



Comparative Assessment of Parliaments (CAP) Note

Legislative Oversight

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Abstract

The CAP Note focuses on the role of legislative oversight from various perspectives – historical, theoretical, conceptual and comparative. It opens with a discussion of the origin of the concept and its classical definition as interpreted by early philosophers such as Montesquieu and Mill. It then presents the more modern definitions and delineates between “strong” political versus “weak” administrative oversight. It then presents the different motivations and incentives for legislators to engage in oversight activities. It expands on the core question of oversight in a parliamentary democracy – where oversight is thought to be institutionally weaker than in a separation of powers presidential regime – elaborating the mechanisms by which parliamentary oversight is conducted and their efficacy. The bulk of the CAP Note presents a comparative survey of the major mechanisms for parliamentary oversight, followed by an assessment of the effectiveness of these tools, alongside a series of recommendations for improving legislative oversight and the practicality of implementing these oversight recommendations. It ends with an argument countering the common assumption that if we place democracies on an oversight continuum, we will see that on the weak side we find mainly parliamentary democracies while on the strong side are mostly presidential regimes – parliamentary democracies are not all clustered at the weak end but are spread out along nearly the whole scale, with a few even overlapping with some of the presidential democracies in the extent of legislative oversight.



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Introduction

The origin of legislative oversight can be traced back to ancient Greece, centuries before the first European parliaments were formed. Aristotle was the first to highlight the necessity of protecting public funds from embezzlement, the obligation to disclose all financial activity to the citizens of the city and the commitment to deposit copies of expense accounts where the public could view them. During the days of the feudal regimes – under which the first European parliaments were established – the approval of the representatives of the upper classes was needed in order to require them to pay additional taxes (beyond the regular compulsory taxes). The king’s need for this authorization played an important part in the formation of modern parliaments and in the development of their oversight role. Since then the oversight role has expanded to many other areas relating to governmental actions, as diverse and complex as they are.

The concept “legislative oversight” interested thinkers already centuries ago. In the 18th century, Montesquieu (1748) determined that the legislative branch in a free country should have the option to scrutinize in what way its laws were being implemented; this was the advantage of such a regime over the regimes in the islands of Crete or Sparta, where the Ephors [the elected officials in these regimes, who were aided by councils of elders] were not required to account for the way their government was run.

More than a century later, John Stuart Mill dealt with the issue in further detail and not only distinguished between the role of the government and the legislative branch, but also emphasized that the legislative branch’s job



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was primarily to oversee the government. Mill's (1861:104) definition applies today as well:

The proper office of a representative assembly is to watch and control the government: to throw the light of publicity on its acts; to compel a full exposition and justification of all of them which anyone considers questionable; to censure them if found condemnable, and, if the men who compose the government abuse their trust, or fulfill it in a manner which conflicts with the deliberate sense of the nation, to expel them from office ...

According to Mill, the representative body's role is to constrain the holders of high public offices who manage public affairs by voicing criticism or by withholding support.

Montesquieu and Mill recognized, therefore, the basic objectives behind legislative oversight – to shed light on the government's actions (transparency) and to hold it accountable to the legislature, and through it to the citizens (accountability). These objectives have not changed in the modern era, since one of the obvious conditions for a contemporary democracy to exist is for the government to accept responsibility for its actions, to explain what it is doing to the whole nation and to allow discussion and criticism of policy to take place freely (Jack 1985). This is in fact the essence of accountability – the government's agreement to account for its actions and to be examined by the legislature.

The Modern Function of Legislative Oversight: Definitions and Goals

Contemporary definitions of the term "legislative oversight" rely conceptually on the definitions of Mill and Montesquieu, and stem mostly from studies done on legislatures in the United States in the 1970s. They reflect a varied approach to the term, and demonstrate more than anything else its ambiguity. The most widespread definition was coined by Ogul (1976:11), an American researcher who studied the oversight function and its implementation in the United States (U.S.) Congress. According to his definition, oversight is, "behavior by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behavior". This wide definition, which has been adopted by many scholars, defines legislative oversight as an integral part of the legislature's operation, especially as activities that can be done overtly but also covertly.

There are other researchers who define the term "oversight". Their definitions are different because their perceptions of the term are different. One

5 GOALS

1. To see that the policy is implemented in accordance with intent;
2. To determine whether policy is effective, and its impact in accord with congressional standards;
3. To prevent waste and dishonesty and to assure efficiency;
4. To prevent discretionary abuse;
5. To represent the public interest by monitoring and constraining agency-clientele group relations.

definition is by Lyons and Thomas (1982:118) and according to it, “oversight encompasses all activities undertaken by a legislature to influence administrative behavior, during program implementation as well as afterwards”. A second definition is by Halpert (1981:479), according to which, “oversight comprises activity that forces some patterned response by executive branch officials”. Another definition provided by Aberbach (1979:494) describes oversight as, “Congressional review of the actions of the federal departments, agencies, and commissions and of the programs and policies they administer. This includes review that takes place during program and policy implementation as well as afterwards”. Shick (1976:125) defined legislative oversight as, “investigatory activity by Congressional committees... of past administrative actions”, and Johnson (1980:477) gave a very general definition – “monitoring of the bureaucracy by the legislature”. These differences are also reflected in the wide range of other words used in English to describe oversight: scrutiny, review, inspection, control, supervision and watchfulness.

The Senate Committee Report on Governmental Affairs (Rockman 1984:415) identified five goals for legislative oversight:

1. To see that the policy is implemented in accordance with intent;
2. To determine whether policy is effective, and its impact in accord with congressional standards;
3. To prevent waste and dishonesty and to assure efficiency;
4. To prevent discretionary abuse;
5. To represent the public interest by monitoring and constraining agency-clientele group relations.

These definitions characterize legislative oversight in the United States, and while they could suit a variety of democratic regimes, they best fit the presidential model since they were conceived through the study of the U.S. Congress and tailored to its measures, which are based on a separation of powers along with clear checks and balances. Another definition is needed that suits a parliamentary democracy, which is vastly different from presidentialism in the United States. Gregory (1990:64) supplies such a definition and thus completes the picture. According to his definition:

Parliamentary control may be used in at least four different senses. Two of them – relating to scrutiny and criticism –

may be described as “weak” senses. The other two – relating to exercise of power, in one case by means of specific instructions and in the other via the “law of anticipated reactions” – may be regarded as “strong” senses. The “strong” senses exercised by means of specific orders backed by the possibility of disciplinary and legal sanctions or retributive sanctions (de-selection, refusal to re-elect). The “weak” senses exercised by checking, verifying, examining, criticizing, censuring, challenging, questioning and calling for account.

Parliamentary oversight in its “strongest” sense is by definition *political* oversight; it is built into the parliamentary system and is inseparable from it. The significance of this is that the government emerges from within the legislative body, needs its confidence in order to stay in office, and can fall in a vote of no-confidence should a majority in parliament withdraw its support. “Weak” parliamentary oversight is by definition *administrative* oversight, and it includes all those regular and never-ending actions of investigation, examination, questioning and calls to account from the executive branch through varied parliamentary tools: committees, parliamentary questions, correspondence with ministers and debates.

Gregory argued that an analysis of Mill’s assertions concerning the role of the legislature shows that the English philosopher interpreted the term “oversight” mostly in its “weak” sense. The legislature’s role, according to Mill, is mostly to oversee, criticize, condemn, examine, ask questions and hold accountable, although he certainly also insisted on the role of expressing no-confidence in the government and withdrawing support from it – a role which is seen as parliamentary oversight in its “strong” sense.

Koura and Wiberg (1994) claimed, following Gregory, that parliamentary oversight is mostly “weak”, apart from the power to legislate – which can be seen as “strong” oversight. Yet, they stressed that those parliaments with a tendency to constantly scrutinize and criticize the activities of the executive branch and to hold ministers and their staff accountable for their actions will inevitably be perceived as “strong” parliaments despite the “weak” nature of their oversight.

The Motivations and Incentives for Legislative Oversight

This research is based on the premise that one of the most important roles of any legislature is to oversee the executive; and the central question is whether, and how, to improve its functioning in this role. However, one cannot ignore the fact that effective legislative oversight is not

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simply the result of the existence of different institutional tools, but is also the fruit of both the desires and the preferences of the legislators themselves. Any discussion of legislative oversight is thus incomplete if it does not address the personal motivations and incentives for legislators to engage in legislative oversight. At one structural extreme, a legislator elected from a national list in a parliamentary system with disciplined parties confronts an incentive structure that is far different from a legislator elected by a plurality of votes in a single-member district in a presidential system with parties that are not very cohesive or disciplined and where government is divided.

Lees (1977) stated that one of the most important factors affecting legislative oversight is the motivation of the legislators. Naturally, the desires and preferences of legislators to oversee the executive will be best expressed in a regime where they have a relatively high degree of freedom to act, their advancement does not depend on the party leaders and they are not bound by party discipline. This constellation can be found in a separation of powers presidential regime with non-cohesive political parties, such as the United States. Accordingly, the research literature dealing with the issue of congressional oversight stresses the link between legislative behavior and the motivations of legislators to monitor governmental actions. Nonetheless, even within the framework of a parliamentary regime, which limits the oversight capacity of the legislature by both structural and political means, the personal motivations of the individual legislators do have an effect on legislative oversight.

In general, we can say that the most common explanation in the literature for *diminished* legislative oversight is that the legislators do not gain significant political capital from supervision of the executive, and they might even embarrass themselves or their party. This should be coupled with the explanation that legislators have many tasks that do bring political capital, and thus are left with little time to oversee the executive. Rosen (1982) provided evidence that most legislators do not consider oversight as important as constituency service or legislation. Ogul (1976) thought that legislators do not perceive oversight as a pressing matter, and so they tend to neglect it. Mezey (1979) determined that legislative oversight does not have a significant impact on a legislator's chances for re-election, and thus it is not worthwhile to engage in it. Gray and Jenkins (1990) concluded that few political points are gained from monitoring the government, and therefore the time invested in developing the expertise needed for effective legislative oversight does not make sense. [In fact, they stated that for legislators to focus on oversight may actually damage their political career rather than help it.](#)

Moreover, as Rosenthal (1981) pointed out, legislative oversight only rarely achieves tangible results, such as financial savings or the cancellation of government programs. Furthermore, legislators prefer to focus on short-term activities with the potential for immediate reward. Legislative oversight is by its very nature a long-term task, which not only does not promise any immediate reward, it might not result in any reward at all. However, Rosenthal found that though the motivation of most legislators to oversee the executive is not high, a minority will still engage in legislative oversight – mainly out of a desire to increase knowledge, improve government performance and strengthen the legislature.

In summary, the motivation of legislators is very important when it comes to engaging in legislative oversight activities. If the political parties play a lesser role in the electoral fate of politicians, legislators will work more as individual actors, liberated from party discipline when it comes to exercising oversight. Moreover, the incentives to undertake activities associated with oversight are linked to the potential of personal gain vis-à-vis the legislators, particularly those activities that will help them get re-elected. Only in rare situations does evaluating the program or action of a government result in any type of prestige, so only in these exceptional circumstances can we assume that legislative oversight will be activated. Rockman (1984) expressed this view when he said that legislative oversight activity will be motivated in unique situations that ensure one-time publicity for legislators. However, we are interested in the circumstances where the legislator is not necessarily expected to gain publicity or any other personal benefit, and actually engages in the less dramatic, but equally essential, work of legislative oversight. In order to attract legislators to oversight activity, incentives such as effective legislative oversight tools need to be either created or further developed.

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Legislative Oversight in Presidential versus Parliamentary Democracies

The issue of parliamentary oversight in general is derived from the relationship between the legislative and the executive branches. In a presidential democracy based on strict separation of powers, the legislature draws its authority directly from the public and is usually independent and strong. In this model (represented by the U.S. Congress) oversight functions stand out in their relative strength as an inseparable part of the checks and balances system that characterizes presidentialism. In a parliamentary democracy, on the other hand, there is a fusion of powers. In this model the ruling principle is the parliament's supremacy over the government, which emanates from it and requires its support. In practice,

though, the government controls parliament through the integral (and disciplined) majority it has in the assembly and the committees, and such a structure greatly weakens the oversight function in parliamentary democracies. This does not mean that in parliamentarism there is no oversight of the executive branch. There are parliaments that oversee certain actions by the government more effectively, while others almost do not do so at all, or have very flawed oversight. The reasons for this difference are the institutional, structural and cultural conditions that characterize each state and affect the oversight activities in each parliament. Hence, there are factors that encourage more active oversight by the legislature in a parliamentary democracy and factors that impair this function, as will be seen later.

Before we move on to an in-depth investigation of legislative oversight in parliamentary democracies, we will briefly touch upon the issue of oversight in presidential democratic regimes. We begin by emphasizing that the academic literature addressing oversight in presidential systems focuses mainly on the U.S. Congress. Comparative analyses of other presidential regimes (mainly in Latin America), which differ – at times significantly – from the United States, almost do not exist; therefore, when discussing presidentialism we by necessity focus on the oversight function of the U.S. Congress.

Legislative oversight in the U.S. presidential system is highly institutionalized and clearly established in the Constitution, by special rules and through diverse mechanisms.

Congress has engaged in oversight of the executive branch (cabinet departments, agencies, the presidency) since it was established, in order to prevent waste, fraud, arbitrariness and abuse; to improve the efficiency, effectiveness and economy of government operations; to ensure executive compliance with the law; and, to evaluate executive performance. Congress's oversight function takes many forms: committee inquiries and hearings; formal consultations with and reports from the President; advice and consent by the Senate for presidential nominations and for international treaties; House and Senate impeachment proceedings; informal meetings between legislators and executive officials; studies by congressional committees and support agencies such as the Congressional Budget Office (CBO), the General Accounting Office (GAO) and the Congressional Research Services (CRS) – all of which are appendages of Congress and can play a central role in the conducting of legislative oversight.

The authority to conduct oversight is granted to the Congress by the U.S. Constitution, by federal laws and by several statutory provisions. In the financial arena, the Congressional Budget and Impoundment Act of 1974 enhanced the legislative branch's capacity to both shape the budget and strengthen oversight.

The description above indicates that legislative oversight in the U.S. presidential system is highly institutionalized and clearly established in the Constitution, by special rules and through diverse mechanisms. The U.S. legislature entrusts the committees – its most important oversight tool – with the obligation to carry out ongoing, thorough and comprehensive oversight and grants them very wide powers, starting with the ability to carry out hearings and investigations of government programs and ending with the capacity to cut, or even cease, the budgets of executive programs. In addition, the Inspector General and Chief Financial Officers are stationed on behalf of the Congress in cabinet departments and larger agencies, in order to monitor the operation of the executive branch and provide objective information to the legislative branch. Without a doubt, these mechanisms and powers set the U.S. Congress apart from the legislatures in parliamentary democracies, both in the potential to oversee the executive and in the actual performance of legislative oversight (see: Aberbach 1979, 1990; Ehlke 1986; Kaiser 2001; Lees 1977; Mayhew 1991; McCubbins and Schwartz 1984; Ogul 1976; Ornstein and Mann 2006; Plesser 2007; Rockman 1984; Rosenthal 1981; Shick 1983).

Even though a look at the available research shows that much attention is devoted to the theoretical aspects of oversight in the context of the U.S. Congress, it is still possible to find research that deals with the relations between the branches in parliamentary democracies, as well as research that indirectly addresses the theoretical aspects of parliamentary oversight (Blondel 1973; King 1976; Suleiman 1986, among others).

Among these studies, it is important to mention Mezey's (1979) research, which divided legislative bodies into five categories: active legislatures, vulnerable legislatures, reactive legislatures, marginal legislatures and minimal legislatures. The active and vulnerable legislatures operate in presidential democracies, based on a separation of powers, and thus these legislatures are able to effectively oversee the executive branch, especially through their committees. The reactive legislatures, which usually operate in parliamentary democracies, have limited oversight capabilities compared to the previous two because the government and its leader, who act through a disciplined majority party (or coalition), control the legislature. One cannot attribute effective legislative oversight to the marginal and minimal legislatures. Mezey felt that it was possible to detect signs of both weakness and strength in addressing the issue of oversight in parliamentary democracies. Weakness stems from the government usually enjoying a loyal majority of members of parliament, which gives it the ability to limit the effectiveness of legislative oversight. Strength, on the other hand, comes from the parliament's ability to force the government to be accessible to it, to compel it to answer questions from legislators and to participate in legislative debates.

If strong oversight is inherent to presidential democracies, what can be done to strengthen legislative oversight in parliamentary democracies?

In short, when comparing parliamentary and presidential democracies, most researchers conclude that oversight in a parliamentary democracy is relatively weak and usually does not come close to the infinitely stronger oversight evident in a presidential democracy. So the question is: If strong oversight is inherent to presidential democracies, what can be done to strengthen legislative oversight in parliamentary democracies?

Regime Variables Affecting the Extent of Legislative Oversight in Parliamentary Democracies

The legislature in a parliamentary democracy is equipped with numerous tools for overseeing the executive branch. Some researchers argue that the number of such tools in this type of regime does not fall short of their number in a presidential democracy (Pelizzo and Stapenhurst 2008). However, the regime variables are different in a parliamentary democracy, for example, the party system, party discipline and the character of the majority on which the government relies tend to limit both the extent of oversight itself and its strength, despite the many existing tools. Therefore, the ability to topple the government in a vote of no-confidence (*political* parliamentary oversight) is emptied of all practical meaning if the government is made up of one party that won a majority of the seats and is based on a stable, loyal and disciplined majority. However, in a coalition government the potential for this form of oversight increases. The reason for this is that the government, made up of a number of parties, each with its own agenda, is less stable. Due to the potential power of a no-confidence vote, parliamentary democracies where coalition governments are common (Germany, Spain, Belgium, Israel and several Eastern European countries) have adopted the constructive vote of no-confidence, which means that it is possible to topple a government only if there is an alternative government that can muster a parliamentary majority. This measure increases the government's stability but also dulls the strength of *political* parliamentary oversight. Yet use of this "doomsday weapon" is ultimately quite rare.

Administrative parliamentary oversight – the various, ongoing day-to-day activities of overseeing the government's actions (parliament's "conventional weapon") – is also very limited by the regime variables mentioned before. Norton (1998) argued that despite the fact that legislatures in parliamentary democracies have the formal power to say

3 ARENAS

The committee arena:
permanent committees,
sub-committees, ad-hoc
committees and
committees of inquiry

The plenary arena:
questions, interpellations
and motions for the
agenda

Other arenas: state audit
and the state budget

“no” to governments, they will usually refrain from doing so due to the strength of the party system. Members of parliament are generally not elected as independent agents but rather under a party label, and their actions both in the plenary and in the committee arenas usually exhibit loyalty to their party and adherence to party discipline. However, the wide variety of tools through which oversight can be exercised, and the frequency of their use over time, still allows the legislature to reign in the government’s power.

In light of the above, we can conclude by saying that a strong party system, strict party discipline and a loyal majority on which the government rests are variables which limit the strength of legislative oversight, in all its forms, in a parliamentary democracy.

Institutional Tools for Parliamentary Oversight

Scholarly work shows a variety of tools available to the legislature for oversight of the executive branch. The most common of these are to be found in three arenas:

- The committee arena: permanent committees, sub-committees, ad-hoc committees and committees of inquiry
- The plenary arena: questions, interpellations and motions for the agenda
- Other arenas: state audit and the state budget

The Committee Arena

The main arena where ongoing legislative oversight takes place is in the committees. It is in the committees, rather than in the plenary, where more efficient and serious work is possible, where a type of “political trading” takes place – cross-party cooperation and the exchange of information (Hazan 2001; Lees and Shaw 1979; Mattson and Strøm 1995). The committee structure is usually derived from the parliament’s rules of procedure; they act on behalf of the parliament, under its authority and according to the responsibilities given to them.

Lees and Shaw (1979) defined the five major roles of committees: legislation, budgeting, inquiry, oversight and parliament management. The most important of these roles of parliamentary committees, according to

them, are decision-making regarding legislation and oversight of the administration. A comparative study of European legislatures concluded that in 16 out of 18 countries the parliamentary committees dealt a great deal with legislation and were also involved in administrative oversight (Mattson and Strøm 1995).

Parliamentary committees evolved over the years in different ways and under different names. Some are quite universal (with certain variation), while others are unique to one parliament or another. It is common to classify them into two main types: permanent committees and ad-hoc committees (Olson 1994). Permanent committees exist in most parliaments in western democracies. Their responsibilities, roles and size are usually determined in advance, and most of them deal both with legislation and with the examination of the government's activities. As to their number, in a large majority of the cases parliaments have a single permanent committee that parallels each government ministry; in a minority of countries, the numbers of committees and government ministries do not match.

Ad-hoc committees are appointed to examine issues of interest that are on the public agenda and that members of parliament deem worthy of particular examination. The responsibilities of ad-hoc committees are defined by the legislature, and they disband when their task is completed or at the end of a legislature's term of office prior to an election. When it comes to legislative oversight, committees of inquiry stand out the most as they are appointed for a limited time in order to examine a failure connected with governmental action or an action by one of its officials, and they are disbanded immediately after completing their task. In some legislatures, these committees have the authority to subpoena witnesses and to compel them to show any requested documents. Such committees, in different variations, operate in many legislatures. Another type of ad-hoc committee is the special committee. The structure of such committees and the regulations regarding their establishment are different from the committees described above, although their task is relatively similar – examining issues of public interest rather than governmental misconduct.

In general, it can be stated that in parliamentary democracies ongoing oversight of the government and the public administration takes place in the permanent committee arena, but its effectiveness varies between countries. The standing committees in the British House of Commons are an example of a less efficient arena of legislative oversight of the bureaucracy, especially when compared to the permanent committees of the German *Bundestag*, which show vigorous and efficient oversight in a significant number of fields. Committees of inquiry are also arenas for legislative oversight on issues of public interest in various parliaments,

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although this oversight tool is naturally far narrower and is limited to the examined subject only.

The Plenary Arena

Questions and interpellations

Questions are another common oversight tool used by the legislature, especially in parliamentary systems. The technique of questioning ministers is very old and probably originated in the 18th century in the British House of Lords, from which it spread to parliaments around the world. The motives for posing parliamentary questions to the government are many and varied, and include: a request for information; pressure for action to be taken; a demand for information from ministers regarding controversial policy areas; attacking ministers in a difficult political situation; demonstrating concern for constituents' interests; building a reputation on certain issues; forcing a compromise on the government; stalling government actions; creating an element of legislative excitement and drama; and advancing personal notoriety. Questions demand that the respondent provide official and valid information on government actions, they can enrich the opposition members' knowledge and can ultimately contribute to the government's accountability both to parliament and to the public (Cole 1985; Wiberg 1994).

Two common forms of questioning are questions and interpellations:

- a. **Questions:** These include both oral questions brought forth during permanent questioning periods and written questions which are not asked or discussed in the plenary. Questions are generally short, concern a specific issue and can be asked orally (and in some parliaments must be submitted in writing). They are mainly asked during a particular time allocated to them called "question time". Oral questions are answered orally by the minister in charge or by another member of the government, while written questions are answered in writing only. In some cases (such as Australia, Canada, Finland and Sweden) raising spontaneous questions is permitted, while in most other cases (such as Britain, Germany, Ireland and New Zealand) legislatures do not allow the introduction of spontaneous questions in order to enable the executive branch to prepare appropriately.
- b. **Interpellations:** These represent the more demanding form of questions asked by members of parliament because they deal with fundamental subjects that lie within the general public interest, they are wider and encompass more, and they initiate broad and deep discussion in the legislature. Interpellations are submitted in writing to the speaker, who passes them onto the relevant minister, and are de-

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Motions for the agenda are a tool used by members of parliament in order to initiate a discussion in the legislature on an issue of public interest that requires a reaction from ministers, parties or members of parliament.

signed to achieve three goals: to get information from the government concerning an issue relating to the general interest and of public importance, which the initiator thinks the public ought to be made aware of; to initiate a discussion within a reasonable time and in an organized procedural framework in which the initiator, the minister in charge and additional members of parliament can express their opinions; and to pose the interpellation as an informative act without taking further action or calling for an investigation of the government's responsibility (Wiberg 1994).

Most legislatures in parliamentary democracies use the tools for questioning ministers extensively. Parliamentary questions also serve as a tool for relieving pressure and “releasing steam” in the political system. However, it should be noted that the techniques and the procedures with which this oversight tool is implemented are different from country to country (Bruyneel 1978; Chester and Bowring 1962; Damgaard 1994; Franklin and Norton 1993; Martin 2011; Mattson 1994; Rasch 1994; Russo and Wiberg 2010; Wiberg 1995).

Motions for the agenda

Motions for the agenda are a tool used by members of parliament in order to initiate a discussion in the legislature on an issue of public interest that requires a reaction from ministers, parties or members of parliament. A motion for the agenda is defined as a formal motion submitted by a member of parliament (MP) during a parliament plenary discussion; it deals with the topic being discussed, and it demands action by a minister or by MPs (Robert 1976). The process for motions for the agenda exist in different European legislatures, but the nature of the process, its objectives, and the procedures it entails are quite different across countries. In Israel, for example, proposing a motion for the agenda is a process that can be used by an MP in order to raise a discussion that is not connected to legislation, and is defined as “a request to include in the parliament's agenda a certain topic”. Therefore, it can be seen as either a means for criticizing the government or for publicly voicing an opinion.

Other Arenas

State audit

State audit is the most professional of the oversight tools of the executive branch.

It is a managerial function at the highest level of the state administration, with the main task of assuring accountability for the spending of public funds to the legislature as well as to the public (Geist and Mizrahi, 1991).

Accountability and transparency are essential foundations of a democratic regime. The state audit institutions contribute significantly to these principles of government responsibility because they are very familiar with the government's actions and they have unobstructed access to data, documents and officials in government offices. This free access enables them to provide the legislature with reliable and objective information concerning the government's ongoing activities, and the government plans and initiatives that have already been implemented.

A comparative global overview shows that in most cases state audit does not belong to any of the three branches of government. In a few democratic countries state audit belongs to the executive branch, but its reports are submitted to the legislature, while in others it is an appendage of the legislature itself. The most common model in Europe is an independent state audit institution, which does not belong to any of the branches of government – although in this case its reports are intended for the legislature. The key to continuous, ongoing and objective oversight by the state audit institutions is independence from and non-reliance on the executive branch – the body to be audited. And, indeed, in many countries efforts have been made to ensure the statutory independence of state audit through a series of rules and laws.

In most countries, state audit has close relations and a complementary role with the legislature, and especially with the Public Accounts Committee. Strengthening these ties means that members of parliament will have expanded knowledge of the supervised subjects and be able to fulfill their oversight task more effectively. A report published on the relations between top state audit institutions and their legislatures in 14 European countries showed that the legislature was most effective in its oversight role when it used and based its activity on the work of the state audit institutions. State audit is also more effective when the legislature provides a platform for both the presentation and the public discussion of its findings (Galea and Miroslaw 2001).

State budget

The state budget is one of the most important oversight focal points in a democratic regime. This is an extremely important and vast subject which is impossible to address within the general framework of this overview of legislative oversight. However, we will address it briefly due to its importance.

The state budget determines the financial framework for the government's operations, and regulates, for a defined period, the state's revenue sources and expenditures. The roots of the modern budgetary institution go back to the days of Aristotle, and more so to medieval England. The basic principle of the state budget is limiting government activity to the amounts and needs set and authorized by the legislature. In this regard, John Stuart Mill (1861) argued that the task of determining taxation is the primary role of a representative assembly. However, in a parliamentary democracy the legislature does not take upon itself the preparation of the budget. It is required only to give its approval, and its only power is to refuse to do so. The government's obligation to manage its operations, at least nominally, within the budgetary framework has thus become the most prominent example of the executive branch's subordination to legislative oversight.

A study conducted by the World Bank and the Inter-Parliamentary Union in 83 countries showed that legislatures in parliamentary democracies are mainly involved in approving the budget, and are much less involved in its preparation (Olson, Pelizzo and Stapenhurst 2004). This and other studies show that Britain, Canada, New Zealand and Singapore are all examples of parliaments that are characterized by approving government budgets with only limited involvement in their preparation, while the German and Swedish parliaments stand out as unique in the extent of their involvement in the design and approval of the budget, especially due to the reforms they made in this field in the '90s.

The Effectiveness of the Main Legislative Oversight Tools in Parliamentary Democracies: An Empirical Comparison and Recommendations for Improvement

Legislatures in parliamentary democracies differ in many parameters, among them their ability to implement strong and efficient oversight. A few legislatures are known to efficiently oversee certain activities of the executive branch, while others are known to oversee it hardly at all. The reasons for this difference, as has been mentioned, are not only based on the type of the regime, but also on institutional, structural and cultural variables that characterize each country and that affect the oversight activity undertaken by each legislature. The following overview addresses two main oversight mechanisms available to legislatures. The presentation of each tool is accompanied by empirical data from various countries. We then attempt to generalize the necessary condi-

tions for strengthening the effectiveness of legislative oversight in parliamentary democracies based on the numerous examples.

Committees

Comparative and empirical studies in the field of legislative committees allow us to classify them according to the strength of their oversight capabilities, among other things. The following examples are three cases of how the committee arena in the lower house of the legislature carries out its oversight role: a strong committee system that oversees the government relatively effectively; a committee system that underwent reforms that improved legislative oversight, but only to a certain extent; and a committee system where reforms improved the situation compared to the past, but ultimately legislative oversight remained relatively weak.

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Germany – A relatively strong committee system in terms of legislative oversight

The permanent committees of the German *Bundestag*, which are parallel to most of the federal ministries, are well known for their professionalism. Since the reforms of 1969, the role of the committees was expanded beyond examining bills and they were authorized to discuss other matters as well, which enabled them to emphasize oversight and policy examination. Most of the permanent committees in Germany have a support staff and researchers available to them. The committees tend to produce very high quality reports that detail the examined subjects and the results of the examination. Many of the reports are discussed in the plenary, and the in-depth discussion gives the committees the necessary public exposure. Moreover, the MPs, to whom the reports are submitted, value them and rely on the information contained within them due to the committees' ability to subpoena witnesses, among other reasons. Furthermore, the committees have a large budget at their disposal for employing experts and external advisors to help them do their work. These characteristics together give the permanent committees of the German *Bundestag* the tools to enforce oversight effectively. Saalfeld (1998) claimed that the status of the *Bundestag* committees (largely independent in setting the subjects on their agenda), their manner of working (many of their decisions are made on a professional basis with cross-party cooperation between members) and the expertise their members have developed in the various subjects strengthen the *Bundestag*'s oversight capability over government actions.

Britain – A committee system with a partially successful reform of legislative oversight

The British parliament has for hundreds of years served as an example of an arena completely ruled by the government, which traditionally objected to establishing independent and professional permanent committees. As part of the parliamentary reforms of 1979, a system of permanent committees (which are called “select committees”) was established in the House of Commons and was given the mandate to examine the expenses, the management and the policies of government departments. Additionally, they were given the authority to employ experts to assist with technical and professional issues. Giddings (1994) argued that these committees brought about an increase of parliamentary oversight, a deepening of the debate on public policy and an enlargement of government accountability to parliament. They were accepted as partners in the exchange of information and subjected the public service to ongoing scrutiny. Jack (1985) claimed that these committees ultimately forced the government to explain its policy and to release information, both of which rarely occurred prior to the reforms. Cranmer (2002) assumed that the British parliamentary committees did manage to establish a tradition of successful oversight of the government due to their ability to conduct public investigations, which put officials and ministers who appear before them under increased pressure to tell the truth, to enable the public to be a part of the oversight process and to locate problems that the government misses from time to time. He even claimed that the committees are sometimes able to make a significant difference. For example, in the early 1990s the environment committee reached a conclusion, after a long series of investigations, that the government should be more involved in setting environmental regulations, and therefore pushed for the establishment of an agency for the protection of the environment along the lines of the American model. Following the pressure exerted by the committee, the government passed the Environment Law in 1995.

Despite this, most of the permanent committees in the British House of Commons do not have the authority to summon witnesses or documents. Moreover, they are not autonomous in setting their agenda; and even though their reports are short and concise, they are not necessarily discussed in the plenary and the government is allowed to reply to them in writing, which minimizes their effect (Hazan 2001). In other words, despite the improvements described above, the British government still holds an extensive amount of power vis-à-vis the committee system, and in terms of legislative oversight of the executive there is still a clear imbalance of legislative-executive relations.

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In addition, it seems that the system of the select committees has not changed substantially since 1979, apart from procuring additional staff and mirroring organizational changes as ministries have been created or merged. However, since 2010, the chairs of these select committees have been elected by the entire House in a series of secret ballots, following a motion to approve the allocation of chairs to each main party (to ensure that the second and third parties get more or less their fair share of chairs). For example, it was decided that the Treasury Committee had to be chaired by a Conservative, but the entire House could vote by secret ballot to choose between two candidates. Moreover, a number of other procedural changes and reforms took place, including a provision for evidence-taking hearings by each legislative committee created to debate the detailed line-by-line examination of a particular bill (personal exchange with Liam Laurence Smyth, Clerk of the Journals, British House of Commons, 21 June 2011).

Ireland – A relatively weak committee system in terms of legislative oversight

The committees of the Irish *Dáil* were for many years on the opposite pole from the German *Bundestag* committees (O’Halpin 1998). Until 1978, these committees were used only to manage affairs of the legislature itself or for disciplinary issues, except for the Public Accounts Committee whose role was to examine the financial administration of the government (in a relatively random and shallow manner). Even though a reform of the committee system was on the public agenda for many years, it was blocked by the strong majority party in Ireland (*Fianna Fail*), which feared that a reform of this kind would weaken the governments it led. In 1978, a cross-party concern in Ireland regarding the lack of oversight of the large industrial sector in the country brought about the establishment of a committee to examine the organizations funded by the government. Subsequently, the first attempts at building a substantial system of committees were made between 1982 and 1987, when *Fianna Fail* was not in government. Despite these efforts, none of the ten committees that were established dealt seriously with oversight of government policy, and each had little influence. In 1987, with the return of *Fianna Fail* to power, the activity of most of the new committees was stopped. Until 1992 there were no significant developments in the area of the committees, and only from that year on – again following coalition changes – did the committee system come to life again (Martin 2010). Five new committees were added, first and foremost the Committee for Foreign Affairs, which started examining government actions.

O’Halpin (1998) thought that from the moment that the committees were given significant budgets, better administrative support and research advisors, oversight of the administration improved. However, over a decade after the reform in the committees of the Irish parliament, MacCarthaigh (2006) concluded that its success was very limited, since ultimately the committees did not change the balance of power between a strong executive branch and the weak legislature. Martin (2010) was a little more optimistic. He observed that the *Dáil* committee system has evolved significantly since the 1980s. While the trajectory has not always been in the direction of a stronger committee system, the overall trend has been towards establishing a more significant set of parliamentary committees. Nevertheless, he stated that it would be misleading to characterize the *Dáil* committees as being powerful relative to the committee systems in other legislatures.

Recommendations for strengthening the committees and their oversight role

From the overall empirical evidence, and from these three specific examples, researchers studying parliamentary committees have concluded that there are a number of essential conditions for strengthening committees in general, and their ability to oversee the executive branch in particular (Friedberg and Hazan 2009; George and Morgan 1999; Hazan 2001; Lees and Shaw 1979; Mattson and Strøm 1995; McGee 2002; Mezey 1979; Ogul 1976; Strøm 1998). Below is a series of recommendations, based on the conditions delineated in the scholarly literature, for improving the oversight role of legislative committees:

1. **Permanent committees.** In every legislature there is a certain mixture of permanent and temporary committees. The more permanent committees there are – with powers anchored in the parliamentary rules of procedure, or even in laws, and which are reestablished and continue meeting after every election – the stronger they and their oversight role can be. Hence, the recommendation is to establish a system of mostly permanent committees in the legislature, which meet during every legislative term of office and whose responsibilities are anchored in legislation and in the rules of procedure.
2. **Correspondence between committee jurisdictions and government ministries.** The existence of such a correspondence increases the committees’ ability to oversee the executive branch because it means that they do not oversee too many (and often different) fields of government activity, and their members can specialize and acquire expertise in the field of one ministry. Therefore, it is recommended

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to structure (or restructure) the committee system so that it corresponds as much as possible to the ministerial portfolios.

- 3. Appropriate resources, obtaining information and specialization.** In order for the committees to be able to carry out thorough investigations and to effectively oversee the executive branch, they must receive objective information from impartial experts, from unbiased professionals and from independent parliamentary information centers. Only committees with a high level of expertise, who enable their members to specialize in their specific fields, who know what to look for and which questions to ask, are better able to oversee and restrain the government. The recommendation is, thus, to augment the professional support of the committees by significantly increasing committee budgets and staff.
- 4. Significant seniority and experience.** In order to oversee the executive branch more effectively, it is recommended that the committee members have appropriate experience and parliament seniority. Experience contributes to expertise and increases professionalism in the committee's work. Consequently it is important to steer MPs with experience in specific areas to the relevant committees, and to provide incentives for those MPs who already serve on committees to extend their membership in the committees in which they have gained knowledge and experience.
- 5. Well-worded conclusions with legal standing.** The committees' conclusions/reports are the final result of the oversight process. If they are sub-standard (too general, too vague, do not demand the minister to make corrective action or to issue a report, do not set a time frame) or lack a legal status that forces the ministers to react to them within a set period of time, it is easier for the executive branch to ignore them and it degrades the quality of oversight by the legislative branch. With this in mind, the recommendation is to institute clear criteria for committee conclusions/reports in order to ensure that their phraseology does not facilitate disregard by the executive branch, and to grant the committees' conclusions binding legal status, which will obligate the ministers to report the steps that they took and will allow the imposition of sanctions against the ministers for non-compliance.
- 6. Monitoring the implementation of committee recommendations.** The success of the committees' oversight activity is largely dependent on their ability to monitor government activity regarding the implementation of their recommendations. Indeed, follow-up activity represents the final link in the chain of oversight. No follow-up debate

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means that the oversight process was cut off. Due to this, it is important to both give the committees the ability to monitor the implementation of their decisions and recommendations, and to obligate them to do so.

7. **Granting the committees the authority to compel witnesses to appear before them and present documents.** The purpose of this authority is to empower the committees to obtain reliable information from public servants and from civilians in order to improve their oversight capability. Committees must be granted the authority to obligate/subpoena public servants and civilians to appear before them (within the framework of a hearing), and to present all relevant information and documents to the committee members. Also, it is important that individuals who appear before the committees be required to submit a written document in advance, to better prepare the debate and to streamline the oversight task of the committee. It is also necessary to provide the committees with independent legal assistance in questioning witnesses.
8. **Reducing the control of the party over its members in the committee.** As a rule, MPs are appointed to committees according to the principle of proportionality, reflecting their party's representation in the legislature. The more a party is limited in changing/removing committee members at will, the stronger the committee will be, and its ability to oversee the executive branch will grow. The recommendation on this issue is to limit the ability of parties to change/remove their representatives assigned to a particular committee.
9. **Control of the agenda.** The smaller the number of actors who can affect the committee's agenda, the more autonomous it becomes and the more effective is its ability to oversee the executive branch. It is, therefore, recommended that the parliamentary rules of procedure grant the committees the ability to control their own agendas (deliberation of bills such that the plenary is unable to withdraw them; the right to initiate discussions in fields under their jurisdiction; the right to decide when to present a report to the plenary). In this way it will be possible to minimize the influence of external actors on the committees.
10. **Selective closure of committee debates to the media.** When all committee debates are open to the media, the ability to oversee the government is reduced because although it sheds light on government activities – an intrinsically important part of the oversight process which must not be overlooked – it also enables the parties to easily monitor their committee members and enforce rigid party

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discipline on them when necessary. Moreover, the committee debates can often become an arena for elected officials to battle over the attention of the media, using it as a resource for self-promotion and a focal point for bargaining over rather narrow interests, often at the expense of more significant parliamentary work in general and legislative oversight in particular. Hence, the recommendation in this respect is to bar the media from committee debates, but on a selective basis.

11. **An optimal number and size of committees alongside limiting membership of legislators to one or two committees.** As a rule, it can be said that when the number of permanent committees is neither too large nor too small (between 10 and 20), when the number of members in each committee is also neither too large nor too small (again, between 10 and 20), and when legislators are members of only one, or at most two committees during their term of office, the probability that the committees will gain expertise and professionalism in their field grows, as does their oversight capability over the executive branch. In light of this, it is important to establish a system of 10 to 20 permanent committees, each with 10 to 20 members. Also, it is recommended the legislators be appointed to one committee or to two at most, during one term of the legislature, in order to enable them to concentrate on more specialized and more specific fields.
12. **The authority to establish sub-committees.** If this authority is granted to the committee, the sub-committees could establish smaller forums than that of the full committee to investigate more thoroughly a specific subject within the committee's jurisdiction. Membership in a sub-committee enables members to specialize in a specific subject, which strengthens the committee in general as well as its oversight capabilities. It should be mentioned that the intent is not to have an unlimited number of sub-committees, since too many sub-committees can paralyze the work of the committee. Thus, it is recommended that the parliamentary rules of procedure authorize each of the permanent committees to establish a limited number of sub-committees to deal with important subjects within its sphere of responsibilities.

The Public Accounts Committee – A special committee in the field of legislative oversight

The Public Accounts Committee (PAC) is one of the institutional ways in which the legislature attempts to ensure that the government is held

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accountable both to it and to the public. In order for the PAC to function properly and fulfill its mission, it needs reliable, objective and professional information with which to analyze and assess the various government activities. In most democratic countries, this information is provided to the PAC by the office of the State Auditor/Comptroller. The first PAC, and the model for committees of this kind in many legislatures, was established in the British parliament in 1861 in order to serve as an oversight mechanism over the designation of public funds. Today such committees operate in most countries (under different names), although their powers, responsibilities and procedures differ from country to country.

A comprehensive study conducted by McGee (2002) and the Parliamentary Commonwealth Association of PACs in 70 legislatures found that they indeed assist the legislature in holding the government accountable to the public by examining (through oversight reports) public expenditure. These committees can be responsible only for examining the financial issues that the legislature or the State Auditor referred to them (responsibility is thus limited to financial oversight), or they may also examine and evaluate government programs and the goals they achieved. They can also examine, on behalf of the legislature, state audit actions, survey its annual oversight plan and provide their own suggestions. Their membership usually reflects the legislature's political composition, in most countries their chair is a member of the opposition and their working practices vary across countries (frequency of meetings, appearance of the State Auditor in debates, regulations for reporting to the legislature).

Strengthening the PAC and the State Audit institution can improve legislative oversight of the administration. The following recommendations, based on the scholarly literature, can contribute to attaining this goal:

1. **Allocating appropriate resources.** The PAC and the State Audit institution must be provided with sufficient funds for appropriate training and development of the necessary expertise for conducting oversight effectively.
2. **Assurance of the State Audit institution's independence.** The independence of the state audit from the executive branch is an essential condition to enable it to function properly and without bias (for example, by allowing the legislature to authorize its budget).
3. **Sharing of information with other committees.** The PAC should be provided the means with which to exchange ideas with other

committees and even similar committees in other legislatures (so as to be up to date with new practices in its field).

4. **Strengthening the committee's reputation among the legislators.** The PAC must be seen as a prominent and important committee, and senior opposition members should participate in its activity.
5. **Seniority and experience.** Members of the PAC, especially its chair, should have suitable experience and seniority in the legislature. The chair should also be a member of the opposition.
6. **Monitoring activities.** The committee should continuously monitor the implementation of its recommendations.
7. **Distribution of State Auditor Reports among the committees.** The PAC should serve as a comprehensive committee that will distribute the State Auditor's Reports for deliberation among the permanent committees that are responsible for the subject matter in question, and coordinate the overall process rather than debate all of the subjects. The State Auditor should also be able to offer his services to the other committees as well.

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A study found that the success of PACs in a country depends first and foremost on its responsibilities; it is important that they have the formal mandate and the freedom to pick the subjects to investigate. Furthermore, they have to be able to investigate both current and past government spending, and to check whether the government did in fact take measures to implement the PAC's recommendations (Pelizzo *et al.* 2006). However, researchers believe that the success of PACs is not solely dependent on their formal responsibilities, but also on the behavior and performance of their members. The research shows that the efficiency of the committee's work grows when its members prepare themselves for debates and study the subject under discussion. Three additional variables can improve the committee's work: appropriate professional assistance, cross-party cooperation within the committee (decision making based on the issues rather than on party affiliation) and comprehensive yet topical media coverage, and derived from it – public involvement in committee affairs.

Finally, before concluding our discussion of committee recommendations, we should note that there are sometimes contrary arguments, or alternative perspectives, that can't be dismissed out of hand. For example, it is not beyond dispute that it is a good thing for the organization of parliamentary committees to parallel that of government ministries (recommendation 2 for improving the oversight role of committees in general). There used to be a line of argument that such an arrangement

increases the risks of what were called “iron triangles” in which a ministry, its corresponding parliamentary committee and the interested groups might, over time, develop a closed policy system that could be detrimental to national interests, especially if the members of that committee were also group members or if they represented constituencies in which those interests dominated (e.g., an agriculture committee composed primarily of farmers or farming district representatives). In other words, while seniority and tenure on a committee tend to increase its expertise and capacity for influence, they also can limit openness to new and different perspectives on the policies for which committees are responsible. Another example concerns media access to committees (recommendation 10 for improving the oversight role of committees). If parliaments have few means to compel governments to implement oversight recommendations to which the governments object, then publicizing the basis for those recommendations may be the best way to prod government to act on them. That is, the effectiveness of oversight depends on media attention that prompts public calls for change. The closing of committee deliberations can thus be self-defeating. These contrary arguments have been taken into account, but it is our opinion that our concerns are paramount and overcome the alternative arguments. In these two particular examples, the existence of effective legislative oversight that is hamstrung by vested interests is still better than inefficient oversight, and opening committee debates can – based on the political culture – be more self-defeating for legislative oversight than selective access to the more professional work and output of the committee.

In summation, one should remember that the committee system in a parliamentary democracy lives in constant tension with the “classic” model of a parliamentary regime (Davidson and Longley 1998). This tension stems from the fact that strong committees are not an integral part of this type of regime, as they are in a presidential democracy where the legislature is separated from the executive. Assertive committees in a parliamentary democracy threaten, at least in theory, the supremacy of the government and administration, which will strive to minimize the strength of legislative committees as much as possible. Therefore, any discussion of the oversight capability of legislative committees in parliamentary democracies must assume that this capability is innately limited compared to the oversight capabilities of committees in a presidential democracy. However, even in light of the structural and institutional conditions which constrain committee oversight in a parliamentary democracy, it is possible to improve this function significantly if the aforementioned recommendations are implemented.

Questions

Questions are a popular oversight tool in parliamentary democracies, and their objective is to obtain information from the government. Questions are normally asked during “question time”, which takes place regularly in most legislatures but does not always receive sufficient attention from the executive branch. Parliamentary questions sometimes acquire public attention, but it would be an exaggeration to say that they have much resonance in the media. An exception to this is the weekly televised question time in the British House of Commons, which is broadcast live. In some countries local news may report on parliamentary questions relevant to a geographic area, but as a rule the national media does not systematically cover most questions.

A comprehensive study on the questioning techniques in the legislatures of Norway, Sweden, Finland and Denmark found a sharp rise in the number of parliamentary questions that MPs have asked in the last few decades, due to both internal and external causes (Wiberg 1994). The most notable external change is the expansion of the public sector, which has led to a growth in the number of subjects on which questions need to be raised. Another external cause is the rise in the level of education, which leads to an increase in the number of people with the skills and qualifications for drafting potential questions. The development of mass media and various interest groups also supply further information for parliamentary questioning. As for the rules of the inter-parliamentary game, it appears that legislators must be active in order to survive in the political arena. The work of a legislator demands an extensive repertoire of activities such as participation in committees, standing out in plenary debates and also asking questions. Furthermore, the prevailing norm in the Scandinavian legislatures is that an MP has to present an active record not only in order to be re-elected but also because this is perceived as the essence of their legislative work.

Although legislators in a parliamentary democracy can exercise a certain amount of oversight over the executive branch (intentionally or not) by asking ministers questions, and although their answers to these questions are supposed to provide the public with information, shed light on government actions and obligate the government, at least in theory, to be accountable for its actions, ultimately most researchers do not perceive this tool to be efficient. Silk and Walters (1998) claimed that the weakness of parliamentary questions stems from the difficulty in achieving at least two of the three goals for which they are intended: obtaining information, exerting pressure in order to cause a minister or the prime minister to act, and promoting or exposing political agendas. Regarding obtaining information, the government can give only partial answers, or

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even refuse to answer questions altogether. Pressure to elicit action is also not necessarily effective, and MPs could find out that a discreet letter directly to the minister achieves better results. Maor (1999), following Koura and Wiberg (1994), emphasized the limited capability of parliamentary questions to be an effective oversight tool because of the inherent difficulty of obtaining accurate information concerning government activities and identifying precisely the officials responsible for them.

Cole (1985) also thought that the ability of parliamentary questions to strengthen legislative oversight of the government is limited – a survey conducted in the British House of Commons found that 85% of the MPs did not rate questions as an effective tool for influencing government policy and activities. The reason for this is that government backbenchers are not interested in asking difficult questions, because of the trouble they may cause – some of them eye future ministerial positions and are not willing to jeopardize their promotion by raising questions that could embarrass the government. The quality of the answers received may also be relatively low, and so limit their effectiveness: ministers have no obligation to give helpful answers, if they decide to answer the question, and only a very small percentage of questions get answered (Von Beyme 2000); questions can be circumvented with shallow ministerial declarations; ministers can claim that the required information does not exist; and finally, ministers are obliged in their answers to tell the truth, but not the whole truth.

Wiberg (1995) argued that if the government enjoys a solid majority and party discipline is strong – as in most European legislatures – then according to any realistic criteria, the questioner has no prospect of independently and efficiently overseeing the activities or the failures of the executive branch, without at least the tacit approval of either the government or the party. As we have seen, the dominant perception in the established Western European democracies puts the party at the heart of government. If the government and the parliament are controlled by one cohesive party, or by a coalition of disciplined parties, then there is little room for effective legislative oversight and there is no real incentive to do so in the plenary. The opposition, for its part, does not have the means to really know what the government has done or plans to do (definitely not through parliamentary questions), and it is unable to authenticate the information that it receives mostly from the government itself, and which the government sometimes wants to conceal from the public. At the end of the day, an MP's loyalty is primarily to his party. Deviating from the party line by raising annoying questions could jeopardize his future candidacy and could likely threaten his political career, and as such it is not common.

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It seems that despite their popularity, the efficiency of parliamentary questions as an oversight tools is relatively low. The question remains whether it is possible to make them more effective, and if so, how. We think that it is indeed possible if MPs, as well as the legislature itself, employ the following recommendations:

1. **Include the most reliable information possible in the question.** Parliamentary questions based on inaccurate information will undermine the effectiveness of this oversight tool, and especially the reaction of the government ministers.
2. **Set a short time-frame for answering questions.** A minister should be obliged to answer a parliamentary question within a week or two of its presentation in order to keep it relevant.
3. **The right to ask a follow-up question.** All participants in the question time should be allowed to ask follow-up questions in order to stimulate the debate and make it more interesting.
4. **Monitoring.** MPs should monitor whether the answers given to their parliamentary questions were partial or vague, or if they included a promise to look into the issue and supply data at a later date.

The Practicality of Implementing Oversight Recommendations

The recommendations for improving oversight are targeted at advancing legislative oversight of the executive branch regardless of the context. However, one cannot ignore the fact that most of the recommendations are easier to implement in two situations: the first is political, where broad democratic norms are deeply and widely held by all the players in the system; and the second is structural, where the necessary resources are available. In other words, in those systems where the conditions for stable and “mature” oversight might not yet exist there will be more difficulties to overcome. It is precisely in these cases where outside assistance, if well-designed, can play a major role.

We believe that there are three “barriers” that need to be addressed if we want to make the recommendations not only objectively correct but also contextually practical. The first barrier is procedural: Does the recommendation involve a change in the legislative rules of procedure, in existing laws, or in entrenched legislations such as the constitution? The second barrier is institutional: Does the recommendation require the redistribution or allocation of resources? The final barrier is cultural: Does the recommendation cause a transformation in the behavioral norms of the

players in the system, such as a shift in the relations between the executive and legislative branches? This order of barriers is hierarchical, moving from the least important to the most, or most difficult, barrier.

Some of the recommendations can pass all three barriers relatively easily. For example, an optimal size and number of committees alongside limiting membership of legislators to one or two committees should not encounter procedural difficulties (it would involve a change only in the rules of procedure), nor institutional hurdles (additional resources are not necessarily needed), nor cultural obstacles (the preferences of the players remain unaffected). This is also true of the recommendation to grant the committees the authority to establish sub-committees. Some of the recommendations, on the other hand, will encounter difficulties at each and every barrier. Granting the committees the authority to subpoena witnesses is such a recommendation, as is the augmentation of professional support staff, budgets and investigatory capabilities.

Establishing a system of permanent committees is procedurally easy and culturally acceptable, the only barrier is the need for additional resources.

There are in-between cases, where the “lower” barriers can be overcome but cultural obstacles make it hard to imagine that implementation is possible. Corresponding between committee jurisdictions and government ministries is such a recommendation. While it usually requires no more than a shift of responsibilities in the rules of procedure, and additional resources only if there are to be more corresponding committees than the number of non-corresponding committees, the cultural barrier involves a major impact on relations with the executive and the degree of independence of the legislators. The more practical in-between cases are thus those where the cultural barrier is not difficult to pass. Establishing a system of permanent committees is procedurally easy and culturally acceptable, the only barrier is the need for additional resources. It is precisely when it comes to these recommendations that assistance from outside agencies, in the form of both financial and procedural support, can make the crucial difference. But international organizations should not perceive the cultural barrier as impassable, despite the fact that it is the most difficult to overcome. The recommendation to steer legislators with experience toward the relevant committees, and to provide incentives to those with seniority and knowledge to remain, encounters little difficulty with either the procedural or institutional barriers, but some when it concerns cultural obstacles – which can still be overcome with well-designed assistance and guidance from the outside.

The practicality of the dozen recommendations for strengthening legislative oversight by committees is, therefore, based on the contextual strength of each of the three barriers. This is also true when it comes to the seven recommendations for strengthening Public Accounts Committees (PACs), but the picture here is more complicated because the

PAC is designed for legislative oversight, and thus confronts the cultural barrier more easily. Moreover, the diversity among countries when it comes to PACs is vast. Some countries do not even have such a committee, and the most basic – albeit culturally confrontational – recommendation would then be to establish a PAC. The four recommendations concerning parliamentary questions are quite the opposite, all but the last should easily overcome all three barriers.

The practicality of our recommendations, especially in new democratic regimes that are resource-poor, is thus contingent upon which barrier is more difficult to overcome. If it is the procedural barrier, this must be handled domestically – constitutional changes cannot be easily “imported”. If it is institutional, international donors can help remove this barrier by enlarging the overall distribution of legislative resources. If it is the cultural barrier, then even if the procedural and institutional barriers can be surmounted the practicality of implementation is questionable. However, it is exactly here, where culture supports unfettered executive rule and practically trumps all attempts to strengthen legislative oversight, that well-designed legislative assistance is most needed. Moreover, this is true both for new democracies *and for the established ones*. Culture can be a barrier to effective legislative oversight even in the advanced industrial liberal democracies. As our comparative analysis pointed out, it was only in 1979 that a system of permanent committees was established in the British House of Commons and the Irish *Dáil* is still quite deficient when it comes to legislative oversight.

We end our presentation and discussion of recommendations designed to improve legislative oversight with a basic suggestion that is viable for all democracies, presidential and parliamentary, old and new. While this recommendation appears last, it is far from being the least important – quite the contrary.

Proper oversight training for new MPs. The preparation of new MPs for their legislative roles should be improved, emphasizing the importance of legislative oversight and enabling them to optimally and effectively use the existing oversight tools or call for the development of new ones.

In the established democracies, this task ought to be undertaken by domestic actors, such as political parties, academic institutions and research centers. In the newer democracies, the implementation of this recommendation can be facilitated by international agencies and non-governmental organizations. Nowhere is legislative oversight so efficient and effective that there is no room for improvement.

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Conclusion:

Strengthening Legislative Oversight in Parliamentary Democracies – Dream or Reality?

The perception that legislative oversight of the executive branch in a parliamentary democracy is limited when compared to its presidential counterpart is far from guaranteed, does not present a clear dichotomy and is not one-dimensional.

Scholarly work, as well as empirical evidence, shows that the structure of parliamentary democracies, unlike the structure of presidential regimes, has a significant limiting effect on the oversight capability of the legislature, at times even paralyzing it. The criterion that stands out the most is the number and unity of the political parties in the legislature. In other words, the level of discipline MPs exhibit to the party leaders and the party line, coupled with the cohesion of the majority/coalition on which the government rests can effectively block legislative oversight. Because most MPs in parliamentary democracies do not enjoy much latitude, their personal preferences in anything to do with oversight hold less weight than those of their colleagues in presidential democracies.

However, the comparative experience also shows that some parliamentary democracies have legislatures that manage to oversee the executive better than others. Moreover, the perception that legislative oversight of the executive branch in a parliamentary democracy is limited when compared to its presidential counterpart is far from guaranteed, does not present a clear dichotomy and is not one-dimensional. An in-depth analysis of parliamentary democracies shows that the differences among them are rather great, both in the scope of legislative oversight exercised and in the extent of its effectiveness. Within the group of parliamentary democracies there are countries whose legislatures cannot effectively oversee the executive branch in any field, while in other countries the legislature is able to implement effective oversight in one area, or even in a number of areas.

In other words, if we place democracies on an oversight continuum, we will see that on one side – the “weak” side – we find mainly parliamentary democracies, while on the other side – the “strong” side – are mostly presidential regimes. However, the parliamentary democracies will not all be clustered at the weak end of the scale (exhibiting ineffective oversight), but will be spread out along nearly the whole scale, with a few even overlapping with some of the presidential democracies – which will also not be gathered all in one place at the strong end of the scale due to variations among them in the extent of legislative oversight. The reasons for this range, or distribution, are the number of available legislative oversight tools, the manner in which they are used and the strength of the structural, political and cultural variables in each country. This legislative oversight continuum proves more than anything else that the oversight capability of legislatures in parliamentary democ-

racies can be strengthened either by introducing new oversight mechanisms or by strengthening the existing tools of oversight, or both. This goal can be achieved through structural and political reforms to improve the efficiency of these oversight tools in particular, and of legislative oversight in general.

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References

- Aberbach, J.D. (1979). "Changes in Congressional Oversight." *American Behavioral Scientist*, 22 (5): 493-515.
- Aberbach, J.D. (1990). *Keeping a Watchful Eye: The Politics of Congressional Oversight*. Washington, DC: Brookings Institution.
- Blondel, J. (1973). *Comparative Legislatures*. Englewood Cliffs, NJ: Prentice-Hall.
- Bruyneel, G. (1978). "Interpellations, Questions and Analogous Procedures for the Control of Government Actions and Challenging the Responsibility of the Government." *Constitutional and Parliamentary Information*, 115: 66-89.
- Chester, D.N. and Bowring, N. (1962). *Questions in Parliament*. Oxford: Clarendon Press.
- Cole, M. (1985). "Accountability and Quasi-Government: The Role of Parliamentary Questions." *Journal of Legislative Studies*, 5 (1): 77-101.
- Cranmer, F. (2002). "Parliamentary Mechanisms for Controlling the Executive." *Keynote Address to the European Centre for Parliamentary Research and Documentation (ECPRD) Seminar*, Skopje, Macedonia.
- Damgaard, E. (1994). "Parliamentary Questions and Control in Denmark." In: Wiberg, M. (ed.) *Parliamentary Control in the Nordic Countries*. Helsinki: Finnish Political Science Association.
- Davidson, R.H. and Longley, D.L. (1998). "Parliamentary Committees: Changing Perspectives on Changing Institutions." In: Davidson, R.H. and Longley, D.L. (eds.) *The New Roles of Parliamentary Committees*. London: Frank Cass.
- Döring, H. (ed.) (1995). *Parliaments and Majority Rule in Western Europe*. Frankfurt: Campus Verlag.
- Ehlke, R. (1986). *Congressional Access to Information from the Executive: A Legal Analysis*. Washington, DC: Library of Congress, Congressional Research Service Report.
- Franklin, M. and Norton, P. (eds.) (1993). *Parliamentary Questions*. Oxford: Clarendon Press.
- Friedberg, C. and Hazan, R.Y. (2009). *Legislative Oversight of the Executive Branch in Israel: Current Status and Proposed Reform*. Jerusalem: Israel Democracy Institute. [in Hebrew]
- Galea, J.G. and Miroslaw, S. (2001). *Report on Relations Between Supreme Audit Institutions and Parliamentary Committees*. Malta: National Audit Office.

- Geist, B. and Mizrahi, N. (1991). "State Audit: Principles and Concepts." In: Friedberg, A., Geist, B., Mizrahi, N. and Sharkansky, I. (eds.) *State Audit and Accountability*. Jerusalem: State Comptroller's Office.
- George, B. and Morgan, D. (1999). "Parliamentary Scrutiny of Defense." *Journal of Legislative Studies*, 5 (1): 1-11.
- Giddings, P. (1994). "Select Committees and Parliamentary Scrutiny: Plus Ça Change." *Parliamentary Affairs*, 47 (4): 669-686.
- Gray, A. and Jenkins, B. (1990). "Policy Evaluation in British Government: From Idealism to Realism?" In: Rist, R.C. (ed.). *Program Evaluation and the Management of Government: Patterns and Prospects across Eight Nations*. New Brunswick, NJ: Transaction.
- Gregory, R. (1990). "Parliamentary Control and the Use of English." *Parliamentary Affairs*, 43 (1): 59-77.
- Halpert, L. (1981). "Legislative Oversight and Partisan Composition of Government." *Presidential Studies Quarterly*, 11 (4): 479-491.
- Hazan, R.Y. (2001). *Reforming Parliamentary Committees: Israel in Comparative Perspective*. Columbus, OH: Ohio State University Press.
- Jack, M. (1985). "Parliament's Role as a Check on Government." *Parliamentary Affairs*, 38 (3): 296-306.
- Johnson, L. (1980). "The U.S. Congress and the CIA: Monitoring the Dark Side of Government." *Legislative Studies Quarterly*, 5 (4): 477-499.
- Kaiser, F.M. (2001). *Congressional Oversight*. Washington, DC: Library of Congress, Congressional Research Service Report.
- King, A. (1976). "Modes of Executive-Legislative Relations: Great Britain, France and West Germany." *Legislative Studies Quarterly*, 1 (1): 11-36
- Koura, A. and Wiberg, M. (1994). "The Logic of Parliamentary Questioning." In: Wiberg, M. (ed.) *Parliamentary Control in the Nordic Countries: Forms of Questioning and Behavioral Trends*. Helsinki: Finnish Political Science Association.
- Lees, J.D. (1977). "Legislatures and Oversight: A Review Article on a Neglected Area of Research." *Legislative Studies Quarterly*, 2 (2): 193-208.
- Lees, J.D. and Shaw, M. (eds.) (1979). *Committees in Legislatures: A Comparative Analysis*. Durham, NC: Duke University Press.
- Lyons, W.V. and Thomas, L.W. (1982). "Oversight in State Legislatures: Structural Attitudinal Interaction." *American Politics Quarterly*, 10 (1): 117-133.
- MacCarthaigh, M. (2006). *Accountability in Irish Parliamentary Politics*. Dublin: Institute of Public Administration.
- Maor, M. (1999). "Electoral Competition and the Oversight Game: A Transaction Cost Approach and the Norwegian Experience." *European Journal of Political Research*, 35 (3): 371-388.
- Martin, S. (2010). "The Committee System." In: MacCarthaigh, M. and Manning, M. (eds.) *The Houses of the Oireachtas: Parliament in Ireland*. Dublin: Institute of Public Administration.
- Martin, S. (2011). "Introduction." *Journal of Legislative Studies*, 17 (3): 259-270.

- Mattson, I. (1994). "Parliamentary Questions in the Swedish Riksdag." In: Wiberg, M. (ed.) *Parliamentary Control in the Nordic Countries*. Helsinki: Finnish Political Science Association.
- Mattson, I. and Strøm, K. (1995). "Parliamentary Committees." In: Döring, H. (ed.) *Parliaments and Majority Rule in Western Europe*, Frankfurt: Campus Verlag.
- Mayhew, D.R. (1991). *Divided We Govern: Party Control, Lawmaking and Investigations, 1949–1990*. New Haven, CT: Yale University Press.
- McCubbins, M.D. and Schwartz, T. (1984). "Congressional Oversight Overlooked: Police Patrols Versus Fire Alarm." *American Journal of Political Science*, 28 (1):165-179.
- McGee, D.G. (2002). *The Overseers: Public Account Committees and Public Spending*. London: Pluto Press.
- Mezey, M.L. (1979). *Comparative Legislatures*. Durham, NC: Duke University Press.
- Mill, J.S. (1861). *Considerations on Representative Government*. London: Parker, Son and Bourn.
- Montesquieu, C.S. (1748). *De L'esprit des Lois*. Originally published anonymously.
- Norton, P. (1998). "Conclusion: Do Parliaments Make a Difference." In: Norton, P. (ed.) *Parliaments and Government in Western Europe*. London: Frank Cass.
- Ogul, M.S. (1976). *Congress Oversees the Bureaucracy*. Pittsburgh, PA: Pittsburgh University Press.
- O'Halpin, E. (1998). "A Changing Relationship? Parliament and Government in Ireland." In: Norton, P. (ed.) *Parliaments and Government in Western Europe*. London: Frank Cass.
- Olson, D.M. (1994). *Democratic Legislative Institutions: A Comparative View*. Armonk, NY: M.E. Sharpe.
- Olson, D.M., Pelizzo, R. and Stapenhurst, R. (2004). "Introduction." In: Olson, D.M., Pelizzo, R. and Stapenhurst, R. (eds.) *Trends in Parliamentary Oversight*. Washington, DC: World Bank Institute.
- Ornstein, N.J. and T.E. Mann (2006). "When Congress Checks Out." *Foreign Affairs*, 85 (6): 67–82.
- Pelizzo, R., Stapenhurst, R., Sahgal, V. and Woodley, W. (2006). "What Makes Public Accounts Committees Work?" *Politics & Policy*, 34 (4): 774-793.
- Pelizzo, R. and Stapenhurst, R. (2008). "Tools for Legislative Oversight: An Empirical Investigation." In: Stapenhurst, R., Pelizzo, R., Olson, D. and Von Tropp, L. (eds.) *Legislative Oversight and Budgeting: A World Perspective*. Washington, DC: World Bank Institute.
- Plessner, Carol S. (ed.) (2007). *Congress of the United States: Oversight, Processes and Procedures*. New York, NY: Nova Publishers.
- Rasch, B.E. (1994). "Question Time in the Norwegian Storting – Theoretical and Empirical Considerations." In: Wiberg, M. (ed.) *Parliamentary Control in the Nordic Countries*. Helsinki: Finnish Political Science Association.
- Robert, H.M. (1976). *Robert's Rules of Order*. Cutchogue, NY: Buccaneer Books.
- Rockman, B.A. (1984). "Legislative-Executive Relations and Legislative Oversight." *Legislative Studies Quarterly*, 9 (3): 387-440.
- Rosen, B. (1982). *Holding Government Bureaucracies Accountable*. New York, NY: Praeger.

- Rosenthal, A. (1981). "Legislative Behavior and Legislative Oversight." *Legislative Studies Quarterly*, 6 (1): 115-130.
- Russo, F. and Wiberg, M. (2010). "Parliamentary Questioning in 17 European Parliaments: Some Steps towards Comparison." *Journal of Legislative Studies*, 16 (2): 215-232.
- Saalfeld, T. (1998). "The German Bundestag: Influence and Accountability in a Complex Environment." In: Norton, P. (ed.) *Parliaments and Government in Western Europe*. London: Frank Cass.
- Shick, A. (1976). "Congress and Details of Administration." *Public Administration Review*, 36 (5): 516-528.
- Shick, A. (1983). "Politics through Law: Congressional Limitations on Executive Discretion." In: King, A. (ed.) *Both Ends of the Avenue: The Presidency, the Executive Branch and Congress in the 1980s*. Washington, DC: American Enterprise Institute.
- Silk, P. and Walters, R. (1998). *How Parliament Works*. London: Longman.
- Strøm, K. (1998). "Parliamentary Committees in European Democracies." *Journal of Legislative Studies*, 4 (1): 21-59.
- Suleiman, E.N. (ed.) (1986). *Parliaments and Parliamentarians in Democratic Politics*. New York: Holmes and Meier.
- Von Beyme, K. (2000). *Parliamentary Democracy: Democratization, Destabilization, Reconsolidation 1789-1999*. Houndmills: Palgrave Macmillan.
- Wiberg, M. (ed.) (1994). *Parliamentary Control in the Nordic Countries: Forms of Questioning and Behavioral Trends*. Helsinki: Finnish Political Science Association.
- Wiberg, M. (1995). "Parliamentary Questioning – Control by Communication." In: Döring, H. (ed.) *Parliaments and Majority Rule in Western Europe*. Frankfurt: Campus Verlag.

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