

FRAMEWORK AND SCOPE OF THE RESEARCH PROJECT

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There is a rich descriptive literature on legislative oversight, especially as it is practiced in the United States. However, the subject – like the broader field of legislative studies – is under-theorized. In this chapter, we apply agency theory previously used by Stapenhurst (2011) and Pelizzo and Stapenhurst (2013) to explain legislative oversight, but for the first time apply it specifically to oversight in francophone countries.

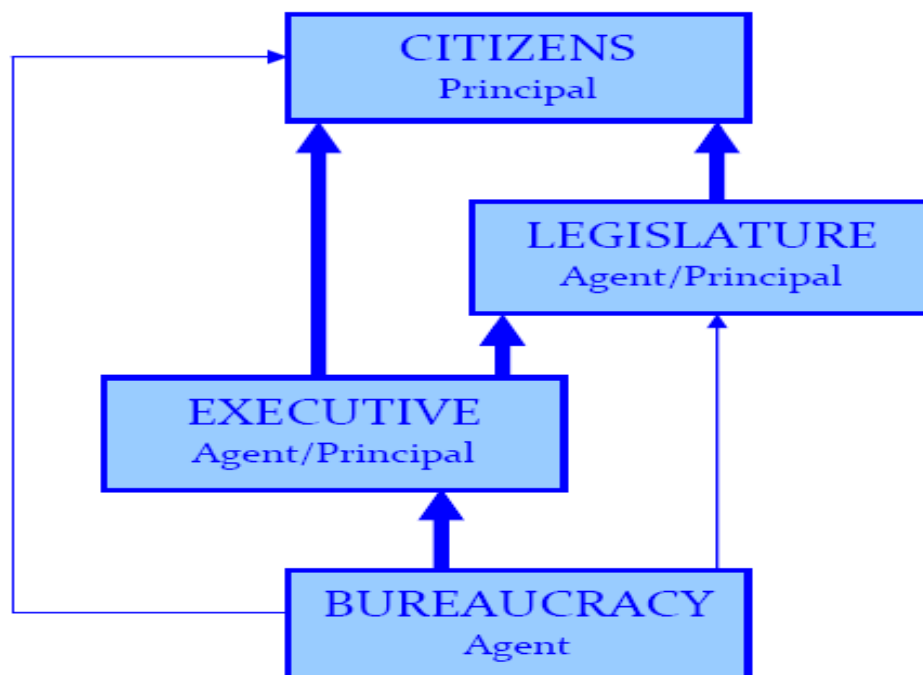
At the core of this application is the accountability of the executive to the legislature. The legislature (as principal) has developed oversight tools to help it hold the executive (as agent) to account. The adoption of these tools by legislatures is influenced by path-dependent pressures (e.g., the Napoleonic system in francophone countries) and by mimetic isomorphism (e.g., the adoption of a Public Accounts Committee – an institution usually associated with Anglophone countries with a Westminster tradition) countries. There is evidence to suggest that institutional isomorphism encourages legislatures operating in countries with different forms of government to converge, as they learn about each other's procedures and practices through bodies such as the Inter-Parliamentary Union and the l'Assemblée Parlementaire de la Francophonie.

Principal-Agent Theory

The principal-agent theory emphasizes the institutional mechanisms whereby *principals* can monitor and enforce compliance on their *agents*. Fukuyama (2004a), referencing Berle and Means (1932), notes that ownership has been divorced from management in private sector corporations and that managers (or “agents”) have subsequently been charged with looking after the interests of the owners (or “principals”). A problem arises in that “...agents often face individual incentives that differ sharply from those of the principals.” This time referencing Jensen and Meckling (1976), Fukuyama (2004b) also highlights the “agency costs” which principals incur to ensure that agents do their bidding; for example, monitoring agent behavior.

Fukuyama (2004b) identifies three problems that arise in applying the principal-agent model to public sector governance. First, the goals of public sector organizations are often unclear. Agents can only carry out the will of the principals if the principals are clear in what they want the agents to do. Second, formal systems of monitoring and accountability either entail very high transaction costs or lack the specificity of the underlying activity. And third, the appropriate degree of delegated discretion will vary over time. All delegation involves a tradeoff between

Diagram 1: Accountability Relations as Agency



Source: Stapenhurst (2011)

efficiency and risk—and the appropriate level may be difficult to determine, and vary from one setting to another¹.

¹ Meier and Hill (2005) go further in their criticism of the principal-agent model. These authors recognize that the basic idea behind the model is that all relationships can be reduced to contractual terms and, therefore, that

Criticisms of the principal-agent theory seem to apply as much to legislative-executive relations as they do in a more general sense. First, citizens are often not clear about what they would like their agents (the executive and the legislature) to do, leaving substantial room for agents to develop their own, self-serving, goals. The transaction costs for citizens to oversee executive government or the bureaucracy may be too high—resulting in a “derived” oversight function of the legislature to hold the government and the bureaucracy to account. There is substantial information asymmetry. The bureaucracy (as agent) has more detailed knowledge than the executive, the legislature, or citizens (as principals). The executive (as agent) has more information than citizens or the legislature (as principals). And the legislature (as agent) has more information than citizens (as principal). Since agents act rationally, they are inclined to take advantage of this symmetry and pursue their own objectives, rather than those of their principals.

Imbeau (DATE) notes that information asymmetry has two consequences which are harmful to the principal: first, there is the risk that the principal selects the wrong agent and that the latter will turn out to be incompetent, and second, there is the risk that agent will not serve the principal's interests. The former risk, that of adverse selection is not applicable in the case of legislative-executive relations, since the legislature, as principal, does not select the executive (the agent). The latter, moral hazard, however, is indeed a problem for legislatures. Executives often seek to marginalize or dominate legislatures, so that they can pursue their own goals rather than those of the legislature.

Imbeau (DATE) goes on to apply agency theory to legislative oversight of the budget. Generally, the government controls information that the legislature lacks. The government knows what the actual needs and demands of society are as well as their costs which the legislature ignores. Thus, the government can ‘cheat’ on the proposed budget and on its implementation. That means

bureaucracy does not matter. They note that the model “...miss[es] the informal side of bureaucracy, the relationships among individuals that are based on affect and trust” (p. 60) and point out three additional problems regarding the principal-agent theory. First, the notions of information asymmetry and goal conflict within the model inevitably lead to shirking and negligence on behalf of the agent. But, “[I]n many cases, the real problem is the agent will act even more than the principal seeks” (p. 60). Second, the model misses the element of coercion in bureaucracies: “[t]he model was designed to examine voluntary relationships between equals in a market-like setting. In this case it is applied to mandatory relationships between unequals in a nonmarket-like situation” (p. 60). Finally, agents often provide what principals want, not for contractual reasons but “...for normative reasons or because the principal’s demands are within the agents’ zone of acceptance” (p. 60).

that the legislature faces problems of *adverse selection* and *moral hazard*, and the government faces a problem of *signalling*.

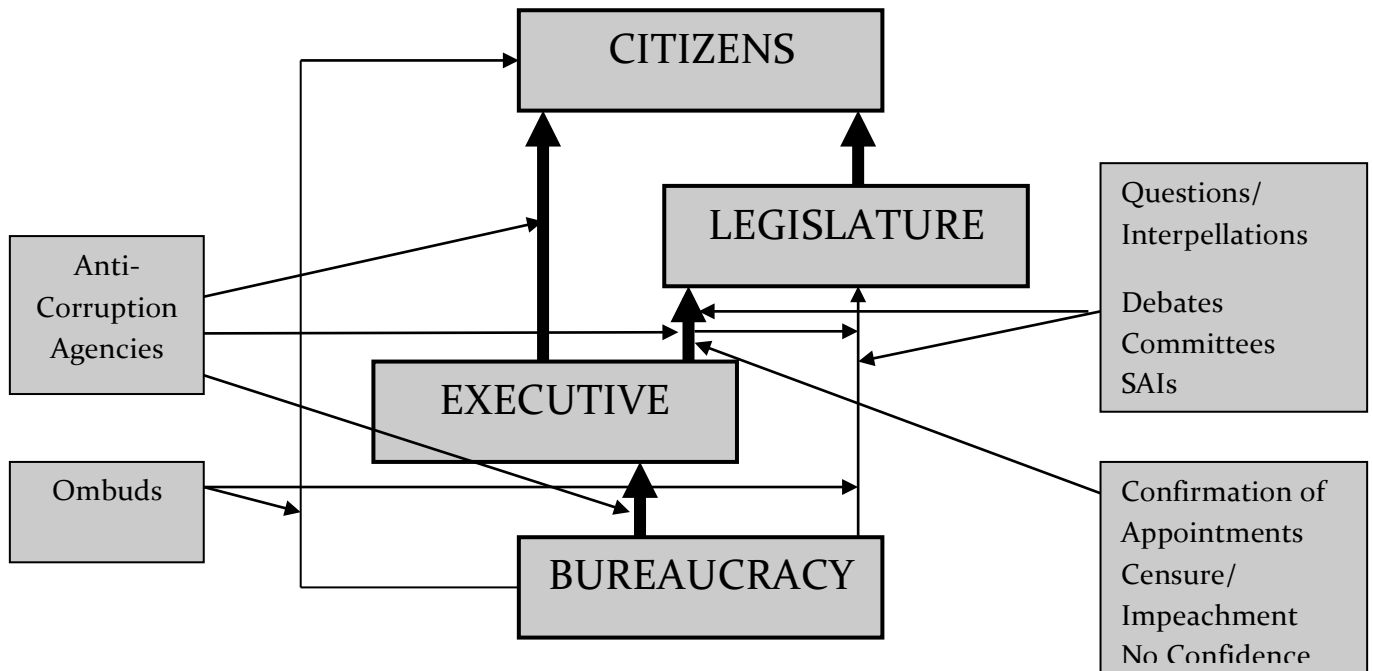
Agency theory assumes that the legislature delegates to the government the authority to propose a budget and to implement it. In other words, the government raises and spends money in the name of the legislature. The adverse selection problem is solved through the vote of no confidence (which is aimed at defeating the government, and replacing it by another one through election), and by the publication of the supreme audit institution's reports and the question period. These two last instruments may be used to lower the popularity of the government thus decreasing the probability of its re-election.

The *moral hazard* problem is solved by the creation of institutions like the finance commission, the supreme audit institution and anti-corruption agencies which use their *ex-ante* and *ex-post* controls, the former aimed at verifying whether adequate objectives are pursued and adequate financial means are projected, and the latter aimed at verifying the correspondence between objectives, implemented means and outcomes.

More generally, legislatures have developed oversight tools and mechanisms to help them, as principals, hold their agents (the executive and the bureaucracy) to account. Stapenhurst (2011) considered how the various oversight tools are used in these accountability relationships; see Diagram 2. Considering external oversight tools first, supreme audit institutions (SAIs) are mostly used to improve legislative oversight over the bureaucracy, although they may also be used to enhance executive accountability to the legislature. By contrast, ombuds offices can be used directly by citizens to enforce bureaucratic accountability, although there is often a role for legislative follow-up. For example, in Finland the ombuds office reports to the legislature and there is an oversight committee to follow up on the ombuds' recommendations. Anti-corruption agencies can help enforce the accountability relations of both the executive and the bureaucracy; again, there is a direct legislative role where the agency reports to the legislature and especially to a legislative committee (as in the states of New South Wales, Queensland, and Western Australia). Regarding internal oversight tools, committees/commissions, questions and interpellations, and debates are used to enforce bureaucratic and executive accountability to the

legislature. Executive accountability to the legislature is enforced by reviewing appointments, censure and impeachment, and no confidence motions.

Diagram 2: Accountability Relationships and Oversight Tools



Source: Staphurst (2011)

In short, oversight tools have been developed in response to agency problems. There is considerable power and information asymmetry between the executive (and the bureaucracy) and the legislature – and the legislatures have developed a set of tools and mechanisms to help them hold governments to account. One would expect that the more oversight tools available to a legislature, the greater legislative oversight and the less corruption.

Agency theory, applied to oversight, implies that the legislature has some autonomy vis-à-vis the government, i.e., that the legislature has the institutional capacity, the financial and human resources to carry out oversight activities, and the structure to engage in control activities. When a legislature, as agent, is accountable to its principals (citizens), it can be assumed that greater autonomy leads to higher levels of development, enhanced democracy, and lower levels of corruption.

Research Design

This study sought to determine whether the above hypothesis was true, that is, whether increased autonomy of the legislature leads to more effective oversight, as measured by the latter's expected outcomes of higher levels of development, enhanced democracy, and lower levels of corruption.

In so doing, we adopted the survey instrument developed by Staphenurst et al, (2005) and adapted it for use in francophone countries. In so doing, we were guided by the deliberations and recommendations of a focus group, comprising legislative officials from countries from across *la Francophonie*, which was held in Cote d'Ivoire in December, 2012. The resulting questionnaire (see Annex 1) was sent to 52 national and sub-national legislatures belonging to the Association of Secretaries Generaux of Francophone Parliaments (ASGPF). Xx legislatures responded, giving a response rate of xx per cent. The resulting data formed the basis for our global and regional (large -N) statistical analyses. Preliminary results were disseminated and validated at a series of regional and global workshops, seminars and conferences. At the same time, a series of case studies were undertaken by the principal researchers and also by selected associates, to give an in-depth assessment of how oversight tools are used in different countries in different regions (small-N).

Methodology

To study the role of legislative oversight in promoting good governance in Francophone countries, we used a mixed-methodological framework involving quantitative and qualitative

approaches. This framework enabled us to verify the statistical findings from a large-scale quantitative analysis with an in-depth qualitative study of oversight in particular contexts. In addition to the mixed-methodological framework, we will also adopt a mixed ‘fixed/flexible’

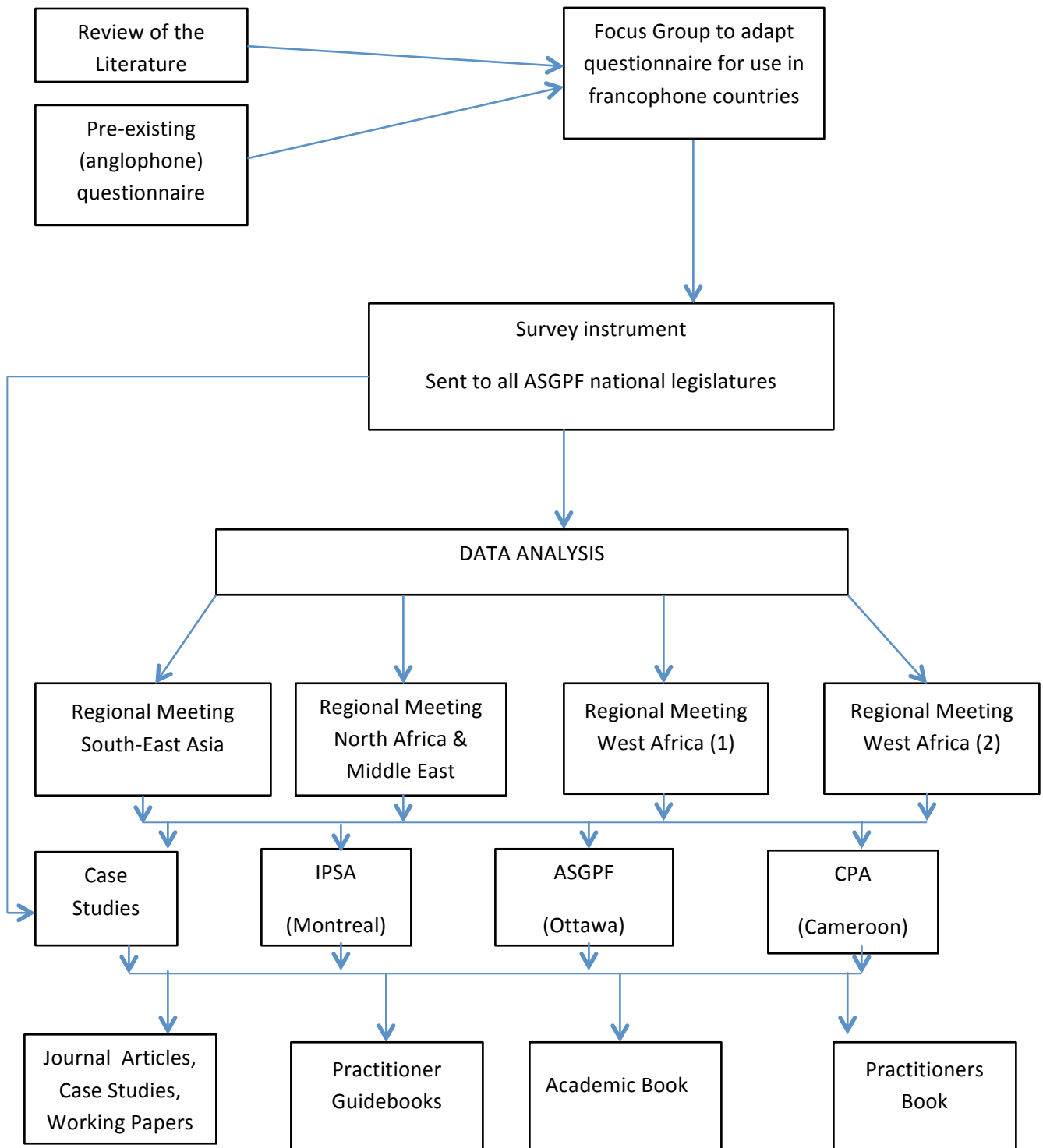
First, we set up a focus group comprised of eight leading Francophone parliamentary practitioners (see Diagram 3). The purpose of this group was to examine an 80-question survey instrument developed by WBI and Commonwealth Parliamentary Association (CPA) for Commonwealth countries, and to adapt to this instrument to reflect the parliamentary oversight institutions in Francophone parliaments. (This survey instrument was an output of an earlier focus group, organized by WBI and CPA, held in 1999). This work was facilitated by faculty from McGill and Laval to ensure that academic rigor and integrity are maintained.

Following the focus group, we sent out the revised survey instrument to the 52 national parliaments belonging to l’Assemblée Parlementaire de la Francophonie. Relying on the mobilization networks of ASGPF, we obtained a response rate of close 50percent. A large-scale statistical analysis of these results formed the fixed part of our research design. The aim of this analysis was to develop generalizations about financial oversight in Francophone countries and, in particular, the relationship between the legislature and the *cour des comptes*.

Our statistical analyses revealed testable questions for the flexible component of our research design, a set of case studies on ‘good’ and ‘bad’ practice. In other words, through quantitative analysis examined *what* the relationship is between legislative oversight, good governance and corruption, while the qualitative analysis enabled us to consider *how* these relationships work and what other (non-specified) variables might be relevant.

Finally, the results have been reviewed in scholars-practitioners workshops and then interpreted, written and published in scholarly journals and as practitioner tools and guides.

Diagram 3: Methodology



Source: Authors

Summary and Conclusion

In this chapter, we demonstrate that the subject of legislative oversight is under-theorized. We draw upon a variety of *neo-institutional* theories to explain the relationship between legislative oversight and corruption. We believe this relationship is a policy process, where the desired policy outcome is reduced corruption and the input is legislative oversight,

We draw first on *principal-agent theory* to explain the relationship between citizens, the executive, and the legislature and how legislatures have adopted a variety of oversight tools to help them (as principals) hold the executive and the bureaucracy (as agents) to account. However, that one needs to look beyond agency theory to explain variations in legislative oversight, and corruption, across countries. Olson and Mezey (1991), Olson and Norton (1996), and Norton and Ahmed (1999) provide guidance. They suggest that contextual factors are important. It is pertinent to consider why there is a difference between the Westminster and Napoleonic systems regarding use of oversight tools and to what extent these differences might be explained through *institutional concepts* such as *templates for organizing/archetypical systems*, *path-dependency*, *isomorphism*, and *convergence*. Finally, to explain the social legitimacy of parliament, we draw upon the notion of *social capital*. Using these different theories, we start to unpack the relationship between legislative oversight and corruption.

The international community has traditionally had high expectations of parliaments' potential to promote development. It has been suggested that parliaments should play a bigger role in eliminating poverty and curbing corruption (Stapenhurst, Johnston and Pelizzo, 2006), pacifying post-conflict societies through ensuring a more equitable distribution of resources (O'Brien, 2006) and promoting democracy (Fish, 2006; Pelizzo, forthcoming; Morlino, 2005).

These propositions have been well tested in developing countries with anglophone (or 'Westminster') parliamentary forms, in which the principal oversight institutions are the Auditor General and the parliamentary Public Accounts Committee (PAC). For instance, legislative oversight is believed to be enhanced by the formal oversight powers assigned to the legislature (Loewenberg and Patterson, 1979), institutionalization of oversight bodies (Jacobs, Jones and Smith, 2007), resources made available to the parliament (Rawlings, 2006), saliency of the issues under investigation, political will, non-partisan functioning of oversight bodies (Pelizzo and

Stapenhurst, 2007), and the oversight bodies' ability to publicize the findings of their investigations (McGee, 2002). Jacobs, Jones and Smith (2007) posit that audit institutions created by a constitutional disposition are less effective than when they are established by legislation.² McGee (2002) identified the dissemination of oversight bodies' (and especially PACs') reports as one of the key determinants of these bodies' successful performance.

Furthermore, the wealth of research on anglophone parliamentary forms has been translated into practical guidance for parliamentarians (e.g. Parliamentarians Guide to Controlling Corruption, the Parliamentary Centre, 1999; Parliamentary Handbook on Oversight, Global Organization of Parliamentarians Against Corruption, 2009 and the Handbook for Members of PAC, SADC Parliamentary Forum, 2005), published as case studies (e.g. Stapenhurst and Kroon, 2011; Jacobs, 2006; Sahgal, forthcoming, Wehner, 2003) and reproduced as popular articles (The Parliamentarian, 2006, 2007, 2008, 2009). These findings have also been incorporated into parliamentary strengthening curricula and used by organizations such as the World Bank, UNDP, CIDA, the Parliamentary Centre and the Commonwealth Parliamentary Association.

By sharp contrast, little research has been undertaken on how parliamentary oversight is undertaken in Francophone countries in which the supreme audit institution is not an Auditor General equivalent, but rather a *cour des comptes* (Titsworth and Stapenhurst, 2002) and in which there is no parliamentary committee analogous to PAC. As a result, there are few scholarly articles on the 'Francophone' approach to parliamentary financial oversight. Coupled with the fact that Francophone parliaments in developing countries also lack documentation of good practice and specific curricula to improve parliamentary oversight, it is not surprising that Francophone countries generally score poorly on global indices of good governance.³

The purpose of this research project was to address this research imbalance, to assemble a data base of legislative oversight practice in francophone countries to match that of Anglophone countries, and to develop user friendly guidebooks and toolkits to help francophone legislatures improve their oversight.

² However, Rawlings (2006) argues that the opposite is true in Melanesia.

³ For instance, Transparency International's Corruption Perceptions Index and Fish and Kroenig's (2009) ranking of 158 legislatures

LIST OF REFERENCES

- Achen, C. S. & Snidal, D. (1994) Rational Deterrence Theory and Comparative Case Studies, *World Politics*, 41, pp. 144–69.
- Doig, A. & Theobald, R. (2000) *Corruption and Democratisation* (London: Frank Cass).
- Fish, S. (2006) Stronger Legislatures, Stronger Democracy, *Journal of Democracy*, 17(1), pp. 5–20.
- Fish, Steven and Mathew Kroenig (2009) *The Handbook of National Legislatures: a Global Survey* Cambridge, Cambridge University Press
- Gerring, J. & S Thacker (2004) “Political Institutions and Corruption: The Role of Unitism and Parliamentarism”, *British Journal of Political Science* 34, pp. 295–330.
- Gerring, J., Thacker, S., C. Moreno (2005) “A Centripetal Theory of Democratic Governance: A Global Inquiry”, *American Political Science Review* Nov., pp. 567–581.
- Hellman, J. S., Jones, G., & Kaufmann, D. (2000) Seize the State, Seize the Day – An Empirical Analysis of State Capture and Corruption in Transition, *World Bank Policy Research Working Paper*, no. 2444, September.
- Hope, K. R. (2000) Corruption and Development in Africa, in: K. R. Hope, Sr. & B. C. Chikulu (eds.) *Corruption and Development in Africa. Lessons from Country Case-Studies*, pp. 17–39. (New York, NY: St. Martin’s Press).
- Imbeau, Louis M. 2007a. «Leviathan or Geryon ? Power Abuse in Democratic Societies». In Alain Marciano (ed.). *Democracy, Freedom, and Coercion: A Law and Economics Approach*. Cheltenham, UK: Edward Elgar Publisher, pp. 171-191.
- Imbeau, Louis M. 2007b. «Transparency in the budget process of a bureaucratic organisation : A principal-agent model of budgeting». In Albert Breton, Gianluigi Galeotti, Pierre Salmon et Ronald Wintrobe (eds). *The Economics of Transparency in Politics*, Aldershot: Ashgate, pp. 189-208.
- Imbeau, Louis M. & Geneviève Tellier. 2004. «Budget Deficits in the Canadian Provinces, 1968-2000». In Imbeau, Louis M. et François Pétry (eds). *Politics, Institutions, and Fiscal Policy : Deficits and Surpluses in Federated States*. Lanham, Md: Lexington Books, pp. 89-111.
- Jacobs, Kerry, Jones, Kate and David Smith (2007) An Analysis of the Sources of Public Accounts Committee Inquiries: the Australian Experience, paper presented at the Annual Meeting of the American Political Science Association.

- King, G., Keohane, R. & Verba, S. (1994) *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton, NJ: Princeton University Press).
- Lieberman, E. (2005) Nested Analysis as a Mixed-Method Strategy for Comparative Research, *American Political Science Review*, 99(3), pp. 435–52.
- Lowenberg, G. & Patterson, S. (1979) *Comparing Legislatures* (Boston, MA: Little Brown).
- Johnston, M. (1993) “What Can be Done About Entrenched Corruption?” *paper presented at the World Bank*
- Lederman, D., Loayza, N. & R. Soares (2005) “Accountability and Corruption: Political Institutions do Matter”, *Economics and Politics* 17, pp. 1–351.
- Mauro, P. (1997) “The Effects of Corruption on Growth, Investment and Government Expenditure: A Cross Country Analysis”, in: K.A. Ellio (ed.) *Corruption and the Global Economy*, pp. 83–107 (Washington, DC: Institute for International Economics).
- McGee, D. (2002) *The Overseers. Public Account Committees and Public Spending* (London, Pluto Press).
- Morlino, Leonardo (2001) “Consolidamento democratico: la teoria dell’ancoraggio”, *Quaderni di Scienza Politica*, vol. 8, n. 2, pp. 217-247.
- Morlino, Leonardo (2005). “Spiegare la qualita’ democratica: quanto sono rilevanti le tradizioni autoritarie?”, *Rivista Italiana di Scienza Politica*, vol. 35, n. 2, pp. 191-212.
- The Parliamentarian (2009) Tightening the Purse Strings: Public Accounts Committees and Developing Democracies Issue 2 pp. 172-175
- The Parliamentarian (2009) Tightening the Purse Strings: Public Accounts Committees and Developing Democracies Issue 2 pp. 172-175
- The Parliamentarian (2008) The Value of Parliamentary Oversight in the Management of Public Resources Issue 2 pp. 18-21
- The Parliamentarian (2007) The Public Accounts Committee in Pakistan Issue 2 pp. 129-130
- The Parliamentarian (2007a) Public Accounts Committees: a Critical Institution for Parliamentary Oversight Issue 2 pp. 131-133
- The Parliamentarian (2007b) Strengthening the Financial Scrutiny of Commonwealth Governments Issue 2 pp. 134-137
- The Parliamentarian (2006) The Impact of Public Accounts Committee Oversight in India Issue 2 pp. 46-50
- Pelizzo, R. (2010). “Public Accounts Committees in the Pacific Region”, *Politics and Policy*, vol. 38, n. 1, pp. 117-137.

Pelizzo, Riccardo and Rick Staphenurst (2004) "Legislatures and Oversight: A Note", *Quaderni di Scienza Politica*, 11/1: 175-188.

Pelizzo, Riccardo and Rick Staphenurst (2006) "Democracy and Oversight", Paper presented at the annual meeting of the American Political Science Association, Marriott, Loews Philadelphia, and the Pennsylvania Convention Center, Philadelphia, PA, Aug 31, 2006.

Pelizzo, R. and F. Staphenurst (2007) "Strengthening Public Accounts Committees by Targeting Regional and Country Specific Weaknesses" in A. Shah (ed.), *Performance Accountability and Combating Corruption*, Washington DC, The World Bank, pp. 379-393.

Persson, P., Roland, G., & Tabellini, G. (1997) Separation of Powers and Political Accountability, *Quarterly Journal of Economics Perspectives*, 112, pp. 1163–1202.

Rawlings, Gregory (2006) "Regulating Responsively for Oversight Agencies in the Pacific", targeted research paper for AusAid.

Rose-Ackerman, S. (1978) *Corruption. A Study in Political Economy* (London/New York: Academic Press).

Rose-Ackerman, S. (1999) *Corruption and Government: Causes, Consequences and Reforms* (Cambridge: Cambridge University Press)

Staphenurst, R (2011) Presidentialism and Parliamentarianism Revisited. Unpublished PhD thesis. Australian National University

Staphenurst, R., Johnston, N. & Pelizzo, R (2006) (eds.) *The Role of Parliament in Curbing Corruption*, (Washington, DC: World Bank Institute).

Titsworth, and R. Staphenurst, "Features and Functions of Supreme Audit Institutions", *PremNotes* 59 (Washington DC: World Bank).

Tanzi, V. & H. Davoodi (1997) "Corruption, Public Investment, and Growth", *IMF Working Paper* 97/139.

Thelen, K. & S. Steinmo. (1992) "Historical Institutionalism", in: S. Steinmo, K. Thelen, & F. Longstreth *Comparative Politics*, pp. 1-31 (Cambridge, UK: Cambridge University Press).

Treisman, D. (2000) The Causes of Corruption: a Cross National Study, *Journal of Public Economics*, 76 (3) pp. 399–457.

Wehner, J. 2003. "Principles and patterns in financial scrutiny: public accounts committees in the Commonwealth", *Commonwealth and Comparative Politics*, vol. 41, n. 3, pp. 21-36.