 2014). For example, "international study tours" (i.e. sponsored trips to observe and learn from the experience and operations of other parliaments) are extremely popular with most legislators and staff in the developing world. At a basic human level, they like to travel and receive per diems. Programmatically, a good study tour can expose the member or staff to the best practices of another so that they can learn how to improve their own performance in that area. It may also expose them to practices that they may not have considered important but, through observation of the practice, they could elect to pursue for themselves. In Afghanistan, the National Assembly budget commission was very engaged with reviewing the national budget. By providing budget committee members with an opportunity to observe other budget offices and in particular, the public accounts committees of those legislatures, the National Assembly Budget Committee became committed to adopting the practice of not only reviewing the budget at formation, but also the expenditure of that budget through a Public Accounts Sub-Committee (see. e.g. Guinn 2014).

The basic strategy of institutional development urged by the *IPU Common Principles* is simply to link programming efforts to the interests of the legislators and to identify and promote those incentives within the legislature supportive of a strengthened legislature. The implementer can potentially broaden the legislator's recognition of how the legislature may be strengthened by building on existing activities and outcomes by exposing their counterparts to best practices drawn from other parliaments. Such an evolutionary effort must be incremental and translated into practices suitable for that legislature. The proposed reform is unlikely to be accepted, however, if it substantially exceeds or contradicts the expressed desires of the legislature. For example, despite their seemingly enthusiastic acceptance of electronic voting systems provided by USAID funded projects, neither Lebanon nor Jordan have ever used the system to hold a vote. What makes this a non-threatening form of advocacy is that when it is accepted advances a "shared goal" of the partnership: strengthening that legislature within the general understanding of the legislature. Identifying both the general goals of the legislature and its potential red lines

must be done in the original “mapping” of the legislature at the inception of the legislative strengthening program (e.g. EC 2010).

### *Elections and Electoral Politics*

Elections and electoral politics represents the single most important political feature in dealing with a legislature. They are a key object in promoting democracy, offer the primary incentive for legislative reform, and present perhaps the greatest risk of entanglement for an implementer. Moreover, given that implementation takes place over time, the electoral cycle inevitably comes into play during the term of the project.

In order for a legislature to carry out its essential functions of legislation, oversight and representation in a functioning democracy, “a democratic parliament [must be] broadly rooted in society” (IPU 2014, 5.) Free and fair elections not only legitimate the legislature as a separate branch of government, they hold it accountable to the people. However, it is more than just the election of individual legislators that is important. Research has found that legislatures only become effective when they are part of a competitive multiparty system (Barkin 2009.) Thus, while an implementer generally seeks to provide neutral and non-biased support to the legislature, it must also seek to empower competing elements within the legislature. For example, particularly in a Westminster parliamentary system or where the ruling party is dominant, an implementer will seek to support the creation and/or strengthening of a shadow cabinet as a way of countering the dominance of the ruling party. As demonstrated by the DDP (Power 2011) and Linkages (TCH/CJSI 2010) projects in Uganda, careful engagement with all parties, including regular consultations with all parties, trust building activities, and transparency in implementation, such programming can succeed.

Obviously, tension and conflicts between legislators from different parties significantly increase in the lead up to the election and electioneering itself. During these times of heightened sensitivity, implementers face the greatest risk of being labeled partisan for one side or the other. In legislative strengthening programming, however, while some programs involve both electoral/party support with institutional strengthening, in many others it is separated into two largely distinct program initiatives. It is unclear whether this is a result of specialization, where implementers like the National Democratic Institute, the International Republic Institute and other western party affiliated organizations offer primary support for election focused programming, or it has grown out of the historical reluctance of donors to do overtly political programming directed at the legislature. Lastly, it may result from concern that work with political parties and campaigns may generate resistance to that implementers work on institutional strengthening. While Power and Coleman (2011) suggest that the two should be integrated, legislative strengthening and electoral party support generally continue to be designed as distinct projects.

Yet, even where the institutional and electoral programs are separated, the intersection remains close. Institution change comes when the constituents of the institution perceive that it is in their interest for change to occur. Being reelected is one of the primary incentives for legislators. Virtually all aspects of legislative strengthening can contribute to electoral success – an effective

legislature should generate voter enthusiasm – though some reform activities may appear more appealing than others to members. Implementers necessarily utilize these incentives to promote development. For example, a field visit offers legislators an important opportunity to exercise their role as overseers of governmental performance in service delivery. It also places individual members in front of their constituents in a very visible way. In the legislative support program for Cote d’Ivoire some committees (not all) initially sought to use supported field visits solely as a way of getting out to visit their constituents. It was only after the field visit oversight activities, which were conducted in order to obtain project support, generated significant positive feedback by other members and the public that the committees began to embrace the field visits oversight role.

During the run up to the next election, sensitivities to these types of support activities heighten. One way to avoid the worst of this tension is for the implementer to shift its focus from supporting the members to supporting staff and administrative development. Given the time demands on members to campaign as well as serve in the legislature, this often makes some sense. Nonetheless, since reform incentives are inherently electoral incentives, implementers need to confront this tension and counter it through careful relationship building with all sides and transparent implementation activities.

### *Continuity*

As previously noted, one final challenge in promoting an independent and effective legislature is the problem of electoral turnover. In many countries, a significant percentage of the members will be replaced in each election. As noted by the IPU principles, staff can provide some level of institutional memory (IPU 2014), staff are not members. The question is how to enculturate reforms at the member level.

Two approaches have proven fruitful. First, turnover, while common, does not necessarily impact all members equally. It is usually possible to identify a coterie of members holding safe seats. These individuals, because of their political strength also often hold leadership position on committees or within the legislature. Identifying these members and providing them with special support will consequently tend to be carried over from one legislative term to the next.

Second, new legislators need to be quickly oriented to their new roles. An effective orientation program, integrated within the legislature itself, offers an important tool in promoting continuity. In Afghanistan, in 2010/11 there was a controversial election in which the results were being contested by the President and the electoral commission and in which a significant number of new legislators had apparently been elected to the Wolesi Jirga (lower house) of the National Assembly. Many felt that the President intended to use the electoral controversy to shape the Wolesi Jirga by favoring candidates allied with him. As had been planned before the elections, the National Assembly secretariat, with APAP support, offered all new members an orientation program led by a mixture of returning legislative leaders (both members and staff) and international consultants. Beginning the first day, the new members paid particular attention to the National Assemblies Rules of Procedure and the relevant laws and constitutional provisions governing the legislature. By the end of that week, in the face of increasing threats by the

President to overturn key electoral results, the Wolesi Jirga rallied as an institution to counter the threats presented by the President. Significantly, in doing so, it did not revert to the common politics of backroom deals by tribal leaders, but instead acted publicly drawing heavily on the rules of procedure to guide its behavior. The Wolesi Jirga, in essence, carried over its institutional identity from the prior term despite the turnover in membership (SUNY/CID 2012)

### **Topical Interventions**

As previously noted, for many years the virtues of helping to strengthen a legislature was taken on faith: improved legislatures would obviously improve the overall democratic governance of the state. Given the political challenges of working with legislatures, donors focused on simply strengthening the institutional capacity of the legislature: better libraries and information systems; improved administrative and human resources systems; better trained staff to support the members, etc.

In this new environment, donors are seeking to link support for the legislature with specific, identifiable governance reforms and development goals. How can legislative strengthening lead to better healthcare or reductions in poverty or hunger?

#### *Seek Substantive Points of Alignment*

It goes without saying that a donor is unlikely to be able to impose their will on the recipient host country. While the “carrot” of significant financial aid may encourage a host government to cooperate, it will not do so unless it judges that assistance as being within its own best interest. The carrot becomes even less effective when the assistance is not as clearly aligned with its primary interest. For example, providing development assistance in healthcare delivery to the ministry of public health is strongly linked to its central mission. By contrast, the promise of healthcare assistance to legislators may be less compelling if, for example, it does not directly benefit their constituencies or if there are needs in other areas more compelling to those legislators.

In working with the executive, donors will, of course seek the agreement and cooperation of the chief executive and/or focus its attention on the ministry most in line with the development objective it is seeking. Working with the legislature is somewhat more challenging at the first level since the legislative leadership may not have the same level of authority as the executive’s leadership. However, a virtue of the legislature is that it also has multiple entry points of potential substantive overlap through the committee system and or through political groups with a specialized focus. The donor can target these specialized entities for support for the policies and implementation related to their areas of substantive interest. For example, while women’s rights do not necessarily receive the enthusiastic support of all of the members of the legislatures in Bangladesh and Afghanistan, legislative support programs in both countries found ready purchase working with the committees responsible for women’s rights and/or with women’s caucuses (CID Staff interviews.)

Promoting a clear and transparent budget process that allocates government funds to meet the identified needs of the country and monitors performance so as to avoid corruption is clearly a strong developmental goal for many donors. A sound budget and budget process undergirds many aspects of national development. A budget committee therefore offers a natural entry point for donor support. Indeed, it appears to be among the most popular types of donor supported programming involving the World Bank as well as all of the major bilateral and multilateral donors. (EC 2010) Moreover, budget capacity strengthening support can spill over into other substantive areas. For example, in the USAID funded Afghanistan Parliamentary Assistance Program (APAP) implemented by SUNY/CID, while the original programming targeted only the budget committees of the two houses of parliament, other substantive committees became interested in engaging in the budget process insofar as the budget would necessarily affect the government's efforts within their area of substantive authority (such as Women's Affairs, Civil Society and Human Rights, and the Internal Security and Defense Affairs Committees) (Guinn 2014a)

To say that budget is a natural point of potential affinity between donors and legislatures does not necessarily mean that all legislatures will agree. Recognizing the critical importance of the budget in terms of policy implementation and control, many governments resist legislative engagement in the budget process. For example, in Cote d'Ivoire, while the National Assembly (ANCI) leadership formally welcomed offers of technical assistance to its budget committee in donor meetings, in practice it specifically rejected the provision of an expert's budget analysis on the grounds that the analysis might vary from that offered by the government. Such resistance is surprisingly common in Africa. (Barkan 2009).

### *Fair Broker/Good Offices*

In working with the executive, a donor can act much like a lobbyist, seeking to influence the government to adopt a particular policy, law or practice. While there may be some push back against outside interference, there are a number of features of donor executive relations that allow for this method of engagement. First, in dealing with the executive the donor is negotiating with one primary authority (the ruler/ruling party), allowing the donor to tailor its intervention to best persuade the executive. Second, lobbyists are naturally viewed in light of their advocacy position, a perception which could affect how effective they are in working in another area of interest. The donor can avoid this by using specialized implementers each assigned to promote one area of interest.

In legislative strengthening, the donor must engage with multiple authorities (including majority and minority parties) and generally acts through one implementer working with multiple counterparts. A legislative strengthening implementer viewed as a lobbyist is unlikely to be broadly trusted. Therefore, instead of lobbying for particular outcomes, an implementer can seek to be a "fair broker" facilitating the participation of CSOs, citizens and even other implementers. Donor efforts to promote particular areas of concern will invariably promote legislative interest. The LS implementer can, therefore, support the legislature in holding public hearing or policy reviews of the topic and identifying the appropriate means of gather information. For example, in Afghanistan, a significant controversy arose over the creation and operation of shelters for

battered women where, it was alleged that the shelters were being used by international organizations as a front for prostitution. As a US funded implementer, APAP was not in a position to lobby on behalf of the groups sponsoring these shelters. However, based on its relationship and work with the commission overseeing women's affairs, it was able to support commission oversight visits to the shelters and the holding of hearings that resulted in the government reversing its objections to the shelters.

### *Targeted Topical Training or Support*

As asserted in the IPU *Common Principles*, support programming should be guided by the needs of the legislature (Principle 1). A donor seeking to advance a particular program of issues or interests clearly risks being viewed as manipulative or antagonistic to the interests of the legislature itself. Fortunately, donors are not restricted to working through only the implementer working with the legislature to promote particular reforms. They can promote interest in those reforms through executive branch support programs and programs supporting civil society. Advocacy by these program partners, in turn, can generate interest on the part of the legislature in learning about how to address these issues. The implementer supporting the legislature can, in turn, draw on this topical interest and use skills training on topics such as policy analysis or legislative drafting to inform the legislature on these issues and how they can be approached. Indeed, since skills training is generally enhanced when it addressed a current issue of interest, it can be a particularly effective intervention. For example, in Afghanistan, USAID, UNDP and numerous other donors worked with the ministries and local civil society to promote reforms in the electoral laws, while the executive, for its own purposes drafted its own revised electoral law. The National Assembly, in turn, sought assistance from APAP to better understand the policies and issues at stake in the electoral law reform through training on electoral law and additional support. Similarly, interest in joining the EU within the national and regional legislatures in Bosnia Herzegovina has been used by the Parliamentary Support Project (PSP) as a motivational device for a range of strengthening initiatives including promoting enhanced research and analysis reporting on antidiscrimination issues, strengthened audit report review procedures, and seminars on economic issues and EU Integration.

Current events can also intervene and create opportunities for reform. For example, in Bangladesh SUNY/CID's PRODIP project had been providing training and support for public hearings. While the idea of public hearings had been gaining traction over time, it took on new urgency when a fatal factory fire took the lives of over 112 people followed shortly by the tragic building collapse in Dhaka which killed over 1,100 garment workers. In response, the Chairman of the Labor and Employment Committee organized a daylong hearing that raised issues that soon dominated the press and ministerial policy debates.

### *Demand: Using Internal and External sources*

In recent years, donors have sought to promote reform through programming intended to support local civil society efforts to advance particular social goals. Known as "demand side" programming, the idea is to use this civil society demand as a means of prodding the government to meet that demand through reforms and performance (see, e.g. de Gramont 2014). Many

legislative strengthening programs designed by USAID have included a CSO component intended to support this demand based focus. The challenge for an implementer is that this type of demand programming can be viewed as a threat by the legislature. For example, in Bangladesh, the Asia Foundation (TAF), the lead implementer on the PRODIP project, had previously been engaged in implementing CSO programs in which those CSOs were encouraged to monitor and actively challenge the legislature. The Bangladeshi legislature, in turn, viewed not only the CSOs but TAF as being hostile to the legislature and its members.

By contrast, in Afghanistan SUNY/CID sought to bring CSOs and the Afghan National Assembly into a productive working relationship. Instead of focusing on their potential social role as a monitor of the National Assembly, APAP enlisted CSOs as resources to provide information and support to the National Assembly as it reviewed topics of interest to particular CSOs and also to serve as a means of outreach for the National Assembly to the broader public. While the members of the National Assembly continued to view with CSOs with some skepticism and concern, fearing that giving the CSOs prominence and access might at some point be turned against them, on the whole members came to view the CSOs as a resource. Similar results were achieved in Morocco with the Morocco Parliament Support Project (SUNY/CID 2009.)

In terms of advancing a particular agenda, the implementer of the legislative strengthening programming is still constrained by the interests of the legislature. An implementer who seeks to force a particular CSO onto the legislature with the idea of supporting consideration of that CSO's topic of interest risks not only undercutting its own relationship with the legislature, it may delegitimize that CSO who will then be perceived as a puppet of the donor rather than an independent local actor. As a consequence, the issue will be whether or not the donor can prompt the larger public discussion of a particular topic to the point at which the legislature becomes engaged with the topic and desires CSO support in its consideration of that issue.

### *Effective Legislative Management in Support of Issues of Concern*

Promoting more effective legislative practice may appear as a mere technocratic concern. However, bad practice can stand in the way of the legislature addresses topics of donor concern just as much as political opposition. For example, in the Federation of BiH the legislature was reviewing a law on Artificial insemination. The proposed law had drawn widespread media attention and extensive comments on all sides with many resulting in substantive changes. During the deliberations, the legislators supporting the legislation called for an important vote without doing a proper vote count. While proponents believed a majority of legislators supported the bill, because a significant number of those supporters were not on the floor at that time, the vote failed.

### **Strategic Political Programming for Outcomes**

Legislative strengthening implementers are coming under increasing pressure to pursue two potentially conflicting goals: first, to support the development of an independent legislature capable of assuming its coequal status with the executive in the management of the country; second, to promote the adoption of laws and governmental policies, so far as they are under the

control of the legislature, favored by donor. Obviously, the stronger and more independent the legislature, the less influence an implementer will have on achieving particular issue based outcomes. Complicating each of these goals is the political nature of the legislature itself.

In promoting a strong, independent legislature, the implementer must start by building a strong relationship of trust. This requires that, first, the implementer recognize and incorporate the interests of the legislature and its leadership into the project design. Second, to the extent that it is seeking to promote development beyond that articulated by the legislature, that it align its programming with the clear interests of the legislature. Third, that it articulate the projects goals and implement all activities in a clear and transparent manner and, finally, that it implement programming incrementally in accord with the developmental status of the legislature. While legislatures are amenable to change, pushing too far too fast can create backlash.

In seeking to promote more specific social policy outcomes, the implementer cannot promise specific legislative results. Instead, the implementer can work with the legislature to determine its openness to addressing particular policy concerns, facilitate a fair hearing of the views of advocates for the policy, promote the development of suitable research and analytic support for the legislature's review of the topic and assure that proponents utilize the parliamentary tools needed to promote the desired policy outcome.

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