Internal Organization of the Legislative Branch

Legislatures serve three functions to varying degrees; they are: 1) lawmaking; 2) oversight; and 3) representation. How these functions are operationalized is dependent on the structure of the legislature (presidential, parliamentary or hybrid and unicameral vs. bicameral), as well as a country’s particular political, historical and economic context. Given these variations, it is still possible to pinpoint commonalities in the execution of legislative functions and, by extension, how legislatures are organized internally in order to expedite these functions. This essay examines these commonalities and is based on a review of the internal workings of several legislatures, (including Australia, Canada, Germany, Hungary, Ireland and the United Kingdom. In addition, South Africa and the United States are used as illustrative case studies.) This paper is organized as follows.

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1. How Legislatures Carry Out Their Functions

1.1 LAWMAKING

In any political system, the key to an effective legislature is the knowledge and information that permit it to play an active role in the policy making process and to make reasoned specific policy choices for society. The extent to which a parliament is able to influence the policy making process is determined primarily by its legislative type, which is in turn an indicator of its capacity to gather and process information independent of the executive. As discussed in the Concept Paper on Legislatures and Good Governance, legislative types range from "rubber
"rubber stamp" to "emerging" to "arena" to "transformative." If viewed as a continuum, the complexity of a legislature’s internal structure -- and by extension its ability to evaluate and process information -- can be seen as follows (see Figure 1).

Figure 1: Internal Organization of Legislatures

At one extreme, the rubber stamp legislature is the least complex in its organization and requires the least amount of information when acting on legislation. At the other end of the spectrum, the transformative legislature requires a highly complex structure that is capable of channeling conflict and reconciling differences, as well as information capacities that are up to the task of initiating and perfecting policies. Most legislatures are located between these two extremes and are termed arena legislatures. The level of internal capacity of arena legislatures is limited to what it requires to evaluate proposals from the perspectives represented by members and to serve as an informed critic or a refiner of proposals – most of which have already been shaped by outside actors in the executive branch or in the party system. Finally, the organization and structure of emerging legislatures are more difficult to pinpoint since they are still nascent and going through the process of self definition. Most legislatures in emerging democracies fall in this dynamic category since many of them are on the process of transforming from rubber stamps to more sophisticated organisations. The internal organization of emerging legislatures is often in flux.

Within these parameters, the following information sources/tools are used by legislatures in the process of lawmaking. The degree to which these sources are developed and utilized is dependent on where they are situated on the organizational spectrum with the transformative legislature using the most and the rubber stamp legislature using the least information. These sources can be housed either inside or outside the internal structure of the legislature as depicted in Table 1. They are:

1. Committee structures
2. Political parties (caucuses, working groups and factions);
3. Objective information sources (parliamentary libraries, academia)
4. Subjective information sources (pressure groups, lobbies, some think tanks)

TABLE 1: Sources of Information Used by Legislatures in the Lawmaking Process

<table>
<thead>
<tr>
<th>Information Source/Tool</th>
<th>Internal or External</th>
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<td>committee structures</td>
<td>internal only</td>
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1.1.1 Committee Structures

While there are several points in the lawmaking process where a member may interject (see Lawmaking and Stages of Legislative Procedure), it is at the committee level where most of the substantive debate takes place. Committees are also the primary mechanism that legislatures use when assigning and executing their legislative workload. Legislatures usually have a combination of permanent (or standing committees) and transitory committees that deal with ad hoc issues or a particular bill. The number and size of committees can vary from countries like Argentina, which has more than 80 (both houses combined), to France, which has less than 15 (both houses combined.). Table 2 gives a sampling of the number of committees a legislature can have.

Committees consider bills and amendments and then agree to a single text that commands the support of the majority and then refers this text to the plenary. This consideration process involves information prepared by members themselves, committee staff, as well as verbal testimony or written submissions by individuals, think tanks or pressure groups and government representatives. The frequency and diversity of the hearing and information gathering process is dependent on a committee’s resources and size and its ability to research and analyze policy proposals.

Committees usually have a secretariat that assists it with its administrative functions and, if so endowed, with document preparation and research functions as well. Committee staff can be assigned by the committee chair, political parties, the speaker or the overall administrative arm of the legislature. A staff member can also be assigned from a country’s civil service. Table 2 provides illustrative examples of the number of staff a particular committee might have and how they are appointed. A fuller discussion about committee size and structure can be found in Legislative Committee System.

Table 2: Committees (Number, Staff and Secretariat Functions) in Legislatures
1.1.2 Political Parties

Political parties in legislatures often form groups (i.e. caucuses, study groups, etc.) that will track and ultimately develop a policy position on a particular issue. These groupings are often allocated funds by the legislature for meeting space, staff and research resources. At the same time, political parties always have structures that sit outside the legislature that can supply information to its members in the legislature. For example, the political parties within the German Bundestag have a sophisticated research and analysis capacity both inside and outside of parliament that complements anything prepared by committee staff, the executive or the legislative library. In Hungary, parties in parliament can form parliamentary "factions," if they have more than 15 members. These factions then receive resource allocations (office space and staff) that allow the groupings to wield influence in the policy making process. Please see Political Parties in the Legislature for more information on how political parties affect the policy making process in legislatures.
The basic function of a parliamentary library is to be a source of information for a national legislature in support of its constitutional functions. In that role, libraries can be active or passive. Libraries range in service from being simple depositories or legislative archives to being sophisticated policy analysis facilities. The 1996 *World Directory of National Parliamentary Libraries* (Kohl) estimates that there are 181 parliamentary libraries, serving the 258 separate chambers of the 179 legislatures in existence at the time. Depending on the size and scope, a library can offer the following services: answers to reference inquiries; creation of and access to legislative databases; research reports; materials describing and comparing current legislative proposals and their status in the legislative process; policy analysis studies that identify alternative courses of action for the legislators and the consequences if they adopt one proposal or another; and seminars and training programs for legislatures and staff. The choice of instruments is a function of the legislature’s definition of the strategic role for the library and the resources to carry out these purposes.

Most parliamentary libraries are part of the legislature, reporting to the chairperson, secretary general or other chief staff person or to a library board or committee. Staff can be appointed by the legislature’s internal administrative body or through the national civil service. In some instances, the general national library can also serve as the parliamentary library. This is the pattern, for example, in the newly independent Baltic nations of Latvia, Lithuania and Estonia. Finally, the parliamentary library will often serve the general public, as is the case in Hungary.

The rapid increase in the availability of electronic resources (e-mail, World Wide Web, CD-ROMs, bulletin boards, high speed file transfer protocols, etc.) has had a significant impact on legislatures and their libraries. This is particularly true for emerging legislatures that are now in the process of amassing data about constitutional reform and public policy choices. Electronic and telecommunications infrastructure can also open access to a wide body of
resources and information that would never be economically feasible through traditional methods (i.e. hard copies of books, journals, etc). The Supreme Council of the Ukraine, for example, is now in the process of upgrading its telecommunications infrastructure by becoming an Internet node through satellite and high-speed, land line connections and linking internally though fiber optic cable. This allows better internal and external communication and open up the vast resources available on the World Wide Web.

More than 50 national legislatures have Web sites, some with links directly to their libraries. For example, the US Library of Congress has a rich amount of information that is available to anyone who has access to the Web. One of its resources, the Global Legal Information Network (GLIN) (http://lcweb2.loc.gov/law/GLINv1/GLIN.html), maintains and provides a global database of laws, regulations, and other complementary legal sources, including: (1) full texts of the documents in the official language of the country of origin; (2) summaries or abstracts in English; and (3) thesauri in English and other languages. The Web site of the Inter-Parliamentary Union also provides detailed information on virtually every legislature in the world and provides links to national legislature Web sites. Given the sheer size of the Web, there are now thousands of sources that are more readily available to lawmakers worldwide. For more information please see Relevant Websites.

1.1.3.2 The Role of Academia

Legislators often call on the academic sector for assistance with gathering and analyzing policy options. This can be done in an ad hoc fashion (with a particular legislator calling upon an academic expert for advice or assistance) or it can be done more systemically with the legislature or its library developing a relationship with a particular university. For example, the South African National Assembly has a formal relationship with the University of the Western Cape for assistance with research and analysis. While academics may not always be completely impartial, they do possess a depth of knowledge that may not always available to legislators otherwise.

1.1.3.3 Think Tanks

A think tank is a civil society institution, which is funded by private resources, and is organized for intensive research and solving of problems, especially in the areas of social and economic policy and technology. In the US, two prominent think tanks are the Brookings Institute and the Rand Corporation.

1.1.4 Subjective Information Sources (pressure groups, lobbies, some think tanks)

Most groups in civil society that try to influence the legislative process are "lobby groups" or "pressure groups." (These terms can be used interchangeably.) These groups will research and develop a position on a particular issue or will develop a legislative program on behalf of a certain constituency. Examples of lobby groups are: labor unions, consumer protection groups, environmental groups, commercial interests, child advocates and professional associations. Pressure groups will visit legislators and supply them with information. Pressure groups can also track a legislators voting record, often issuing annual "report cards" on how closely the legislators have supported the group’s political program. Lobby groups may also contact a legislator’s constituents directly to inform them about his/her support for their platform. Most country’s have regulations that limit exactly how legislators and lobbyists can interact in order to ensure transparency and limit corruption.

1.2 OVERSIGHT

Oversight is the ability of the legislature to hold the executive accountable for its actions and spending, and it includes the process whereby the legislature and executive work together to ensure that laws are operating as designed. The extent to which a legislature performs this function will vary depending on a country’s constitution and/or precedent. However, legislatures have developed organisational structures and processes for performing these functions which includes: oversight committees; question time; and parliamentary ombudsman.
1.2.1 Oversight Committees. Some legislatures have committees that perform the sole function of oversight; portfolio committees can also monitor the executive branch in a specific sector. Most legislatures of the British Commonwealth have a "Public Accounts" Committee, which enjoins an efficiency concern with its financial auditor jurisdiction.

Oversight committees are staffed and administered in the same manner as other committees.

1.2.2 Question Time. In parliamentary systems, "question time" is a method to permit members to raise questions with government ministers on the floor. In Britain, the ministers take turns through a several week period to face the House of Commons, while the prime minister appears twice a week. Because time is limited, printed questions and replies are increasingly common.

1.2.3 Parliamentary Ombudsmen. The ombudsman is an institution that originated in Sweden and is roughly translated as "citizen's defender." It is usually an independent and nonpartisan officer (sometimes provided for by the Constitution) who supervises the administration. The office deals with specific complaints from the public against administrative injustice and maladministration. Depending on the country, the ombudsman has the power to investigate, report upon and make recommendations about individual cases and administrative procedures. Most ombudsmen are established by legislative authority, and many have continuing links with (and are often answerable to) the legislature. More than 50 countries have an ombudsman or similar institution. In South Africa the Public Protector serves ombudsmen-type duties while in the US congress, it is termed the Inspector General.

How the office of a parliamentary ombudsman is administered and organized depends on its relationship to its associative legislature. Often, the ombudsman is appointed or elected by the legislature, but will have its own budget, staff and office that sits physically outside the legislature. Ombudsmen staff, who often have legal training, may be drawn from the national civil service, and the ombudsman may be a judge by training (but the position is independent of the judiciary).

1.3. REPRESENTATION

Representation has two dimensions: 1) legislators act as intermediaries for constituents in dealing with government agencies; and 2) they act individually or collectively to represent constituent interests in the policy making process. The first type, referred to as "case work," involves responding to requests for help with individual problems that the constituent believes would be alleviated through government officials. Legislatures may be (or at least may be seen by constituents to be) in the best position to intervene with national, regional or local authorities to correct the problem. The second type of service activity, sometimes termed "projects," involves lobbying by legislators on behalf of the district's collective welfare. Although attention is often paid to the lawmaking and oversight functions of legislatures, many legislators perceive representation as their most pressing obligation. In Canada, for example, the House of Commons devotes most (62.8%) of its budget to facilitating constituent service (see Chart 1).

1.3.1 How Legislators and Constituents Interact

The way in which legislators and constituents interact is determined largely by the type of electoral system for legislative elections. The three principal electoral systems are described below. (Please see The Impact of Electoral Design on the Legislature for more information.)

**Plurality-majority** (or "first past the post"). In this system, one candidate from each political party stands for election and the one that receives the most votes is elected (more than half of all countries that conduct elections use this method);

**Proportional representation.** Parties draw up a list of candidates in descending order of preference; voters then cast a ballot for a party – not a particular candidate – and the number of legislators elected from a party is determined by the percentage of the total vote a political party receives (i.e. a party that receives 60% of the vote receives 60% of the seats in the legislature);

**Semi-proportional.** This system is a combination of plurality-majority proportional representation; for example in a bicameral system, one house may be elected by plurality-majority and the other house is elected by proportional representation.

Legislators are answerable to their electorate, and the electoral system determines the level to which legislators and constituents engage. Figure 2 depicts this relationship. At one end, the plurality-majority system is conducive to high direct contact between legislators and constituents. In this system, a legislator is elected from a clearly defined geographical district and represents a specific number of constituents who see the legislator as their direct link to the government. At the other end, legislators elected under a purely proportional system are elected as part of a party list; they do not have a clearly defined district, and they perceive the whole entire electorate as their constituents. The voters, on the other hand, do not have a particular member that they perceive as "their" legislator. Below please find examples of legislator-constituent interaction under these different systems.

Figure 2: Level of Interaction between Legislators and Constituents
1.3.1.1 The United States: An Example of Plurality-Majority

The United States is a bicameral system. The House of Representatives has 435 members all elected from clearly defined geographical districts, representing approximately 500,000 constituents each. Two Senators are elected from each of the 50 states and a senator represents the entire state. US representatives and Senators all have "district offices" that are based in their individual districts, which serve as the first point of contact for constituents. District offices handle different business from that conducted in a member’s Washington DC office. A district office will primarily handle "case work." whereby a constituent will ask a member to intervene on their behalf with a federal agency (i.e. Health and Human Services, Education, Interior, Immigration and Naturalization Services, etc). Representatives and Senators are allocated an overall "personal office" budget for all human resources and administrative costs. A member has the flexibility to use this budget as he/she chooses. Some members opt for having several small district offices (i.e. three offices with one to two staff persons each) or one large district office (with six to eight staff members). Members from rural districts usually choose the former, and those from urban areas usually choose the latter.

1.3.1.2 South Africa: An Example of Proportional Representation

The South African Parliament consists of two houses: the National Assembly and the National Council of Provinces. The National Assembly has 400 members, popularly elected to five-year terms under a system of proportional representation. The National Council of Provinces has 90 members, 10 from each province. These members, who are appointed by the provincial legislatures, also serve five-year terms. The National Council of Provinces replaced the Senate, a body that was created under the interim constitution and disbanded following the implementation of the new constitution in February 1997.

Having been elected from a nationwide party list, none of the 400 members of the South African National Assembly have a specific district that they can call their own. Nor do constituents have a particular member that they can call "their" legislator. Members, therefore, are not automatically allocated funds for a district office. To contact a particular legislator, a constituent can contact the legislator’s office in Cape Town or he/she can approach the member through their relevant political party structure.

The National Assembly has developed a mechanism to assist political parties in reaching out to constituents. Each party represented in the Assembly is granted an allocation of funds (the amount is based on the relative size of the party) that the party can use at its own discretion (as long as it is used for purposes of constituent services). With these resources, each of the 13 parties has developed its own method of constituent outreach. For example, the African National Congress (ANC), the largest party represented in the National Assembly, handles its funds through the Office of the Party Whip. The Whip assigns a geographic area to every one of the 264 ANC members, and then allocates a portion of the overall party constituency budget to the member. This unofficial "district" is usually the area surrounding a member's home town, and the ANC has developed guidelines for how the money can be spent (i.e. on office space, one or two staff, etc.) Members are accountable to the ANC for the funds (periodic reports and accounts are required), and the ANC is in turn accountable to the overall National Assembly administration (see description below in Case Study #2). This constituent outreach program of the Parliament of South Africa is relatively new and is still undergoing refinement and innovation.
The legislative branch of the US Government includes the two chambers of the Congress of the United States—the Senate and the House of Representatives—and their staffs. The most important part of the legislative branch is Congress, which includes a total of 540 elected members in the Senate and the House of Representatives. The Senate has 100 members, two from each state. The House’s size has been fixed by law at 435 members since 1911. Five other representatives—from American Samoa, the District of Columbia, Guam, the Virgin Islands, and Puerto Rico—take part in House deliberations but cannot vote on legislation.

Legislative tasks are divided among a large number of work groups—committees, subcommittees, task forces, party committees, and informal groups of lawmakers. The House has 19 full committees and about 90 subcommittees; the Senate has 16 committees and about 70 subcommittees. There are also four joint House-Senate committees. That adds up to about 200 formal work groups, containing more than 3000 seats overall. (Each senator and representative serves on several committees and subcommittees.) Outside the committee systems, scores of task forces, party committees, and informal caucuses allow members to involve themselves in policies that interest them or affect their constituents.

Nearly 25,000 people are employed to support legislative activities. Of these, more than half work directly for the Senate or the House of Representatives, mostly in the offices of individual senators or representatives—either on Capitol Hill or in state or district offices. The rest are staff aides for Senate or House committees or for the chambers themselves (including clerks, legal specialists, and messengers).
In addition, the legislative branch includes five major supporting agencies and several minor ones.

- The **Architect of the Capitol** operates and maintains Capitol Hill buildings and grounds—including the Capitol itself and House and Senate office buildings.
- The **General Accounting Office** conducts studies for congressional committees and also serves as the auditing agency for the entire government.
- The **Government Printing Office**, as the name implies, prints government documents—including legislative publications such as the Congressional Record, the daily proceedings of the two chambers.
- The **Library of Congress**, established in 1800, is the national library, containing an extensive collections in such subjects as American history, law, music, photography, and film. The Congressional Research Service provides information and reports for members of Congress.
- The **Congressional Budget Office** is Congress’s chief source of information for the annual federal budget-making process, supplying data, economic projections, and analyses of revenue and spending.

Table B: The Internal Organization of the US House of Representatives

Table B illustrates the internal structure of the House of Representatives.

The **Speaker of the House** leads the House of Representatives, scheduling debates, assigning bills to House committees, and appointing members to special committees. The majority party nominates the Speaker, who is then confirmed by a vote of the entire House, which almost always follows party lines. The Speaker manages House business more tightly than is possible in the Senate. Members of the House can address the chamber only when the Speaker recognizes them, and the Speaker also has strong influence on committee appointments.

The **Sergeant at Arms** is not a representative, but is elected to the position by the House membership. The
Sergeant at Arms maintains order in the House under the supervision of the Speaker, and is nominally responsible for summoning members onto the floor when a quorum is necessary. The Sergeant at Arms also arranges joint sessions of Congress, visits from foreign dignitaries, and other ceremonial events. The Sergeant at Arms and the associated staff also supply House members with office equipment and other supplies.

The **Office of the Clerk of the House** manages the day-to-day legislative activity of the chamber, recording the results of floor votes and documenting the approval of bills. The Clerk and the Clerk’s assistants also supervise research for House members, certify that members have been elected according to the provisions of the Constitution, and oversee enforcement of laws regulating House ethics and elections. Like the Sergeant at Arms, the Clerk is elected by the House membership.

The **Parliamentarian** serves as the House of Representatives’ in-house expert on legislative procedure. The parliamentarian sits next to the Speaker during legislative session and is consulted on frequently during debates.

The **Legislative Counsel** and **Law Revision Counsel** do the actual drafting of proposed legislation and work to ensure that bills comply with the US Constitution.

The **Chief Administrative Officer** handles internal finance and administration, including payroll and procurement.

The **Inspector General** serves an ombudsmen function.

### 2. How Legislatures Administer Themselves

In order to support the execution of its lawmaking, oversight and representation responsibilities, legislatures must develop an internal administration mechanism. This internal administration expedites the following services (among others):

- Rules and Procedure (parliamentarian, clerk, etc)
- Library and Research Services (including legal research/counsel)
- Language Services (interpretation if necessary)
- Documentation, Printing and Archiving (of legislative business)
- Procurement (for supplies, etc.)
- Financial Services (human resources, payroll, etc.)
- Administration (security, groundskeeping, catering, etc)
- Secretariat Services (for committees hearings and plenary sessions)
- Public Information

The structure and complexity of a legislature’s internal administration will depend on the legislative type and resource level. The individual case of the South African Parliament is presented below as an example of how one emerging legislature now administers its legislative functions.

**CASE STUDY #2: The Administration of the Legislative Branch of South Africa**

In South Africa a **Joint Parliamentary Service** serves both the National Assembly and the National Council of Provinces (formerly the Senate) in matters of internal administration. The policy-making body for the Joint Parliamentary Service is the **Joint Rules Committee** (JRC) of Parliament. The Committee is co-chaired by the Speaker of the National Assembly and the Chairperson of the National Council of Provinces (the "Presiding
Officers"), who, acting jointly, are responsible for the implementation of policy determined by the JRC, and for the control and management of all matters relating to the joint administration of the Houses. In addition, each Presiding Officer is responsible for control and management of his or her respective House.

One of the subcommittees of the JRC is the Joint Subcommittee on Internal Arrangements, which advises the JRC on the development, formulation and adoption of policy regarding the administration and management and functioning of Parliament. The subcommittee is also responsible for monitoring and overseeing the implementation of policy. This subcommittee operates in conjunction with the Joint Subcommittee on the Parliamentary Budget.

The head of the Joint Parliamentary Service is the Secretary to Parliament. This position is assisted by a Management Board composed of the Heads of the various Divisions of the Parliamentary Service.

Divisions of Parliament

Office of the Secretary to Parliament. The Secretary to Parliament is the Chief Executive Officer and accounting officer of the Parliamentary Service. The office is responsible for management of the Service as a whole, and it is assisted by the General Manager for Policy Administration, who also sits on the Management Board. The Law Advice Office, the International Relations Office and the Members' Interests Office also fall within this Division.

National Assembly Table Division. The purpose of the National Assembly Table is to facilitate the work of the National Assembly and provide the Presiding Officers and Members with impartial advice on parliamentary procedure. The Head of the Division is the Secretary to the National Assembly, who is appointed by the House. The position is assisted by Undersecretaries and other staff.

The National Assembly Table is also responsible for support of internal National Assembly committees, such as the National Assembly Rules Committee, the Programming Committee, and committees that may be established on procedural matters such as powers and privileges, scrutiny of delegated legislation and disciplinary committees.

Procedural issues

National Council of Provinces Table Division. The NCOP Table provides equivalent services to the National Council of Provinces (upper House) as does not ass table division; it also manages liaison services between Provinces and the Council.

Legislation and Oversight Division. Provides secretariat support to This division includes: the Legislation and Proceedings Section (receives and processes incoming Bills and manages documentation for both Houses, in consultation with Chief Whips, the Committee Section and the Table Divisions, and supports the Table Offices in many of their functions); Committee Section (supports the committees dealing with legislation and oversight); Language Services Section (which records, interprets and translates debates); Questions Unit (manages questions to Ministers at Question Time and written questions); and the Information and Research Services Section (provides a library and research service to Members).

Institutional Support Division. This division includes: the Public Participation and Information Service (promotes public understanding of democratic processes, and is responsible for public and media relations, ceremonial services and official functions); the Management Information Technology Section (responsible for technical support, including computer systems, sound and video facilities); and Household Services (manages parliamentary accommodation and provides general support services to Parliament).

Finance and Administration Division. This division includes: the Finance Section (which is responsible for providing financial, procurement and human resources services to Parliament as a whole); the Human Resources Section (responsible for staffing and general human resources services) and the Catering Section.
Further Reading:


Mezey, Michael Comparative Legislatures, Publication of the Consortium for Comparative Legislative Studies, Duke University Press, 1979


World Directory of National Parliamentary Libraries (Kohl 1996)

Relevant Websites:

http://www.ipu.org/ - International Parliamentary Union provides detailed information on hundreds of national legislatures.

http://www.polisci.umn.edu/information/parliaments/index.html - The University of Minnesota Political Science Dept offers links and information on national parliaments.

