

Legislative Institution Building in Developing Democracies

Panel Organizer: Dr. Irina Khmelko

Legislative institution building is an important part of the process of democratic transition and consolidation. This panel presents a discussion of multiple aspects of this process in different regions of the world. What have we learned about developing legislative institutions and their roles in the process of democratic transition and consolidation? How do these legislatures function and develop? What factors contribute to legislative institutionalization?

In more detail, the panel presents studies of legislative institutions in Germany, Ukraine, Brazil, Nigeria, Palestine, and Jordan and discusses multiple aspects of the process of legislative institution building in developing democracies including, but not limited to parties, legislative committees, election rules, constituency relations, legislative-executive relations, and legislative oversight.

Chair Prof. Mohammad Masalha
Jordan University

Discussant Riccardo Pelizzo (Griffith University),

Papers:

Werner J. Patzelt, Technical University of Dresden, Germany

Legislative institution building by using blueprints: The case of former East Germany and its present state legislatures

Former GDR, today the Eastern part of the Federal Republic of Germany, is an exceptional case for developing democracy and legislative institution building. On the one hand, a full-fledged dictatorial regime with lasting impact on society and political culture was to be transformed rapidly. On the other hand, blueprints for nearly all new institutions could be easily imported from West Germany, even though this would entail more than only minor implementation problems in political and administrative practice. In

particular the process of legislative institution building and institutional development under such circumstances has been studied continuously: from research into the ‘institutional socialization’ of the first generation of East German state legislators to analyses of the East German state legislatures’ policy output. In my paper, the central findings and theoretical insights stemming from such research will be presented.

Committees and Parties in the Process of Legislative Institutionalization: The Case of Ukraine.

By Dr. Irina S. Khmelko

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Ukraine.**

The Ukrainian legislature is in the process of transforming from an institution of the Soviet type into an institution that is capable of performing its main legislative functions in a new democratic state effectively. Theory points to an unlinked, dual channel design of a legislature as a possible explanation of why legislatures fail to be effective in a new democracy. The practice of legislative institution building in the post-Soviet countries presents multiple examples of legislatures dealing with a challenge of incorporating multi party systems into their institutional design in a way where both parties and committees present two linked channels of legislative process. This paper analyzes factors associated with building a dual channel design legislature. What role do parties and committees play in the Ukrainian legislature and what can explain their specific characteristics? We discuss factors that may account for this development, such as the role of an electoral system, dual executive structure, and the president.

AUTHORS: ricardo Jose Pereira Rodrigues and Marcelo Barroso Lacombe, the Office of Legislative Counsel and Policy Guidance at the chamber of Deputies in Brazil

TENTATIVE TITLE: Growth of a Non-partisan Policy Staff Unit in the Brazilian Chamber of Deputies: a reflection of legislative institution building?

PAPER OUTLINE:

Legislative strength has been correlated in the literature with the legislative autonomy to set the agenda and the parliament capacity to collect reliable information on proposed policies.

Brazil has a political system where the Executive has strong agenda powers and leaders have enough power to reduce the capacity of legislative committees to collect information and discuss policy. Yet the Brazilian Congress has a sophisticated system of research and policy guidance which has aided parliament members in the legislative process. The Brazilian deputies created a centralized unit of nonpartisan professional support staff, recruited on a merit basis, by means of a national competitive examination. This unit is called the Consultoria Legislativa, and it has experienced significant growth since 1993 both both in numbers of staffers and with respect to demands for services and products from members. The growth of a centralized nonpartisan pool of staffers seems very much at odds with the prescriptions and recommendations put forth by the academic literature on legislative staffing produced to date as it seems to spread legislative information to all members of the chamber. Why has this happened? Which members use the Consultoria and how?

The creation of a non-partisan legislative staff has favored the centralization of the legislative process, the committee chairmen and the chamber board of directors, which, as in the united states, has strong partisan character in brazil. In the is paper we explain how a non partisan organization end by favoring part ad majority goals and the centralization of the legislative process

The analysis finds statistical correlations of relevance to our explanations. We seek to find whether different groups of representatives use the Consultoria in different ways and then infer its impact in legislative process.

Mechanisms of Oversight in the Palestinian Legislative Council (the Palestinian Parliament)

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Many years ago, the English philosopher, John Stuart Mill, determined that the most fitting task of the representative body is to oversee the government, to clarify its activities to the public and to compel the executive to provide full explanations and justification for its deeds, to criticize it and, in extreme cases, to withdraw support (Mill 1958). The prominent parliamentary tool to fulfill the oversight task is committees. Other parliamentary tools are: discussions in plenum; questions and interpellations; motions for the agenda; budgetary monitoring; and ombudsman. All those tools have been formed, among others, to strengthen legislatures and to protect democratic regimes not only in principle, but also in practice, by ensuring the existence of proper governmental and administrative order (Hazan 2001; Lees and Shaw 1979, McGee 2002; Pelizzo, Stapenhurst and Olson 2008; Wiberg 1994 etc.).

This paper aims to investigate the issue of parliamentary oversight by the **Palestinian Legislative Council** (the Palestinian Parliament) from institutional point of view. The fact that the Palestinian Authority has an elected president and a free elected legislative council enables me to refer this political entity as a developing democracy although it is not an independent state (and regardless the reality in which Hamas – a terrorist organization has won the elections in Gaza, and the West Bank is still under the Israeli occupation).

The two main questions I would like to focus on this paper are:

1. Did the Palestinian Parliament have developed any oversight tools since its establishment in 1996?
2. If so, are these tools (or tool) contributing in any way to the democratization of the legislature or the Palestinian Authority?

The paper will first present a theoretical background regarding the oversight function as well as short historical background of the Palestinian Authority and the Palestinian Legislative Council. Second, it will analyze the data that will be gathered regarding the oversight activity of the legislative council. Finally, if it will be found that the oversight function does exist (in any level) there will be an effort to estimate its efficiency and whether its existence enhancing the level of democracy of the Palestinian Authority.

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Institutionalizing the Nigerian Legislature

Institutionalized legislatures are critical to achieving quality democracies. In one writer's words, institutionalized legislatures 'act to make governments more responsive and effective and are likely to protect citizens' civil and political rights'. The legislature as a critical organ of democratic governance must be effective for democracy to be consolidated. The legislature performs a broad range of functions, including representation, deliberation, law making or legislation, the exercise of the power of the purse, education, socialization and recruitment, interest articulation, aggregation and harmonization and as check on other arms of government through oversight, scrutiny and investigation. The legislature makes the values, goals and attitude of a social system authoritative in the form of legislations.

This paper explores the processes of legislative institutionalization in Nigeria after a decade of democratic rule. How effective has the legislature been in carrying out its oversight functions? What is the perception of legislators of their role in improving service delivery? What are the factors that affect the effectiveness of the legislature? How can the legislature be made more effective and able to support democratic consolidation? These constitute the basic questions that this paper seeks to answer. The paper begins by exploring the factors that account for the institutionalization of the legislature, drawing on studies on the experiences of advanced democracies of North America and Western Europe and the experiences of developing democracies in Asia and Latin America. It then critically examines the state of Nigeria's national legislature. It concludes with insight on how to strengthen the legislature to be more effective in its role in consolidating democracy.