U4 Expert Answer

Parliamentary Approaches to Corruption

Query:

What types of initiatives are being/have recently been undertaken on parliamentary approaches to corruption?

Purpose:

A colleague who is working on parliamentary codes of conduct and parliamentarians' roles in combating corruption in the Arab world is trying to pull together information on different parliamentary approaches.

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Summary:

Parliamentary approaches to corruption have mainly focused on establishing appropriate anticorruption legal frameworks at country level and strengthening the parliamentary oversight functions in sensitive areas such as monitoring budget processes. Parliaments also have the duty and responsibility of adhering to the highest integrity standards. Using regional and global parliamentarian networks has proved a very promising capacity building strategy.

Introduction

There is a general consensus worldwide on the decisive role parliaments can have in the fight against corruption, as the institution through which government is held accountable to the electorate. In most countries parliaments have the constitutional mandate to oversee government and hold it accountable for its actions and decisions. A number of parliamentary organisations and institutions such as the Council of Europe Parliamentary Assembly have passed resolutions in this regard, articulating their views and positions on parliamentary actions against corruption. (Please see: http://assembly.coe.int/Documents/AdoptedText/ta00/eres1214.htm#1).

The Inter-Parliamentary Union (IPU) also formulated recommendations on the role of parliaments and supreme audit institutions in combating corruption. These recommendations emphasise the law making function of parliament to ensure that appropriate anti-corruption legislation is adopted and international instruments such as the UNCAC are ratified as well as its constitutional oversight role to ensure full accountability and transparency of government processes. The IPU also recommends that parliamentarians themselves promote high standards of integrity and legitimacy through the design and implementation of codes of conduct and ethics as well as fair and equitable electoral processes. Please see: http://www.ipu.org/splz-e/hague01-rcm.htm.

In the Arab region, parliamentary anti-corruption initiatives are challenged by weaknesses in terms of voice mechanisms, access to civil and political rights and public accountability as measured by the

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World Bank's Governance Indicators in terms of access to information or holding leaders accountable for their actions and policies.

(Please see http://siteresources.worldbank.org/INTMENA/Publications/20261857/Overview.pdf.)

Part 1: Overview of Parliamentary Approaches to Corruption

An extensive array of potential tools is available to parliaments to fight corruption. The "Controlling Corruption: A Parliamentarian's Handbook" jointly launched by World Bank Institute and the Global Organisation of Parliamentarians Against Corruption (GOPAC) in 2005 provides an overview of the challenges and opportunities involved in fighting corruption at parliamentary level. (Please see: http://www.gopacnetwork.org/Docs/CCH%20FINAL%20Aug%2005%20ENG.pdf). It recommends using a balanced package of legislative, financial, oversight and representation initiatives to effectively promote integrity and combat corruption at parliamentary level. Further examples of international good practice and parliamentary initiatives against corruption are gathered in a report compiled in 2006 by UNDP and the Viet Nam Office of the National Assembly. Please see: http://www.un.org.vn/undp/projects/vie02007/Downloads/Anti%20corruption%20report.pdf.

Legislative Initiatives

By nature, legislatures have an obvious role to play to ensure that a strong legal system against corruption is in place at the country level. This role goes beyond merely passing strictly anticorruption related legislation, as parliaments also set rules governing the political, social and economic activity of the country. For example, parliaments can enact legislation that promote more transparency and participation such as improving access to information for both citizens and parliamentarians, ensuring freedom of information to empower the media to play a watchdog role as well as passing laws that strengthen oversight mechanisms or provide minimum social standards (salaries, employment equity, etc) to reduce the need to resort to corrupt practices. The IPU recommends voting a number of laws including anti-corruption, integrity, oversight, freedom of information or party funding and electoral campaign legislation as well as lobbying for the ratification of international instruments against corruption. (Please see: http://www.ipu.org/splz-e/hague01-bkgr.htm)

Anti-corruption legislation criminalises corruption and provides for appropriate sanctions, deterrent measures as well as monitoring and surveillance mechanisms. International conventions such as the UNCAC that covers key areas such as prevention of corruption, criminalisation of corruption, asset recovery or international cooperation are very useful instruments promoting common standards to combat corruption worldwide. Parliaments can ensure that the provisions of these various instruments are integrated into national laws and enforced as such. In Africa, for example, the Ugandan and Ghana Chapters of the African Parliamentarians' Network Against Corruption (APNAC) piloted two sensitisation and lobbying programmes promoting the ratification and implementation of the African Union Convention against corruption. Please see: http://www.apnacafrica.org/docs/Uganda_Final_Report_AU_Legislation.doc and http://www.apnacafrica.org/docs/Ghana_Progress_Report.doc.

Public sector procurement is often very vulnerable to corruption. Parliaments can set out a legal framework for government operations that ensures that procurement processes are transparent, efficient and accountable. Examples of approaches and initiatives that have been implemented in this regards are compiled in an OECD report on public procurements. Please see: http://www.oecd.org/document/35/0,3343,en_2649_34855_38447139_1_1_1_00.html.

Parliaments can also contribute to establishing a legal **integrity framework** for the public sector, promoting measures such as declaration of assets, conflict of interest or whistle blower protection. Within this framework, codes of conduct identifying actions that are not necessarily illegal per se but

considered morally unacceptable for elected or public officials can contribute to promote minimum standards of integrity within the public sector.

Parliamentary Oversight Initiatives

Most parliaments have the constitutional mandate to oversee government, holding the executive accountable for its actions and ensuring that it operates within an ethical, accountable and legal framework. This oversight role is of crucial importance in the sensitive area of the preparation and execution process of the national budget, providing safeguards against government misuses of public funds and resources.

Strengthening Budget Oversight

Most countries provide for parliaments to approve the annual budget and oversee government expenditures throughout the budget cycle. However, level of inclusion, time scales, approval and monitoring as well as non-responsiveness of the executive often limits the oversight opportunities of parliaments. According to GOPAC, oversight of government finances and operations is performed poorly by parliaments in most countries of the world, especially in developing countries, although it is an essential component of democratic governance. Nonetheless, even where the formal role of the legislature in amending the budget is weak, some parliaments have found ways to influence the budget process. In Ghana for example, the Finance Committee managed to require pre-budget consultation with the Ministry of Finance and the Public Account Committee requires quarterly statements on budget execution. (Please see: The Legislature and the Budget: http://siteresources.worldbank.org/PSGLP/Resources/TheLegislatureandtheBudget.pdf).

Budget processes are overly complex and Members of Parliament (MP) also often lack the technical capacity to fully play their oversight role. The establishment of Parliament Account Committees (PAC) can contribute to strengthen budget oversight skills, provided they are given appropriate technical, human and financial resources, as well as adequate powers and independence from the executive. Institutional factors accounting for the success of PAC include their power to investigate all past and present government expenses, the power to follow up on government responses to their recommendations as well as their relation with the Auditor General. (Please see: "Scrutinising Public Expenditures: Assessing Performances of PAC": http://siteresources.worldbank.org/PSGLP/Resources/ScrutizingPublicExpenditures.pdf.). Priorities identified by the various stakeholders to support a PAC include capacity-building through the provision of adequate staffing, resources, training and access to information, ensuring independence of the PAC and promoting information exchange aimed at keeping PAC up to date with emerging standards and practices. In Ghana, for example, the PAC was for the first time in 2007 granted its own budget and the power to approve the Auditor General (AG)'s budget to protect the AG's independence.

Fully effective oversight also requires a combination of contributing factors, including appropriate parliamentary powers, resources and procedures, good executive accounting, reporting and transparency, skilled parliamentarians and an independent and vibrant civil society. Initiatives aiming at strengthening the oversight role of parliaments have mainly focused on institutional and technical capacity building of parliaments. For example, the Uganda Budget Act 2001 introduced two sets of reform, including increased consultation during budget preparation and monitoring and the establishment of an independent **Parliamentary Budget Office** (PBO) which supports parliamentarians throughout the budget process. The objective of the PBO is to create technical capacity within Parliament to interpret budget and economic data and provide MPS with objective, timely and independent analysis and reports on key budget related issues. Please see: http://www2.gtz.de/gender-prsp/english/papers/working_groups/Hannington_Ashaba_3A.pdf. PBOs have been established in The Philippines, Mexico and Korea and are being planned in Kenya and Nigeria.

Supreme Audit Institutions (SAI) and Ombudsmen are also key institutions allowing careful monitoring of operations, practices and expenditures of government agencies. The relations between parliamentary committees and these institutions are also of decisive importance to ensure effective oversight of government financial operations. For example, SAI can work closely with the finance and account committees and provide them with audit reports to use in their oversight role. However, the PAC must be granted the power to initiate follow up inquiries into audit reports presented by the audit institutions. In recognition of the crucial role SAI can play against corruption, IPU specifically encourages Parliaments to put an appropriate legal framework in place for the establishment and functioning of such institutions.

Civil society is an obvious and key partner for parliaments in monitoring and overseeing public budgets. The International Budget Project (IBP) whose efforts in nurturing civil society's capacity to analyse and influence government budget processes, institutions and outcomes are widely recognised, provides valuable input on strategies to promote and improve budget transparency by increasing civil society participation in budget processes and institutions. The latest IBP newsletter, for example, specifically focuses on the role of legislatures in the budget process and the experience of Please and challenges building partnerships with civil society. see: http://www.internationalbudget.org/resources/newsletter40.htm

Making full use of parliamentary tools for accountability and executive oversight

Parliamentarians also have a set of tools available to ensure greater transparency in decision making. They have the power to question the executive and deliberate on how decisions were made through the question time, committee hearings, committees of enquiry, interpellations or ombudsmen offices. The oversight framework should provide for strong investigative powers, allowing, for example, for witnesses to be called or penalties for contempt or perjury applied. Parliamentary action against corruption can consist of adopting, enforcing and/or reinforcing existing mechanisms in place for bringing government to account, making optimum use of parliamentary committees to scrutinise government operations or finances.

Representation Initiatives

Ultimately parliamentarians are accountable to the electorate. They face the challenge of ensuring that their influence over the various government processes reflects national priorities, and that citizens concerns are addressed. Genuine parliamentarian representation of citizens' interests into political processes can have a strong weight in the fight against corruption. Voice and accountability mechanisms that empower citizens to engage in the public debate can also ensure citizens' participation in the political debate and improve the public perception of parliament's legitimacy. As a result, parliaments can play a key role in ensuring accountability through constituency outreach, public hearings and allowing increased opportunities for interactions with civil society. The public can also be encouraged to denounce and condemn corruption through the development and implementation of effective complaints mechanisms and whistle blower protection. For example, Malawi is opening up PAC investigations to the media while Ghana plans to open PAC meetings to the public. Similar efforts are also underway in Sri Lanka and Tanzania.

With regard to representation initiatives, the GOPAC conceptual framework emphasises the necessity of: (Please see:

http://www.gopacnetwork.org/Docs/Parl%20Fighting%20Corruption%20a%20conceptual%20overvie w%20EN.pdf)

- Establishing public consensus and expectations for what is acceptable conduct for elected and appointed officials;
- Acting according to those expectations;

- Ensuring that citizens' complaints are visible to the executive and that executive responses to these complaints are monitored;
- Rendering visible minority views;
- Limiting parliamentary privileges;
- Establishing appropriate party and election financing practices
- Ensuring party consensus building practices that do not undermine parliamentary functioning and representation.

Parliamentary Ethics and Integrity Initiatives

MPs also have a duty to set an example of incorruptibility to restore the trust of the public in political processes as in many countries, the legitimacy of political institutions have been undermined by political unresponsiveness, various forms of misconduct and corruption scandals.

Developing and implementing **codes of ethics and conduct** that communicate visions and values to the electorate is a first essential step in the process of restoring confidence in the political institutions. Such codes of conducts contain specific provisions with clear sanctions on what is considered inappropriate or morally unacceptable behaviour for elected officials. They typically require disclosure of all economic and financial interests (assets and income) and introduce certain restrictions regarding gifts, travels, hospitality, political activity, competitive bidding, outside or post employment as well as conflict of interest rules while still in office. They also promote values of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. A number of parliamentary codes of conduct have been developed worldwide and a few examples are outlined in the "further reading" section. For example, the GOPAC draft code of conduct for parliamentarians outlines:

- A member should not try to secure business from the government for a firm, company or organisation with which she/he is directly or indirectly concerned;
- A member should not unduly influence government officers of the ministries in a case in which she/he is interested either financially or indirectly;
- A member should not receive remuneration of any kind for any work that she/he desires or proposes to do from a person or organisation on whose behalf the work is to be done;
- A member should not proceed to take action on behalf of his constituents on some baseless facts;
- A member should not write recommendation letters or speak to government officials about employment or business contracts for any of her/his relations.

The effectiveness of such integrity initiatives depends on the existence and nature of sanctions established for codes' violations, the institution in charge of establishing and enforcing sanctions, the prevailing political culture, the leadership's commitment to fight corruption as well as training activities undertaken to raise awareness and skills around the code. (Please see: http://siteresources.worldbank.org/EXTPARLIAMENTARIANS/Resources/Legislative_Ethics_and_Co des_of_Conduct.pdf.)

The issue of **parliamentary privileges and immunity** that protect parliamentarians from prosecution should also be addressed within a comprehensive parliamentary integrity framework. Immunity can protect parliamentarians from unnecessary and unjustified politically motivated court cases as well as allow them to avoid grounded investigations and prosecutions when engaging in corrupt behaviours. For example, case studies of Armenia, Ukraine and Guatemala highlight the need for balancing the protection of parliamentary immunity with the need for greater transparency and control of corruption. (Please

http://www.gopacnetwork.org/Docs/Global/Brief%20on%20parliamentary%20immunity.pdf)

Political Corruption also threatens democratic and political processes, resulting in an erosion of government credibility and commitment to fight corruption, as lobbyists and party funders gain undue

influence over the political agenda. Legislation or codes of conduct for political parties setting disclosure rules, contribution as well as donations or expenditure limits can contribute to control party financing and limit party corruption.

Part 2: Initiatives Supporting Parliamentary Approaches to Corruption

As part of its recommendations on the role of parliaments in combating corruption, the IPU calls the international community to support parliaments' efforts in developing countries to strengthen their capacity to fight corruption through awareness raising activities, the development of effective parliamentary structures and processes (committees and oversight mechanisms), the promotion of access of parliamentarians to information on public affairs and ensuring greater transparency between parliament and civil society. Promoting exchanges and regional and international cooperation to share best practices and lessons learnt is also an important pillar of parliaments' anticorruption capacity building initiatives. A number of programmes along these lines have been developed and are currently implemented by various organisations both throughout the world and in the Arab region.

Examples of Anti-Corruption Parliamentary Development Initiatives

Organisations so diverse as the Westminster Foundation for Democracy (http://www.wfd.org/), the Canada Parliamentary Centre (http://www.parlcent.ca/) or the World Bank (http://web.worldbank.org/WBSITE/EXTERNAL/WBI/WBIPROGRAMS/PSGLP/0,,contentMDK:20282 841~menuPK:461646~pagePK:64156158~piPK:64152884~theSitePK:461606,00.html) have a long experience of parliamentary development initiatives. For example, the Canadian Parliamentary Centre has supported parliamentary capacity building activities in Kenya and Ghana, developing training programmes for parliamentary staff and strengthening Finance and Public Account Committees to improve transparency and effectiveness of governance. Please see: http://www.parlcent.ca/africa/workshop_kenya.pdf and

http://siteresources.worldbank.org/INTPRS1/Resources/PRSP-Review/parliamentary_centre.pdf).

The objective of such initiatives is to strengthen the capacity of parliaments to fulfil their functions and represent the public interest in a professional, transparent and responsible manner and equip them with the skills, knowledge and capacity to effectively oversee the allocation and use of public funds. Such interventions mainly focus on institutional strengthening of parliaments as well as capacity building of parliamentarians. This is achieved by supporting training programmes and activities, the provision of institutional and technical support to committee structures, knowledge generation and management through research, libraries or resource centres, as well as support to regional or global networking initiatives.

The World Bank Institute has just published a retrospective of its parliamentary development programme that compiles a broad set of examples, best practices and case studies from around the world.

(http://siteresources.worldbank.org/PSGLP/Resources/RetrospectiveSTRENGTHENINGPARLIAMEN TS.pdf?&resourceurlname=RetrospectiveSTRENGTHENINGPARLIAMENTS.pdf.) Lessons learnt include the importance of focusing efforts on parliament as an institution rather than on individual MPs, privileging capacity-building rather than awareness-raising activities and gathering and disseminating examples of international good practice.

Using Networks for Capacity Building and Awareness Raising

National, regional or global networks of parliamentarians have flourished in recent years and become decisive vehicles to raise awareness on the critical role of parliaments in holding governments accountable as well as develop and promote parliamentary tools against corruption. Establishing wider linkages with other parliaments, especially at regional level where countries often share similar

conditions, has proved a successful approach for awareness raising and mutual learning. A WBI Capacity Enhancement Brief reviews the activities and lessons learnt in using such networks to enhance the capacity and effectiveness of parliaments in developing countries to address corruption. Please see: http://info.worldbank.org/etools/docs/library/121363/CEbrief-10_Jan05.pdf.

GOPAC

The Global Organisation Against Corruption (GOPAC) was founded in 2002 as an international network of parliamentarians promoting the anti-corruption agenda through a network of national and regional chapters. It provides peer support to parliamentarians engaged in combating corruption throughout the world, information services as well as training and education to promote methods for fighting corruption and build alliances. At the international level, GOPAC has established global Working Groups to develop tools and products, as well as to guide major initiatives in six major areas, including the United Nations Convention Against Corruption (UNCAC), Anti Money Laundering, Transparency and Media, Parliamentary Oversight, Parliamentary Ethics, Parliamentary Immunity and Resource Revenue Transparency. In addition, GOPAC has developed a set of tools and materials supporting parliamentary initiatives against corruption such as a handbook for parliamentarians on controlling corruption, a training package on the budgetary and financial oversight role of parliamentarians, a code of conduct for parliamentarians or indicators of performance for parliamentary oversight. Please see: http://www.gopacnetwork.org.

APNAC

The African Parliamentarians Network Against Corruption, a regional chapter of GOPAC, has established national chapters in more than 18 African countries. At national level, some chapters like Senegal or Kenya have been successful in lobbying their National Assembly to adopt Anti-Corruption or Anti-Money Laundering Bills for example. Awareness raising activities as well as information sharing and peer support activities to share information and lessons learnt has also been an important element of APNAC's achievements. Please see: http://www.apnacafrica.org/. APNAC chapters have, for example, advocated and assisted in the ratification of anti-corruption conventions in Uganda, Ghana and Zimbabwe, while anti-corruption legislation has also been adopted in Kenya (Public Officer's Ethics Act 2003), Uganda (Access to Information Act 2004, or Benin (Amendment of Electoral law 2006).

Specific Initiatives in the Arab Region

In the Arab region, parliamentary anti-corruption initiatives face specific challenges due to weak voice and accountability mechanisms as well as the social and political context prevailing in most of the countries. A comparative study of Arab parliaments was prepared within the framework of a Symposium on Arab Parliamentary Development that was held in Beirut in May 2000. (Please see: http://www.pogar.org/publications/legislature/lcps1/section5.html). The study found that although some progress had been made and a number of Arab parliaments had been equipped with appropriate legal frameworks to perform, a number of non legal factors are still hampering their performance in holding the executive accountable, including the paucity of facilities, qualified staff and technical agencies, insufficient access to information, lack of political will for such scrutiny as well as the nature of the internal political context. Recommendations to strengthen the legislative and oversight functions of Arab parliaments include:

- Reducing constraints of rule of procedures that are imposed on certain forms of parliamentary oversight;
- Providing Arab Councils with technical support and expertise, including research assistants;
- Developing and/or strengthening working committees;
- Addressing knowledge deficit through provision of training, development of libraries, tools and materials;
- Developing Arab citizens' interest in parliamentary life

The Arab Region Parliamentarians Against Corruption (ARPAC)

The Arab Region Parliamentarians Against Corruption (http://www.arpacnetwork.org/) has started to address some of these issues. It was founded in November 2004 in Beirut as a regional chapter of GOPAC and has continuously grown ever since. National Chapters have also been established in Palestine, Yemen, Kuwait, Jordan, Egypt, Bahrain, Morocco, Algeria, and Lebanon. In addition to supporting the establishment of National Chapters in the region, ARPAC's main objective is to call Arab Governments to ratify and implement the UNCAC. In December 2006 for example, ARPAC coorganised the parliamentarians' side-meeting at the Conference of State Parties to the UNCAC. (http://www.unodc.org/pdf/crime/convention_corruption/cosp/session1/V0659361e.pdf.). ARPAC has also organised several regional meetings and workshops with the view to develop and promote anticorruption tools, resulting for example in the adaptation to the Arab context of the Parliamentarians Handbook on Controlling Corruption. In future, ARPAC intends to focus on the development of a code of conduct for Arab Parliamentarians and conflict of interest, on the improvement of the oversight capacity of Arab Parliamentarians in monitoring public funds as well as on the monitoring and implementation UNCAC. of the

http://www.gopacnetwork.org/Docs/ARPAC/Arpac%20Progress%20Report.pdf.

Parliamentary Development Initiative in the Arab Region (PDIAR)

Parliamentary Development is also one of the components of the UNDP Programme of Governance in the Arab Region (POGAR) to address the increasing demand for parliamentary assistance in the region. The initiative focuses in particular on promoting networking and exchanges of experience and addressing the knowledge deficit in the region. The Initiative's site also compiles a useful list of research and resource material on parliamentary issues both in Arabic and in English. (Please see: http://www.arabparliaments.org/).

Part 4: Further Reading and Resources

The role of parliaments in the budget process

This paper investigates the role of parliamentary amendment powers in the Budget process from a comparative perspective. It is proposed that the ability of Parliament to change the Budget depends on two sets of necessary conditions: the actual configuration of powers vested in Parliament and a set of factors determining the role of committees in the Budget process. http://siteresources.worldbank.org/PSGLP/Resources/TheRoleofParliamentsintheBudgetProcess.pdf

Tools for Legislative oversight: An Empirical Investigation

This paper uses data for 83 countries that was collected in 2001 to investigate whether the oversight potential relates to three variables, namely the form of government (presidential, semi-presidential, or parliamentary), per capita income levels, and the level of democracy.

http://siteresources.worldbank.org/PSGLP/Resources/ToolsforLegislativeOversight.pdf

Beware the Gap! Parliamentary Oversight or Parliament Overlooked?

This paper outlines the major facets of on appropriate legislative oversight regime, with specific reference to Public Accounts or similar committees. http://www.gopacnetwork.org/Docs/Beware%20the%20Gap_Peter%20Loney%20article.pdf

WBI Working Papers: Series on Contemporary Issues in Parliamentary Development

This series promote and disseminate recent research and analyses from both academics and practitioners on parliamentary development related issues. These Papers typically are written as materials for WBI's seminars, workshops and study groups for parliamentarians, or reflect the outcomes of such activities.

http://web.worldbank.org/WBSITE/EXTERNAL/WBI/WBIPROGRAMS/PSGLP/0,,contentMDK:210136 74~pagePK:64156158~piPK:64152884~theSitePK:461606,00.html

Guides and Handbooks for Parliamentarians

This section compiles published handbooks and guides aiming at guiding and strengthening parliamentary action on a series of key accountability issues. http://web.worldbank.org/WBSITE/EXTERNAL/WBI/WBIPROGRAMS/PSGLP/0,,contentMDK:210136 72~pagePK:64156158~piPK:64152884~theSitePK:461606,00.html

Examples of Parliamentary Codes of Conduct

United Kingdom's Code of Conduct for Members of Parliaments http://www.gopacnetwork.org/Docs/Beware%20the%20Gap_Peter%20Loney%20article.pdf

Uganda's Code of Conduct for MPs http://www.parliament.go.ug/rules_procedure_AppendixC.htm

Zambia's Code of Conduct for MPs

http://www1.worldbank.org/publicsector/civilservice/epublishdocs/immunity/Legislation/Zambia/ZambiaParliame ntaryMinisterialCodeofConduct.pdf

Australian's Code of Conduct for Parliamentarians

http://www.parliament.wa.gov.au/web/webpages.nsf/WebFiles/LA+Code+of+Conduct+for+Members/\$FILE/Cod e+of+Conduct+for+Members.pdf

Australian's Public Service's Code of Conduct http://www.apsc.gov.au/values/index.html