



Parliamentary scoping study

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1 Introduction

This scoping report has been prepared to provide input into STAR-Ghana's Parliamentary Engagement Strategy.

The Strengthening Transparency, Accountability and Responsiveness in Ghana- STAR-Ghana programme is a £22 million multi-donor pooled funding mechanism (funded by DFID, DANIDA, and the EU). The programme is intended to support the creation, utilization and institutionalization of spaces for collective civil society engagement in order to increase the accountability and responsiveness of the executive and key state institutions at both local and national levels. The long-term programme goal is to develop a vibrant, well-informed and assertive civil society, able to contribute to transformational national development for all Ghanaian citizens in an inclusive manner.

The first phase of the STAR-Ghana programme, which aimed to 'increase the influence of civil society and Parliament in the governance of public goods and services delivery', had a focus on strengthening Parliament's capacity to exercise its oversight and legislative functions. The end of programme review acknowledged the significant results achieved in strengthening parliament's capacity and the piloting of innovative approaches to engaging with citizens and civil society for increased effectiveness. The review identified a number of areas for improvement, particularly how parliament engages with citizen groups, how it institutionalizes the results from phase one and a greater focus on achieving strategic and systemic level impacts.

Phase two of the programme will build on these key recommendations from the programme evaluation. The programme's overall objectives, as a result, focuses on supporting the creation, utilization and institutionalization of spaces for collective Civil Society Organization (CSO) engagement with key state institutions, particularly Parliament in order to increase responsiveness of the executive to citizens' voices and issues. STAR-Ghana will also engage with Parliament on core governance issues related to gender, e.g. in terms of Constitutional reform, supporting specific gender related actions and regulations through Parliament and strengthening the analytical basis for legislative scrutiny across Parliament.

Engaging Parliament is informed by STAR-Ghana's focus on working with key state institutions in order to increase responsiveness of the Executive to citizens' voices and issues. In addition, it is informed by the multiplicity of roles that the Legislature plays in national politics and in the delivery of public goods and services. Among them:

1. As an oversight body, Parliament is responsible for holding the government to account for the execution of laws and policies. In doing so, parliament's effort will gain more traction if it collaborates with other oversight bodies such as CSOs and the Media.
2. As a representational institution, Parliament should recognize the importance of its accountability role to citizens. While it holds government to account, citizens should in turn hold Members of Parliament accountable for their stewardship.
3. In addition, Parliament serves as a bridge between citizens and the Executive by channeling citizens' views to the government through establishing healthy collaborative and constructive relations with CSOs and other non-state actors.

4. As a lawmaking institution, Parliament needs to be accountable for the law it makes, amends and ratifies. As such *it is a branch of government* that needs to be equipped with knowledge and skills in order to execute this function with expedience. This should be responsive to citizens' issues and reflective of their input.

Recognizing the key functions of Parliaments and the need to support them effectively perform these functions, this report highlights a number of key issues that need to be borne in mind as STAR-Ghana develops a strategy to engage the Parliament of Ghana. The report is divided into three sections: trends in parliamentary development; mapping institutional power within the Parliaments; and building programmes around how change happens in Parliaments.

2 Themes and trends in Parliamentary development

This section examines the importance parliamentary development has achieved over the last decade. In particular, the recognition of a very strong correlation between effective Parliaments and sustainable development. Initially, many parliamentary support programmes focused on infrastructure, parliamentary libraries, and equipment and information technology. However, from the 1990s onwards, with the burst of democratization, international approaches began to recognize parliaments as political institutions. As this political context took precedence, programme implementers realized that provision of support to parliaments differs in many respects from the provision of technical support to a ministry or other parts of government.

2.1 The Evolution of Parliaments

The factors that contributed to the evolution of parliaments over the years, especially during the last decade include: (1) international norms, standards and benchmarks; (2) aid effectiveness; (3) local political ownership and engagement in parliamentary development; (4) political contextualization; (5) knowledge sharing and south-south cooperation. In this section, the factors enumerated above are briefly reviewed.

2.1.1 International norms, standards and benchmarks

The evolution of several components of democratic governance have been shaped and/or influenced by a rights-based or standards-based approach. On the contrary, the development of parliaments has not be driven by these normative standards. Rather, it is the consensus of norms and standards that are deemed to be the essential characteristics of a democratic parliament that have propelled the evolution of parliaments over the years. Some of these norms and standards include the international guide to good practices for parliaments produced in 2006 by the International Parliamentary Union (IPU). This international guide drew heavily on the experiences of member parliaments to develop a framework that demonstrates the contribution of parliaments to national democratic processes. UNDP's work on parliaments also contributed to much of this strand of thinking.

The significance of the contribution of the IPU framework is that it clearly underlined the principal democratic values that must form the core of parliamentary institutions. In addition, the framework established the primary objectives of government and enumerated five main principles that underpin a proper conception of democratic parliamentary institutions. These now established principles require parliaments to be representative, transparent, accessible, accountable and effective at the sub-national (local), national and international levels. Each of these principles have clearly detailed guidelines of established principles of good practices for parliamentary performance.

In addition, the UNDP's collaboration with the Commonwealth Parliamentary Association (CPA) has led to the development of codified benchmarks for democratic legislatures. These benchmarks provide precision on the characteristics of democratic parliaments. For example, the benchmarks state, under the legislative functions of parliament, that parliament is the sole institution empowered to determine and approve budgets. Another area of clearly established principles include the non-partisan relationship with the media.

Other parliamentary forums such as the Southern African Development Community Parliamentary Forum (SADC-PF) have espoused similar norms and standards for their members.

Taken together, the consensus on these principles and benchmarks provide a suitable normative framework for parliamentary development. Indeed, donor focus is centered on assisting partner parliaments to meet these standards and benchmarks rather than the donor's own individual narrow conception of a democratic parliament. Elections by themselves are no longer a sufficient criteria of a democratic dispensation (even if they are deemed to have met internationally accepted standards) in a country. Currently, a country's democratic credentials are increasingly hinged on a parliament that is not deemed to be a rubber stamp institution.

2.1.2 Aid Effectiveness

Accountable and responsive institutions are the foundation for effective economic development. Following the Paris Declaration on Aid Effectiveness (2005) and the subsequent Accra Declaration that included commitments from more than 100 governments, mutual accountability and country ownership of the development agenda have been pushed to the forefront as essential nonnegotiable elements of international assistance programs. With the emphasis on national ownership is an increasing tendency towards direct budget support for the disbursement of aid. At the same time, there is mounting pressure on governments to demonstrate transparent disbursement of direct budget support. Concomitantly, the pressure on governments for transparent budget disbursement has intensified demands for increased oversight of parliament as the institution with primary responsibility for ensuring effective transparency of the expenditure government. As the highest national representative institution, parliaments are responsible for shaping the national development strategies and agendas. Parliaments accomplish this objective in two ways: (1) ensuring inclusive debates on the future of national development and (2) using institutionalized committee systems to manage debates on highly contentious issues.

2.1.3 Local Political Ownership and the Engagement in Parliamentary Development

The sustainability of programs requires local ownership and engagement in parliamentary strengthening. This is especially critical in political environments of reform and change over time. In some cases, an inherent dichotomy exists between national ownership (symbolized by the multi-party national parliament) and government ownership. The prevailing mechanism for avoiding the discrepancy in the ownership of development programs is the allegiance to existing normative prescriptions such as international standards. Relying on international standards also helps in diffusing potential criticism of the appearance of donor imposed agendas on parliamentary institutions. This is particularly effective in cases when national parliaments have articulated a clear commitment to international and regional benchmarks. In addition, reliance on a multi-party parliamentary reform committee as the vehicle for institutionalized reform is a suitable mechanism for parliamentary decisions on how to effectively institutionalize development priorities. Multi-party parliamentary reform committees also serve as useful interlocutors for the opposition's support and input into the parliament's development agenda. Furthermore, multi-party reform committees also assist in ensuring accountability and coordinating donor investments.

Another useful entry point for hinging engagement on parliamentary development is the coupling of local national level programming with regional programs. When successfully applied, this approach compels national parliaments to be more aware of the institutional deficits that confront them. The Parliamentary Development Initiative of the Arab region for example, coordinates a series of parliamentary development groups from the sub-region who focus on a spectrum of issues including political party legislation, parliamentary oversight of the security sector and the internal governance of parliaments. Through this forum Members of Parliament set the agenda for working groups, define research areas and institute guidelines and standards that are specific to the region. Similarly, the ECOWAS Parliament performs similar functions.

2.1.4 Political Contextualization

It is impossible to separate parliamentary programs from the political system. Indeed, the political system shapes the environment for institutional development by either creating incentives or disincentives for interparty cooperation. Political compromises are easily attainable in systems that create incentives for adversarial politics and multi-party activity built on trust across political cleavages. On the contrary, disincentives for such political compromises occur when the system shuts down opportunities for political party participation in the constructive criticism of the government and excludes any possibilities for coalition building across party lines.

In both developed and developing countries, political corruption can influence the incentive structure for collaboration or adversity. Furthermore, parliamentary development programs can be marred by improper contextualization. For example, where the accountability of the parliamentary administration is solely to the ruling party or excludes benefits to other political parties then effective parliamentary development programming is jeopardized. The timing as well as the sequencing of parliamentary development programming is also tied to the local political contexts such as the electoral cycle. Ideally, parliamentary development programming must be designed to ensure political neutrality and must be spearheaded by parliament itself. Although external support to parliamentary development is essential, support must be designed so that it does not lend itself to the perception that external efforts are targeted at ‘encouraging’ parliaments to go after the governments.

2.1.5 Knowledge Sharing and South-South Cooperation

Finally, global, national and regional trends have significantly encouraged parliamentary development programming over the last decade. Available accumulated experiences and resources have nurtured broader knowledge sharing structures such as on women’s issues, minorities and conflict prevention to name a few. Moreover, the impetus for knowledge sharing has also been accelerated by the multiple organizations, both global and region specific, that are focused on national legislatures and led to the proliferation of research and resources for parliamentary development. These organizations include for example UNDP, STAR-Ghana and the African Centre for Parliamentary Affairs (ACEPA).

The discussion of the factors above explains why the trends in parliamentary development have shifted towards the recognition of parliament as a political institution and deserving of support in a way that is different from the support to a ministry or other part of government. The trend was also backed by a proliferation and distribution of large amounts of literature and commentary on specific aspects of parliamentary programming including recommendations on operational and thematic approaches to parliamentary development. This, in turn, led to the coming together of parliaments globally and regionally to share experiences and learn best practices on institutional development. An international consensus on shared norms and standards by democratic parliaments thus emerged and formed the basis for identifying support to and evaluating the performance of national legislatures. Over time, parliamentary development has become crucial with the integration of international systems that have compelled states to face challenges in a globalized economy. Furthermore, chains of accountability have become diffused with decentralization, outsourcing and privatization contributing to an increased number of stakeholders. In an era of the sophisticated voter, citizens have become more discerning and as a result, are placing greater demands on members of parliament and their governments in which citizens are calling for a shield against international political and economic conditions. This trend has simultaneously triggered the requirement to scale up targeted (intelligent) assistance to parliaments.

3 Mapping institutional power within Parliaments

Parliaments are very complex institutions and one key problem of this complexity is understanding how a parliament is run. Usually, there is never one person in charge. Various institutional and political figures run different aspects of parliamentary business. So, although positions such as the Speaker or Chair will be formally responsible for procedure and maintaining order, they compete for influence with political party leaders, administrative figures such as the Clerk, and senior committee positions or other senior politicians with alternative power bases. This section examines how such a complexity impacts on any strategy to engage Parliament.

Parliaments are run by multiple actors with different political and institutional actors focused on different aspects of parliamentary business. The Speaker is primarily responsible for procedure and order although the occupant of the position competes for influence and control of the House with others such as political party leaders, administrative heads, senior committee persons, etc. although these matters are common to all legislatures they are more acute in parliaments with limited democratic traditions. Admittedly, traditions consolidate only over a long period of time. The early years of every parliament is often characterized by rowdiness and tumult. This is true even of the US Congress. However, over time members come to an agreement about the rules that govern the legislature.

Notwithstanding this perspective of parliament's historical path of development, parliamentary supports should be premised on the understanding that "parliaments are rarely monolithic or coherent institutions but are frequently in a state of flux as collections of competing of competing, and shifting sets of interests seek to shape how the institution is run and how takes (or avoids taking) decisions"¹. Even more potentially threatening to parliamentary development is that the "dominance of certain institutional figures over the running of parliament that undermines parliamentary performance across the range of its functions through patronage, control of procedure or manipulation of resources"². How these factors combine in any particular legislature varies from one to the other. However, in this chapter we will seek to describe a basis framework that enables us to identify key actors within the institution and how they exercise power and control. The first section of this framework will identify the key actors and the second section will examine their sources of influence. The actors can be divided into three distinct categories: (1) political party positions; (2) formal institutional and administrative positions and; (3) senior backbench and committee positions. There are three sources of their authority: (1) political power; (2) parliamentary procedure and; (3) control of resources. After we describe the actors and the ways in which their control distorts the performance of parliaments, we would conclude with the principal lessons to be learnt and how those lessons must influence any effort at designing and implementing parliamentary programs.

¹ Greg Power, *"The Politics of Parliamentary Strengthening: Understanding political incentives and institutional behaviour in parliamentary support strategies"*, Westminster Foundation for Democracy/Global Partners, 2011, p. 15.

² Ibid.

3.1 Key Actors of Influence in Parliaments

As stated above already, the key actors of influence in parliaments are (1) political party positions; (2) formal institutional and administrative positions and; (3) senior backbench and committee positions. We describe each of them briefly here before we look at the sources of their influence.

The political party positions include the President or Prime Minister, the leader of the majority or leader of government business in parliament, parliamentary party whips, Ministers and depending on the balance of power in the parliament some members of the opposition. The reason why the actors named here will seek to control the agenda and decision making process of parliament is that governments need parliamentary approval of decisions, spending and legislation to enable the government to function and deliver on its development objectives. In particular, the President or Prime Minister will have a keen interest in determining how parliament functions because they are interested in controlling not only the agenda of parliament but also how legislation is scrutinized. The President or Prime Minister is also likely to be interested in which MPs are appointed to what positions and in which committees in the legislature because of their desire to influence how the appointees function. The role of the Whip will usually be to implement the decisions through discipline, monitoring of MPs and providing intelligence on them. The impact of Ministers will occur through their participation in plenary debates, questions and committee hearings. The influence of the opposition, as stated already depends on the configuration and balance of power in the House.

The formal institutional and administrative positions usually include the Speaker, the Clerk or Secretary General. Undoubtedly, politics dominates the way in which parliaments are run. But the formal responsibility for parliamentary business lies with the Speaker. The Speaker's role is prominent in the visible parliamentary activity, the interpretation of the rules and in the sanctioning of errant MPs. However, the Speaker's prominence is also inherent in the unseen business of parliamentary organization such as deciding the schedule of parliament, the creation of committee structures, the appointment of MPs to committees and even, in some cases, the quality of their work. Although the Clerk is a less pivotal role the occupants of this position are increasingly playing significant roles in emerging parliaments as they are responsible for internal staffing and organization of the institution. In this way, the Clerk influences the way the rules and roles assigned are conducted in practice, the way committees conduct their business and even to the extent of determine committee staffing and resources as well as support to MPs in the performance of their responsibilities. The positions of the Speaker and the Clerk are often deemed to be independent and above politics. But in practice, the occupants of these positions play a decisive political role in the legislature.

The senior backbench and committee positions are often described as an amorphous-not-easy-to-define group. They do not normally seek out to play an overarching role in the business of parliament in ways similar to the roles sought by those with political party positions. However, they often seek to shape parliament and its work in discrete but significant ways. The performance of committees in most parliaments is uneven and inconsistent. A recurring factor in committee performance is related to the role of the chair of the committee. An organized chairperson can aggressively target and pursue issues of interest such as corruption as it occurred in Zimbabwe with the Energy and Mines committee under the leadership of a ZANU MP. Other committees such as rules and procedure committees, members' affairs committees and committees of the committee chairs tend to

be very significant locations of power often independent of the Executive. Because of parliamentary support projects each of these committees will have a vested direct interest in how the legislature is run and would earnestly seek to influence any changes or reforms that may be proposed.

3.2 Sources of influence: political power, Parliamentary procedure and control of resources

In the previous section above, we focused our attention on the perspectives of power that individual positions hold to influence the legislature. But the perspectives on power are insufficient to a fuller understanding of the functioning of the legislature. Rather, a complementary investigation into the sources of power will provide a complete grasp of how the institution is run. In order to do so the fundamental question that should be posed is – Why is it that the figures identified above have power and can use it to influence the behavior of MPs? Stated differently, it is critical to know what patron-client relationships exists that influence the way parliament is run. Or more precisely what sources of power underpin those patron-client relationships? In parliament, the answer to these questions can be located in three main sources of influence: political power, parliamentary procedure and resource control. Political patronage is cultivated and sustained usually by the Executive through a reward system that includes appointments to ministerial office, public bodies and committee chairmanships. In addition, the Executive’s control of money and how it is disbursed directly to MPs or constituency projects is another primary strategy for building and maintaining the patronage system.

The formal rules and procedures used to maintain order in Parliament and to sanction errant MPs are a source of strong influence especially in infant parliaments where there is no mastery of agreed rules and procedures. In addition, the power to change the rules of committees, determine their structure and pattern of business as well as the length of sittings are also sources of influence for the leaders of the legislature. Finally, the control of resources is an essential source of influence. The management of resources determine how for example, numbers of internal staff and committee enquiries. More importantly, the control of resources targeted at parliament is an essential source of influence. In the cases, where those resources are controlled from within Parliament as in most African countries in the last decade is crucial to managing staffing and spending.

In conclusion, the discussion in this section demonstrates that targeted technical approaches are not sufficient in themselves for parliamentary development programs. Rather, a deep understanding of the institution, its primary actors and how the influence the institution is critical to an effective development program.

3.3 Building programmes around how change happens in Parliaments

Parliamentary development, like most political change processes, is slow, and invariably short-term. Parliamentary reform is incremental, complex, messy and ultimately political. Yet most traditional parliamentary support still depends on technical interventions and the assumption of linear progress. As a result, there is a tendency to rely on the same methods irrespective of different political contexts or the distinct challenges that come with attempts to improve the performance of a parliament. This section argues that parliamentary reform is political and examines the factors that shape change processes in parliaments.

3.4 Challenges associated with political change

Greg Power argues that meaningful political change is a slow process, and invariably short-term interventions – no matter how well-funded - have limited effect. He notes that “parliamentary reform is incremental, complex, messy and ultimately political. Yet most traditional parliamentary support still depends on technical interventions, and the assumption of linear progress as a result”.³ Indeed, short term interventions rarely produce any desired results. A participant at an international conference in 2010 famously lamented that “What we need is less money, and more time.”⁴ Each Parliament around the world is unique and change happens differently in different Parliaments. This notwithstanding, parliamentary change is convoluted and rarely predictable and never fully meeting the expectations of any of the interested parties. Development is disjointed as members incrementally add new institutional mechanisms without dismantling preexisting ones which renders such development programming ever-ongoing and open-ended. Moreover, the interplay of coalitions that promote contradictory objectives produces institutions that are tense battlegrounds rather than stable, coherent solutions⁵.

3.5 Factors that affect Parliamentary changes process

In developing a strategy for engaging parliaments, factors that affect change in parliaments should be taken into consideration. This section highlights five of these factors.

3.5.1 Adopt a political approach

Any programme designed to support Parliaments must proceed with the understanding that parliamentary change will be haphazard and unpredictable. The institution of parliament is rarely amenable to neat designs or detailed reform plans. The interests of MPs change rapidly. In response, it is important to adopt a more political approach to parliamentary strengthening that recognizes that technical support must be complemented with an attention to the political nature of the Legislature.

³ Greg Power, “The Politics of Parliamentary Strengthening”, p. 37.

⁴ Ibid.

⁵ Ibid.

3.5.2 Synchronize Support with Parliamentary Cycle

In designing parliamentary support programmes, it is important to take account of the electoral cycle for a number of reasons:

First, initiate programmes at the beginning of the election cycle to take advantage of the four-year cycle for visible change to occur.

Second, in many emerging democracies, there is a high turnover of MPs at each election. While high attrition rates impede institutional memory, new MPs are also more likely to be enthusiastic about the opportunities to enhance their career through change. So there is an early opportunity to establish new patterns of behaviour and practices amongst MPs. Furthermore, incoming MPs may not have developed any vested interests or power base.

Third, it normally takes time for MPs to establish ways of working in committee, plenary and in constituency. As these patterns emerge, MPs will encounter difficulties in using parliamentary structures, rules and resources to achieve their objectives. For example, an effective committee depends on its members working towards common objectives regardless of political party. Programmes designed at the start of a new Parliament have a better chance of building collegiality between MPs.

3.5.3 Secure Institutional Memory at the end of the Parliament

To avoid the disappearance of the achievements of donor-supported programmes with outgoing MPs programmes need to identify and solidify potential sources of institutional memory that bridge the election period. The sources of institutional memory include the parliamentary staff who can be positioned as the ultimate source of independent and authoritative advice on parliamentary process to ensure smooth transitions between parliaments. Other sources of institutional memory will exist within the politicians themselves. For example, committees could be encouraged to draft reports on the activity during that parliamentary term, capturing the committee's activity over the course of the term, but also including their methods of work, enquiry techniques and job descriptions for staff.

In addition, at the end of a parliament MPs not seeking re-election are far more likely to support far-reaching parliamentary reforms, as they will have no vested interest in continuing current practice. And are therefore useful allies in building momentum for change in the new parliament or putting particular issues onto the parliamentary agenda.

3.5.4 Recognize Resistance to Change

Lyndon Johnson, US President (1963 and 1968) suggested that "You can put an awful lot of whiskey into a man if you just let him sip it. But of you try to force the whole bottle down his throat at one time, he'll throw it up." Similarly, parliamentary programmes need to be sensitive to resistance. The point of analyzing the institutional dynamics and the incentives that shape behaviour is to understand how 'ripe' particular proposals for reform are. A

political strategy for reform needs to be built from the attitudes and expectations of MPs themselves, and respond to issues as they arise.

3.5.5 Programmes driven by Outcomes

Critically, programmes should maintain a clear sense of what they are designed to achieve. Too often this obvious point is lost during the lifetime of a project. The initial analysis of a parliament might identify areas where support should effect change (for example, the improvement of financial scrutiny) and the means for delivering this (through the provision of training and support to MPs and staff, additional resources and the creation of a budget support office, etc.). But frequently process and outcomes are conflated, with donors measuring activities (e.g. the number of training sessions, existence of a budget office) instead of the impact they were originally designed to have.

This reflects, partly, a preference for quantitative measurements on the part of donors. It is more difficult to generate quantitative (or qualitative) measures of political change. But it is not impossible. The lack of such measures reflects the fact that donors have not much attention to effective monitoring and evaluation in the target programming area. The emphasis on 'impact' may change this. But it is currently hampering the potential effectiveness of parliamentary programmes. An outcome-driven approach would need a much greater degree of flexibility in the design and delivery of programmes, requiring coordinated interventions at different parts of the parliament, designed to achieve the same end.

Programmes need to be built around clear objectives that employ a flexible strategy to achieve those ends and exhibit a willingness to adopt alternative methods. Unfortunately, that is not the current approach.