

# Do Legislatures Matter? Strengthening Governance in Africa

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*by*

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# Introduction

A key factor in moving from nominal democracy to democracy that delivers development results for people is an effective legislature that holds the executive to account. Nowhere is this truer than in countries recovering from the ravages of armed conflict or burdened by weak governance structures. Many of the most challenging cases can be found in Africa. While much work has been done on executive leadership on that continent, little research has explored the roles that legislatures and legislators can play in Africa's development.

To this end, the North-South Institute (NSI) hosted a round table discussion on December 12, 2012, entitled "Do Legislatures Matter? Strengthening Governance in Africa." The round table explored the roles of African legislatures, particularly in relation to curbing excesses of executive power and identifying indicators of legislative effectiveness. It was held under the Chatham House Rule and attended by development practitioners, academics, and government officials. The objective of the discussion was to draw upon the experiences of participants to help develop a program of policy-oriented research that will create a framework to measure legislative performance and, subsequently, yield practical recommendations on how to strengthen legislatures. The discussion was organized around three central questions:

- What do African legislatures do?
- Do legislatures in Africa act as checks on executive power?
- How should we measure legislative effectiveness?

This report provides an overview of the discussion, identifying the main themes and most salient points that emerged.

## The African Context

*"I cannot think of a single country in Africa that is a model of democratic governance and prosperity, yet most—if not all—have some semblance of a legislature with representational roots. This model has been punctuated with coups d'état and political violence to effect or attempt to effect transfers of power from one regime to another by less-than-legitimate means."*

—John Williams, CEO, Global Organization of Parliamentarians Against Corruption

For centuries, democracy has been a product of struggle and legislatures have been important parts of solutions to problems such as cycles of violence and poverty. The formative years of many democracies—including those emerging in Africa—were characterized by civil wars, coups, and military uprisings. In the decades following independence, many African nations struggled to adapt to the democratic principles that they inherited from their colonial rulers. As African legislatures, each at a different point in the process of becoming truly democratic, continue to evolve, they face some challenges that are unique to their circumstances and others that are shared with parallel institutions in other countries. Legislatures matter just as much in Africa as they do elsewhere. How should we measure legislative effectiveness?

## What do African legislatures do?

Robust national legislatures are imperative for democracy and how they perform can be the difference between state failure and consolidated democracy. In theory, legislatures are expected to

carry out four basic functions: to represent citizens; to establish laws and rules; to perform executive oversight; and, through their members, to serve their constituencies. However, African legislatures must serve a greater purpose within wider national democratization processes. They have the prodigious task of altering the course of governance where single-party, patrimonial rule has been the status quo for decades. To adequately carry out their responsibilities and provide the necessary counterbalance to powerful executive bodies, African legislatures need a better understanding of their functions and roles. They must exercise their constitutional rights in order to avoid being rubber stamps and perform accountability functions between and across state institutions.

### **Key Points**

- Stop offering prescriptive advice and re-examine strategies for how to support African legislatures.
- Most engagement to strengthen democracy in Africa has been focused on providing aid. Such engagement has perpetuated institutional structures that privilege individual rulers' hold on power and systems that do not represent or serve citizens.
- The importance of legislatures is increasingly accepted and they are increasingly being treated as focal points for democratic strengthening.

## **Do legislatures in Africa act as checks on executive power?**

Over the last decade, several African legislatures have transitioned from being subordinate under single-party rule to become strong and capable agents of change. In the cases of Ghana, Kenya, and South Africa, legislatures have taken proactive roles to amend constitutions and bills, reform antiquated colonial structures, and approve appointments. In certain cases, such as Kenya, legislatures have claimed their rightful positions in government decision-making processes by asserting themselves with regard to budgetary processes and strengthening committee systems. This has allowed them to deliberate on public spending, and has led to the evolution of systems of portfolio committees that query an executive and hold it to account, one of the most assertive forms of democratic strengthening.

In many other democratizing countries, high turnover rates of elected representatives, which generally cause losses of institutional memory, and limited resources have caused political systems to stagnate. Certain countries have struggled to break vicious cycles of corruption and patronage. Their legislatures have not had the opportunity to realize their potential and are often subjugated by dominant executives.

### **Key Points**

- Legislatures have the ability to act as checks and provide oversight depending on how dominant the executive is and how assertive the opposition is.
- Legislatures have an important role to play in democracy. Focus tends to be on the electoral process as the primary indicator of good governance, while the daily grind of legislatures is largely ignored.
- In order to change the nature of a legislature, the capacities of legislative support services must be strengthened. Resources should be mobilized to develop the capacities of technocrats, who tend to remain in government despite changes in politicians and committees.

# How should we measure legislative effectiveness?

What constitutes a strong legislature? A good starting point in answering such a complex question is to determine whether examples of effective legislatures can be identified. Developing a benchmark to measure against will allow the characteristics of strong, effective, and independent legislatures to be determined. These would allow different political systems to be analytically assessed and distinctions to be made between weak legislatures that rubber-stamp and stronger legislatures with the abilities to act with or without executive or party approval.

Potential proxy indicators of legislative effectiveness identified by round table participants include:

- Legislative independence (i.e., how often and to what extent does a legislature work to hold the executive to account?)
- Characteristics of the Speaker
- Roles of legislative committees
- Existence of a meaningful Question Period
- Characteristics of the legislative support staff
- Budgetary independence of a legislature

## Key Points

- Legislative ineffectiveness is part of larger issues of poor governance and weak state structures. Improving institutional strength and accountability is the only sustainable way to address it.
- Accountability must come from within and outside a political system. Building the capacities of legislatures is important, but creating networks of accountability that involve the media and civil society is equally important since such networks can provide unbiased opinions, educate populations, and create “coalitions for change.”
- Public awareness and perception can provide valuable insights into how ordinary citizens view their government and could be useful indicators.

## Next Steps

Building on the round table discussion and working with Distinguished Senior Associate Robert Rotberg, NSI plans to develop a tool to measure legislative effectiveness and apply it to several African countries. Case studies may include Ghana (where NSI’s partner the Ottawa-based Parliamentary Centre has been working to develop legislative capacity for decades), Kenya, Malawi, and South Africa. Interviews with key personalities in Africa, including sitting legislators, will be conducted.

Research reports and policy briefs will be available on NSI’s website: [www.nsi-ins.ca](http://www.nsi-ins.ca).

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