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LEGISLATIVE STRENGTHENING PROGRAMS IN INDONESIA

Contract No. GS-10F-0033M/AID-OAA-M-13-00013

October 26, 2015

This publication was produced for review by the United States Agency for International Development. It was prepared by NORC at the University of Chicago. The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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(October 26, 2015)

Prepared under Contract No.: GS-I0F-0033M / AID-OAA-M-13-00013, Tasking N021

Submitted to:
USAID

Written by:
Edward McMahon, Ed.D, University of Vermont

Submitted by:
Barry Ames, PhD, University of Pittsburgh
Audra Grant, PhD (Evaluation Specialist)

Contractor:
NORC at the University of Chicago
Attention: Renée Hendley
Bethesda, MD 20814
Tel: 301-634-9489; E-mail: Hendley-Renee@norc.org

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ACRONYMS

BAPPENAS	Ministry of National Development Planning
BTA	Bilateral Trade Agreement
CBO	Congressional Budget Office
CDF	Constituency Development Fund
CEPPS	Consortium on Elections and Political Processes
CPV	Communist Party of Vietnam
CSIS	Center for Strategic and International Studies
CSO	Civil Society Organization
DFAT	Department of Foreign Affairs and Trade, Australia
DPD	Regional Representative Council
DPR	People's Representative Council
DRG	Democracy, Human Rights and Governance
DRM	Domestic Resource Mobilization
DRSP	Democratic Reform Support Program
EU	European Union
GIG	Governance for Inclusive Growth
GVN	Government of Vietnam
HDI	Human Development Index
ICEL	The International Center for Environmental Law
IFES	International Foundation for Electoral Systems
ILS	Institute for Legislative Studies
IRE	Institute for Research and Empowerment
IPC	Indonesian Parliamentary Center
IRI	International Republican Institute
KPK	Corruption Eradication Commission
LBO	Legislative Budget Office
LEP	Legislative Engagement Program
LIPI	Indonesian Institute of Sciences
LIS	Legislative Information Service
LPEM	Institute for Economic and Social Research, University of Jakarta
LRP	LRP - Legislative Research Project
LSSP	Legislative Strengthening Support Project
NA	National Assembly
NDI	National Democratic Institute for International Affairs
OTI	Office of Transition Initiatives
PAC	Public Accounts Committee
PDI-P	Indonesian Democratic Party of Struggle
PEA	Political Economy Analysis
PEPFAR	President's Emergency Plan for AIDS Relief
PPP	Islamic United Development Party
PPPI	Paradamina Policy Institute
PRN	Policy Research Network
PWYP	Publish What You Pay (PWYP)
RTI	Research Triangle, Institute

SBY Susilo Bambang Yudhoyono
SIDA Swedish International Development Cooperation Agency
STAR Support for Trade Acceleration Project
UNDP United Nations Development Program
WTO World Trade Organization

I. INTRODUCTION¹

This report examines the relationship between legislative engagement activities supported by foreign assistance (both *per se* and in conjunction with programming in other sectors) and legislative actions tied to economic and social development policies. We first assess the role played by the political and social environment in which legislatures function. Section I considers the relative strength of the legislature *vis-à-vis* other sectors of government and identifies key themes emerging in literature relating to this subject, including the overall level of democratic freedoms, legislative capacity, the relative strength of the legislature versus the executive branch, the method of electing legislators, the number of parties in the legislature, and the relationship between those parties and the underlying cleavages in the society.

Section II reviews the various phases of USAID's legislative support activities. We examine the range of activities designed to support the development of the legislature as a distinct and influential branch of government, including a number of discrete sub-activities outlined in the 2000 USAID Handbook on Legislative Strengthening (e.g., improved committee functioning, development of rules of procedure, bill drafting and constituency outreach activities). These efforts can be disaggregated into first-generation activities, directed largely at the legislature itself (the supply side), and second-generation activities, including a focus on civil society advocacy and constituent relations roles. This section asks a series of questions related to legislative strengthening and modernization including:

- How have the traditional legislative strengthening approaches impacted legislative output regarding economic and social developmental goals?
- Which approaches have had the most impact in this regard?
- What have been key elements of the modernization approach?
- What have been the advantages and challenges related to this approach?
- Do these approaches intersect in any fashion with more integrative programming?

The section then assesses legislative engagement programming:

- How do respondents define/view the extent to which legislative engagement programming relates to USAID development goals in other sectors (e.g. health, agriculture, environment, economic development)?
- Where are the natural interfaces? What forms does integrative programming take? How central is legislative policy development to this interface?
- Can integrative programming result in the creation of a broader coalition of support for the desired outcome?
- What is the attitude of other sectors to integrative programming? What incentives are there for other sectors in integrative programming?
- What incentives are there for DRG in integrative programming? Is there a perspective that this risks simply turning D/G into an appendage of other programming, and diminishing its intrinsic merit?
- To what extent are other sectors currently undertaking integrative programming without officially involved DRG?

¹ The author gratefully acknowledges the assistance of Samantha Wulfson in the preparation of this report.

- What should be considerations in determining the relative resource allocation for legislative-related activities within the overall program budget for integrative programming?

Section III focuses on two case studies – Indonesia and Viet Nam. These cases illustrate the current trend towards legislative engagement activities that connect to other sectoral programming. We chose these cases using the following criteria:

- Significant USAID investment in both countries over a sustained period of time, including that legislative programming;
- Included two or more areas of USAID’s development focus (e.g. health, environment, economic development); and
- A relatively positive story to tell in developmental terms.

Section IV concludes with recommendations relating to legislative engagement programming specifically directed toward social and economic development. Legislative support approaches that can most directly influence the legislature’s ability to promote economic and social development, include, inter alia, the ability to access data and information to make informed legislative policy choices, the capacity to develop and shape relevant legislation, and the creation of a budget development and analysis capability. We hypothesize that there is a need for “an informed legislative community” (e.g., civil society, constituencies, research institutes, etc.) to both advocate for policies and to serve as an information resource for the legislatures to help strengthen their engagement and input into policy development. This, in turn, could result in legislators engaging in more proactive dialogue with constituents and stakeholders on a variety of specific development issues. This could also include additional and more regularized flow of information into the legislative process.

We also note that, even while emphasizing legislative engagement programming integrated with other sectors, there is also an ongoing need for emphasis on traditional legislative strengthening approach. Moreover, an integrative approach may not always work. With an integrative approach the DRG risks losing its intrinsic value and simply become an appendage of sectors. Other sectors may simply strive to pass a particular piece of legislation quickly, with no structured and longer-term legislative capacity-building element.

II. LITERATURE REVIEW

Introduction

This literature review provides a historically based overview of how the academic and policy communities view the role of legislatures in social and economic development and the extent to which donor support for legislatures has impacted broader developmental goals. This review is sub-divided into two categories. The first, more macro-oriented segment, examines the role of the legislature in a democratic system and the ways in which it may affect, positively or negatively, economic and social development. The second focuses more specifically on the interface between donor-supported legislative support projects and development.

Legislatures and Democracy

Democratic theory emphasizes the key role played by legislatures in ensuring the checks and balances inherent in democratic governance. In the absence of an effective legislature, a populist, personalist form of rule often exists that can be highly detrimental to democracy. Wright (2008) acknowledges the importance of political institutions that constrain the power of politicians, emphasizing that personalist regimes are much more likely to have nonbinding legislatures that fail to sufficiently constrain executive power. Geddes (2003) points out that while personalist regimes may have other potential centers of influence, such as political parties or civil society, these fora are often not powerful or independent enough to act as counterweights that can keep leaders from unilaterally making key policy and personnel decisions. O'Donnell (1992) noted a significant divergence in populist regimes from the traditional representative democratic institution model in which legislatures contribute to accountability alongside the other branches of government. "Delegative" democracy, by contrast, can lead to the chief executive making arbitrary and unwise decisions that are focused on short-term goals. These may compromise longer-term interests and place the executive firmly in conflict with the legislature. Hence, the importance of the representative function is emphasized in the literature. An effectively functioning legislative is a catalyst of democracy and thus an essential element of focus for international donors seeking to strengthen democratic institutions.

The existence of a strong legislature is essential for a transparent and accountable policy-making process. Arter (2007) emphasizes that legislatures need not only sufficient capacity and operational functionality but also the will and ability to utilize the first two prerequisites to actually carry out their responsibilities. Legislatures are entrusted with "the responsibility to make sure a state spends money well and wisely, that it delivers good and appropriate policy, and that it steers the nation admirably and surely" (Rotberg & Salubhub, 2013). Other scholars of legislative functioning stress the need for openness and visibility of legislative actions. For example, Malesky et al. (2012, 762) note "evidence that politicians respond to greater transparency with better performance. Better access to information seems to force politicians to respond more appropriately to citizen demands, both in developed and developing countries." Ahmed (2012) cites Bangladesh as an example of the need for transparency, elaborating on the essential relationship between legislators and citizens. The path, in his view, to a more open, trusting relationship is outlined by promoting dialogue between the elected officials and their constituents. Thus the concerns of transparency, governance, and corruption have endured as central issues and are recognized as such. Bardini (1999, vi) noted that "The demand for WBI's (World Bank Institute) parliamentary programs is evident. WBI now has an opportunity to rededicate its work with parliaments and deliver programs which can be of particular help to those countries undergoing profound political and economic changes."

The ability of the legislature to contribute to broader developmental objectives is a key test of its role and relevance. Kroenig and Karan-Delhay (2011) ask whether stronger legislatures lead to the adoption of laws and programs that increase economic growth and reduce poverty. They conclude that legislatures have an important role to play in determining the macro-economic course of a country's economic development and that strengthening national legislatures should be an urgent priority for governments and donors focused on improving standards of living in the developing world.

Democratic legislatures often focus on socioeconomic development as a key area of policy. The benefits of a legislative focus on development are emphasized in an analysis of economic development determining that “countries with more powerful national legislatures not only possess higher levels of economic growth, but they also enjoy higher levels of human development and lower levels of income inequality” (Kroenig & Karan-Delhaye, 2011, 8). These authors advocate for continued emphasis on donor support in legislative strengthening programs, arguing that they have proven to be a crucial element of improving standards of living through economic growth in developing countries. By contrast, a lack of involvement can have deleterious effects. Rakner (2012) has explored why Zambia’s economic growth has been disappointing. Much of the country remains in poverty and is plagued by rampant corruption. Rakner attributes Zambia’s failure in part to the inability of the legislature to exert influence over the strong executive, thus suggesting further legislative strengthening efforts are necessary.

Sharkey et al. (2005) take a somewhat more advocacy-oriented approach, emphasizing the role that national legislatures can play in promoting poverty reduction strategies. They observe that the involvement of legislatures can promote national “buy-in” for donor efforts to promote economic development and that in doing so legislatures can also provide perspectives that would not have otherwise been heard, in a process often dominated by donors and the executive branch. This need for broad-based buy-in to legislative efforts supporting development is echoed in Farrooqi’s study (2012, 99) of the USAID-funded Pakistan Legislative Support Project. It concludes that “the development enterprise fails to achieve its normative goals because fundamentally socio-political problems are conceived by development actors in purely technical terms.” The study thus emphasizes the perceived need for mitigating, if not eliminating, the common “stove pipe” approach in which identified elements for success of a development project often include only limited consideration of how its implementation and sustainability may be affected by political factors and realities. Finally, Kroenig and Karan-Delhaye (2011, 2) note that “When political power is dispersed...power holders are more likely to adopt economic institutions that protect the economic interests of a larger cross-section of society.” Legislatures, thus, have the responsibility to incorporate the interests of civil society and other non-governmental actors into their work, ensuring increased representation.

The governance environment must be well understood before engaging in project interventions. Without a thorough understanding of this context, feasible options cannot be identified nor can they be pursued in a fashion ensuring a high success rate. Cornell (2013) examines, for example, whether the effect of democracy aid differs between different types of authoritarian regimes and concludes that such aid’s impact is indeed related to the nature of the authoritarian government. As Barkan (2010) argued in a seminal project focusing on African legislatures, the government’s relationship with the public, the strength of political parties, and the significance of the electoral system are all aspects that play a key role in determining the effectiveness of legislative strengthening and development. Rugumamu (2011) echoes these lessons, emphasizing the need “to strategically link the democracy support, peace, and development issues in order to comprehensively address the structural root causes and consequences of fragility.” Hence, an accurate understanding of the country context is as essential as the desired reform efforts. Rugumamu (2011, 160) suggests that “such analysis would inform what kinds of policy and institutional reforms to undertake, actors to engage, and the relative time for engagement.” While many reform efforts have rightly been focused on

fragile states, changes in governance are difficult if the underlying causes of fragility are not analyzed.

While Rugumamu (2011) points out the potential to achieve enhanced results by addressing both legislative strengthening and the sources of state fragility, the process of nurturing a strong legislature from a weak state presents many issues. Special attention, for example, must be given to determining which legislatures are most likely to benefit from donor assistance. While the ultimate goal may be legislative strengthening, legislatures in developing countries face some fundamental cleavages and challenges, including lack of resources and knowledge that may constrain efforts to achieve realistic and attainable results. Freytag and Heckleman (2012, 1) cite the inability of several transition countries to sustain and improve reform efforts and assert that “donors should concentrate aid flows on countries with low civil liberties and a longer history of central planning” to ensure that reforms will have a true impact. They also identify successful focus areas: “judicial independence, civil society, media freedom and electoral process.” The degree to which the fundamental country context is understood can have distinct repercussions, and disregard for or misinterpretation of key factors can lead to either unrelated or unachievable goals.

In sum, the literature suggests that international assistance can support legislatures’ roles in economic and social development, with the caveat that such assistance must be accompanied by a keen understanding of the realities of the situation. The process of developing strong legislatures is often quite lengthy and depends greatly on the context of the country or region. While much hype surrounds the third wave of democratization, Barkan (2010, 2) emphasizes the significance of legislative strengthening in the democratization process. He suggests that “Democratic consolidation—the highest stage of democratization—cannot be achieved without a developed and powerful legislature.” The nature of the institutions already in place is one of the most important determining factors for how easily reform will take hold. Thus, the progress of long-term capacity building efforts depends greatly on the context of the initial situation as well as the shaping of an appropriate plan of action for implementing programs in the country in question.

Legislative support programming

We now consider more specifically the elements of legislative support programming. Over time we observe a gradual move from efforts designed a) to create an infrastructure, b) to foster within the legislature itself a culture of, and constituency for, legislative “modernization”, and c) to develop a more integrated, cross-sectoral approach within USAID mission-identified developmental priorities and sectors. Note that these three categories overlap chronologically. Nonetheless, they are helpful and credible conceptual yardsticks of the evolution of legislative programming.

With the global advance of democratic reform in the 1980s, donors began to make significant efforts to strengthen legislatures, which were often the “poor cousins” to the executive in the exercise of power. Nakamura (2008), for example, reviewed three strategies while assessing legislative strengthening approaches: directly supporting legislative staff and institutions, targeting political parties to increase involvement and competition, and involving civil society in order to best identify and advocate for the interests of the population.

Legislative strengthening efforts fall into two distinct categories. The first comprises technical assistance regarding legislative processes, including areas such as constituency building, committee support, and legislative drafting. The second consists of hardware and durable goods that are utilized by legislators and staff in the pursuit of their duties. These may be communications and other materials and equipment as well as information technology materials and support. We find numerous references in the literature to the following elements:

The strengthening of committees is essential to the overall functioning and power of the legislature. Insufficient and inadequately trained staff members will hamper the conduct of legislative duties. There is a need for a sufficient number of well-trained staff capable of addressing specific issues. Bryan and Hoffman (2007, 28) noted the weakness of legislatures in several developing African nations, stating, "Committee appointment systems that do not take legislators' backgrounds into full account also miss opportunities to build on existing capacity in specific areas." There are a multitude of options for strengthening committees, beginning with targeting previously known strengths, then building on the number of staff and their technical skills through training programs, as Bryan points out is being done in several countries, including Sierra Leone. Similarly, Barkan (2010) maintained that the most profound advances in committees came from technical assistance by international donors. Nakamura (2008, 12) emphasizes, "Micro-level leadership is an important variable in separating success from failure. Somebody has to be willing and able to take the internal lead in implementation efforts."

Barkan (2010), in his study of African legislatures, suggests that a universally accepted principle found in more consolidated democratic legislatures, that a well-developed system of parliamentary committees conducts oversight for government ministries, departments and agencies (MDAs), is essential for legislatures to perform their defining functions. Equipped with ample members and plentiful education and expertise, committees can be potent sources of knowledge and support.

Past efforts summarized by the Democracy House Partnership (Dreier, 2012), have included in-country training, seminars on a variety of legislative strengthening topics, and visits to connect with program recipients including legislators, staff, and CSO members. A study commissioned by SIDA, the Swedish International Development Cooperation Agency (Rocha Menocal and O'Neil, 2012, 47) cites "trials of constituency relations programmes in Uganda in partnership with an academic institution," but also acknowledges that rather than general standards, "different parliaments may have different needs and expectations based on context which has meant that momentum has now shifted towards the regional level, which could be a positive development for fostering localized ownership."

As both knowledge and ownership of civil society are encouraged in combination with legislative strengthening efforts, a strong relationship between legislators and CSOs is likely to be increasingly important. More organized CSOs will be better able to advocate for their needs and representation. Moreover, a stronger legislature is likely to be much more willing and able to respond to these demands and act on them. Thus, not only is constituency building an encouraged focus area, but it may now also be an essential element of successful reform.

The legislative research function receives considerable emphasis in the literature. The goal is to provide legislators and staff with access to the knowledge and information necessary for informed public policy decision making. An Inter-Parliamentary Union report (IPU 2009) highlighted the importance of administrative and research staff having access to credible and

policy-relevant information. Datta and Jones (2011, 17) note that “Legislatures can improve their research literacy and promote better understanding of their research needs through enhanced networks and joint working with researchers as well as with legislators from other countries.” Recommended methods include seminars, visits to other countries, public hearings, and the creation of effective research facilities.

Cuninghame (2009) elaborates on the creation of functioning and comprehensive legislative libraries. Though legislators often have access to libraries, they must be sufficiently organized and equipped to address the wide array of needs of parliamentarians, including the safeguarding of parliamentary records, provision of research services, and the systematizing of administrative duties. Cuninghame (p. 33) acknowledges the potential of well-functioning libraries: “Members’ enormous information needs can best be met by effective and well-resourced parliamentary library and research services making full use of new technologies for collecting, managing and sharing information.” There are many methods to carry out staff training, although collaboration and access to knowledge are two central pillars in the majority of aid programs.

Information Technology and Technical Support present seemingly advanced methods for many developing countries, but small changes can lead to great results. Regarding a project in Timor Leste, the Democracy House Partnership report (Dreier, 2012, 14) cites refined software capabilities leading to “greatly improved internet and network connectivity for members of Parliament and the parliamentary research service improving their ability to use the library to undertake legislative research and analysis.” The Inter-Parliamentary Union (2009, 7) suggests that “by adopting new methods and technologies in information management, these services can provide part of the solution to information overload and to issues of legislative quality and accountability.”

IT and tech support can prove essential in increasing overall legislative transparency. With heightened capabilities, “Technology has led to the democratization of information, with both parliamentarians and the public having greater access to material on the work of parliament and parliamentarians” (Interparliamentary Union, 2009, 11). Thus, IT and tech support are valuable means of procuring information and organizing legislative functions, but they may also take a lead role in increasing transparency and accountability.

Legislative drafting is an integral part of the legislative function. In discussing the functioning of the Ugandan parliament, Andrews and Bategeka (2013, 21) identify dialogue, analysis, and scrutiny as essential steps before even beginning the drafting process. It is crucial that the technical side of writing bills is understood, as “this process begins with brainstorming about the entry points for reform.” Legislative drafting and the passage of legislation are identified as the last phase of a lengthy progression. Roth (2004, 48) further elaborates on the importance of competent and well-informed participants in the legislative drafting process, noting that “Where legislation is initiated by MPs, expert advice is even more important and will certainly need to include advice on drafting.” In order to create effective legislation, the components of infrastructure and support should be in place to ensure that the process can be carried out successfully and knowledgeably. There are different specific models of legislative drafting, “ranging from ad hoc systems, where legislators might ask friends and associates to draft, to centralized systems servicing all needs—government and private members alike. Bill drafting reform efforts have generally moved toward institutionalizing the process and establishing centralized professional, non-partisan systems.”

External actor (stakeholder) capacity building has received considerable attention. It is widely agreed that efforts to reform the legislature must be coupled with the strengthening of civil society, capacity building, and a general increase in knowledge of the legislative processes. Despite varying views on best practices of aid programs, Nakamura (2008, 16) emphasizes prerequisites of the process: “Two things follow from using a capacity building approach. The first is that you need somebody to work with in the form of the target population. And the second is that capacity building works primarily on the capacity to act and supposes the motivation to work for more effective representation already exists or can be developed.”

Another approach in terms of legislative interactions with stakeholders, an approach that has received less support from donors (for reasons cited below), has been the provision of constituency development funds (CDFs). Such funds can provide a clear and direct connection between the legislator and constituents. Baskin (2010) notes that CDFs can promote the involvement of civil society in dealing with development goals on the local level. If instituted correctly, they can be powerful tools to develop relationships among governments and constituents. In his study on Bangladesh, Ahmed (2012) similarly observes that in other South Asian countries legislators can also use constituency development funds in promoting the interests of their constituents. For India he cites yearly project allocations worth 20 million rupees in response to citizens’ demands. The more powerful the legislature, the more likely it is to impact policy, so the decision then follows as to what extent the legislature will incorporate the will of the people into their policy-making decisions. Constituency development funds have shown success in several contexts by articulating the needs of citizens in a relationship that clearly outlines the roles of both parties.

Constituency development funding, along with several other constituency building methods, have been criticized on a range of grounds. They can be mismanaged and blur the line between development and the generation of corruption in the form of patronage and political *quid pro quos*. Van Zyl (2010, 106), for example, has argued against CDFs, claiming that they:

- breach the separation of powers;
- distribute allocations less progressively than other funding mechanisms;
- influence the results of elections;
- are less aligned with local development priorities than other local infrastructure projects;
- displace funding that might otherwise have gone to local governments and impose a number of administrative and monitoring burdens on the latter;
- are more poorly monitored than that of other projects;
- weaken the ability of the legislature to oversee the executive; and,
- enhance clientelistic aspects of the relationship between MPs and the electorate.

These types of problems have led most donors to be wary of providing significant CDF funding.

The passage of a budget is one of the legislature’s principle tasks. Since the budget determines levels of government spending, it explicitly relates to the government’s development goals and improving the ability of legislatures to effectively manage the budget process is an increasing focus of legislative support efforts by donors. The empowerment of legislatures to effectively engage in this function can also prevent corruption and ensure that money is being allocated to the issues of utmost importance. Past outcomes demonstrate that the alignment of internal interests and external aid is critical, as there should be a strong

initiative from within to promote reform. Purcell et al. (2006) present a situation in “Evaluation of General Budget Support—Uganda” in which expressed donor interest in budget reforms mirrored that of parliament, but unfortunately the government seized on this to complain of foreign interference and ignored the fact that the parliament had similar views. Thus, communication is necessary not only between constituents and the government but also among other reform actors and the government.

The execution of the budget process links directly not only to legislative functioning, but also to economic growth and the furthering of democracy. Wehner (2004, 1) suggests that “The budget is the key economic policy tool of the government, and constitutes arguably its most comprehensive statement of priorities.” He also argues that “During budget execution, substantial gaps between approved and actual budgets undermine the credibility of the annual budget and legislative authority in general”. Therefore, channeling reform efforts to legislative strengthening can create a better budget process and in turn increase the prospective for economic progress. It is acknowledged that the annual budget process is embedded within a broader socio-economic and political environment that affects the potential for legislative scrutiny. Thus, the repercussions of a strong budget process are far-ranging. McKie and van de Walle (2010, 1283) state that “the manner in which budget execution is undertaken impacts development in a country in terms of the effect it has on the quality of physical infrastructure that is built, the availability of crucial social services, and the efficiency of government entities to facilitate economic advancement.” If executed well, legislative—specifically budget—support could potentially lead to substantial economic advances. Posner and Park (2007, 23) provide a synthesis of what evolving democracies can aspire to. They note that “The involvement of legislature with budgeting has grown in recent years, caused by deep-seated forces in the economy, the political system and the culture.” Legislative assistance directed at improving budget processes can increase executive oversight, build legislative capacity, lead to a better legislative-executive relationship, and promote more knowledgeable decision-making.

The work surrounding the budget process, both in terms of donors creating mutually supporting programs and coordinating efforts with fellow actors, remains a work in progress. The SIDA report (Rocha Menocal and O’Neil, 2012, 71), for example, analyzes the alignment of interests regarding the budget, concluding that with “greater focus on issue-based support to parliaments (such as strengthening budgetary skills and parliamentary roles in scrutinizing budgets in relation to issues like gender equality and health; human rights, etc.), it is again not yet clear what has worked and what kind of qualitative difference it has made.”

In achieving a better budget process successful strategies to work towards the end goal are varied. The need for legislatures to have independent sources of information for budget analysis and development is an issue of central importance. Arter (2007) emphasizes that a necessary requirement for legislative effectiveness and legislative autonomy is that the legislature can acquire the information it needs to examine government measures without needed to depend on information to do so supplied by executive sources.” Staddon (2014, 58) elaborates on the Public Accounts Committees in Trinidad and Tobago and Jamaica, “responsible for the non-partisan audit of public expenditure and control of the public purse.” These PACs possess an unrestricted right to consider issues of efficiency and economy of program implementation. Johnson and Stapenhurst (2008) identify nonpartisan budget offices as another potential strategy, which would separate budget issues from all political perspectives. The ability of nonpartisan teams to conduct their own research and provide independent information

potentially enhances functioning and serves to check the activities of the executive in their involvement in this process. The involvement of civil society in the budget process can also be very helpful. Guinn and Straussman (2015) call for a working relationship between the legislature and civil society to increase oversight after passage of the budget in Afghanistan, asserting that transparency serves to bolster legitimacy.

In recent years the *elaboration of benchmarks* to assess legislative functioning has been increasing. Benchmark exercises provide external or internal perspectives on the quality of the functioning of a legislature. One report (LSE MPA Capstone, 2009, 64) identifies five commonly used methods, designed “to contribute a deeper understanding of differences and commonalities across frameworks and assist organizations in a possible harmonization and collaboration effort.” Based on analysis of findings, three of the instruments appeared consonant with each other, namely the Commonwealth Parliamentary Association/World Bank Institute/United Nations Development Programme Benchmarks, NDI Standards, and the Parliamentary Centre frameworks; providing similar results and generating the promise of a credible common empirical approach to assessing legislative functioning.

The International Conference on Benchmarking and Self-Assessment for Democratic Legislatures (UNDP, 2010a) sought to synthesize the specific importance of benchmarks. It acknowledges that while context does play a role in the feasibility of reform, a general conceptual framework is extremely relevant regardless of the context. There is a set of widely accepted standards for what is and is not satisfactory in democratic legislatures. It is essential that legislators take a lead role in identifying these benchmarks, as legislators are uniquely equipped to respond to calls for accountability and transparency while also incorporating organizations into the overall process in order to create a more democratic legislature. The European Parliament (Staddon, 2012, 6) emphasizes the goal of such an exercise as “assessing where a legislature is at the moment, providing examples of issues to consider, and stimulating intense debate about what kind of institution the organization should become.” Given continued efforts on the part of donors and legislatures to further strengthen their functional capabilities, the process and methodologies related to benchmarking are likely to evolve further.

Cross-sectoral integration

Cross-sectoral development programming is an area of increased focus, comprised of several unique components linking democracy and governance to other sectors of reform. Its importance has been emphasized in the current era of limited resources for development and greater recognition of governance as the key to promoting other developmental goals (Kaufman and Smith, 2013).

SIDA’s overall assessment of foreign assistance programs dealing with legislatures (Rocha Menocal and O’Neil, 2012) has defined such “legislative engagement” programming as including a number of approaches, which can be considered to be integrative in nature. One area of focus includes issue-based activities that work with or through legislatures to achieve other, more targeted policy objectives, either as a discrete project or as part of a broader sectoral program. Another related set of activities comprises programs integrating activities to target different elements of democratic governance, with legislatures as only one element. Guinn (2015) further elaborates on cross-cutting aid, addressing several forms of legislative assistance and ways that

legislatures and donors work together to carry out strengthening programs with increasingly wide-ranging goals.

Richa Menocal and O'Neil (2012) concur that aid programs are increasingly governed by an integrative ethos, including understanding of and some influence within the informal politics, rules, and relationships based on political economy analysis and local buy-in. With the use of these integrative programs, the coordination of diverse development efforts is advised to ensure that a common goal is being worked towards while avoiding potentially conflicting outcomes. Guinn (2015, 14) supports an inclusive approach, emphasizing that a relationship of trust is necessary, as the legislature will be significantly more open to working with implementers that are believed to have the country's best interests in mind. Furthermore, the international community is advised to: "align its programming with the clear interests of the legislature...articulate the projects goals and implement all activities in a clear and transparent manner and...implement programming incrementally in accord with the development of the legislature." The identification of fundamental factors for alignment and cooperation emphasize the critical coordination of all components of cross-sectoral aid.

As mentioned in the context of specific legislative strengthening programs, the viability of both legislative strengthening and cross-cutting goals are significantly determined by the context of the country. Thus, a specialized reform approach accounting for the sociopolitical environment and the country history is advised. Farooqi (2012) emphasizes the harmful results of a "stovepipe" approach through which successful elements of a development project often include only limited consideration of how its implementation and sustainability may be affected by political factors and realities. While discussing the need to revitalize the reform process, Addison and Scott (2011, 1) point out, "Initial increases in the amount of aid delivered did not lead to the anticipated development impacts. The aid effectiveness agenda brought to centre stage that not just how much aid that is spent, but also how aid is delivered that enables it to be successful, or not, in achieving its aims." Another essential factor for determining the most effective methods of reform is an appropriate working relationship with legislative actors. Not only does this give international donors a unique insight to the country context, but it also assures a working relationship between all parties. Guinn (2015, 5) cautions, "In attempting to support the development of the legislature as an independent entity, the legislative strengthening implementer must walk a delicate line between promoting a certain vision for the legislature while not becoming entangled as a political player within the legislature's internal politics." Thus, a balance must be struck between engagement and interference, which is made possible through comprehensive understanding of the country history and current enabling environment.

In many other ways, cross-sectoral work also faces the same recurring challenges as traditional legislative strengthening projects. Lippman (2001, ix) was an early analyst to consider democracy and governance cross-cutting programs in health, education, economic growth, and environment as "significant and, at times, remarkable," but he also identified a lack of institutional structures as a fundamental challenge for their continued implementation. Although short-term successes may be feasible, problems with implementation and sustainability were likely to arise farther down the road if the mechanisms to implement them sustainably were not identified. Purcell et al. (2006) cited similar issues in a report on Rwanda assessing budget support. Despite efforts to link governance practices to cross-cutting issues such as gender,

environment, and HIV/AIDS, limited resources forced the reform efforts to triage its choices regarding project activities.

A key component of attaining in-country support is through a working relationship between the legislature and civil society. Crawford (2004) highlights the presence of both the media and civil society as two key factors in determining the ability of citizens to advocate for their representation. Success in Ghana was achieved through several initiatives to decentralize and involve civil society, allowing USAID's work in sectors such as education, human rights, and health to be incorporated. Thus, a relationship between constituents and legislators is advised to most effectively communicate goals and foster collaboration. The benefits to both donors and legislators of including members of civil society as a central element in programming is manifested in many ways. Kroenig and Karan-Delhaye (2011, 2) further elaborate on the value of including civil society in legislative support programming directed at socioeconomic development. Where power is dispersed, they argue, "Power holders themselves have an economic incentive to promote the economic well-being of a broader sector of society. Moreover, the public in such countries can better hold their leaders accountable for economic mismanagement." Thus the legislature has the potential to play a significant role in promoting accountability and transparency in achieving sustainable development goals.

Poverty reduction is a key development goal that is often found on legislative agendas. Paradoxically, however, strong institutions and parliaments already in place will greatly help to sustain efforts to combat poverty (Stapenhurst 2003), while it is often weak countries with low functioning legislatures that face the most formidable poverty problems. In this context the involvement of civil society is an especially influential factor for both cross-sectoral missions and the enhancement of democracy and governance (Lippman, 2001). The UK Department for International Development (Roth, 2004) has also placed significant emphasis on the relationship of legislative strengthening and poverty reduction.

Poverty reduction has proven to be one of the most common cross-cutting issues, greatly stimulated by the Millennium Development Goals. The UNDP Manual for Parliamentary Engagement Development with the Millennium Goals (UNDP, 2010b) outlines the importance of legislatures in implementing these goals and the practices through which action can be taken, effectively encompassing the general rationale for legislative engagement programming. Combatting poverty entails diverse approaches, including the development of institutions to give citizens the necessary resources for involvement, education to ensure that citizens have an understanding of the political processes, and the creation of an environment in which legislatures are both willing and able to listen to their constituents' needs. In order to make lasting change there must exist the means through which new policies can be executed. Kroon (2008) emphasizes the challenge of poverty reduction in highlighting the legislature's unique ability to embody the needs of the citizens throughout analysis, implementation, and evaluation of the policy process.

Economic development is a logical sequel to poverty concerns. Sharkey (2006) emphasizes the role that national legislatures can play both in promoting poverty reduction strategies and encouraging national "buy-in" to the donor efforts to stimulate economic development. Not only can legislative actions contribute to promoting widespread support for economic reform, but greater involvement of the legislature may also provide invaluable insight and a second look at the actions of the executive in determining the path of economic growth. Generally, strong

political institutions lead to stronger economic institutions, as the importance of the legislature is acknowledged by Kroenig and Karan-Delhaye (2011, 1): “Without secure property rights and access to economic resources, individuals will lack the ability and the incentives to invest in the economy and to participate in economic activity.” In cases where reform is just beginning to take root, economic growth may be the means through which political reform is measured (Camacho 2014, 19). There are many implications to “understanding the role that mass support for democracy might play in democratic consolidation. Citizens of new democracies tend to expect the new regime to deliver economic prosperity to the same extent as they expect it to deliver political goods.” Thus economic growth may not be merely a cross-cutting option but an essential factor for the success of reform.

In the environmental sector, Lippman (2001) identified positive program results linking relevant issues to democracy and governance. (Note that the concept of cross-sectoral programming was being considered long before it became as prevalent as it is currently.) While problems of corruption and implementation methods persist, there are several generally agreed upon targets for environmental reform. In the case of the Philippines, Lippman (2001, 20) stated that “The environment was a natural setting for cross-sectoral linkages because it combined the mission’s local governance and natural resources management programs with the government’s commitment to decentralization and concern about the environment.” The legislature is constantly cited as a key to mitigating corruption in the area of natural resource extraction through increased transparency. Bryan and Hoffman (2007) emphasize that in many resource-rich countries in Africa the lack of accountability and transparency in the management of natural resources has fueled cycles of corruption, conflict, and poverty. Thus, legislative strengthening plays a key role in capacity building to obtain information and exercise power in order to mitigate excessive corruption. Bryan and Hoffman note that a growing number of African states have passed legislation intended to ensure the sustainable and accountable management of their countries’ natural resources. The linkage of legislative and cross-sectoral programs is therefore essential, as the key to addressing environmental conflicts in many cases is through the development of effective governance institutions, the passage and implementation of appropriate legislation, and increases in operational transparency.

Health care and education, like democracy and governance, are well-developed target areas for reform in themselves; however, there are benefits from combining efforts. Lippman (2001, 40) elaborates on the value of cross-cutting aid, stating that “DG linkages can enhance development. They promote DG and sectoral objectives, creating added results. DG linkages have spawned self-reinforcing attitudes and behavior through which citizens and government have worked together.” Health and education were two of the key areas cited. Foresti and Wild (2014, ii) synthesize the Millennium Development Goals and the MY World survey of what people feel is most important for themselves and their families, pointing out that “Among poor people in low-Human Development Index countries, [better governance] comes third, with only health and education ranked as more important.” Thus, work to support these goals would likely generate a positive response from civil society. Cross-cutting work involving the legislature in health, and education may allow the government to play a larger role in effectively carrying out the implementation of services and allocation of resources.

General

A review of the literature suggests that for legislative support projects to be integrated into cross-sectoral approaches, USAID, legislatures, and CSOs need to have a focus on similar issues and priorities. Although their interests may not all align simultaneously, at some point they should converge, and this should be taken into consideration in project design. Analysis of past programs suggests that a flexible approach to implementation is desirable, as it is necessary to take advantage of opportunities when they present themselves in an evolving political environment rather than adopting a predetermined set of specifically desired outcomes, especially as some governments are not fully and continuously in favor of reform efforts. By focusing on long-term institution and capacity building, programming is more likely to result in significant accomplishments (Rocha Menocal and O'Neil, 2012). Throughout all stages of reform this tactic is underscored. As Wehner (2007, 54) points out, "Ad hoc, flexible and small-scale support can play an important role in addressing immediate needs and challenges, but significant achievements are only likely to be entrenched through comprehensive and long-term support." Thus, not only should the timing be opportune, but programs must also be equipped to endure in order to ensure support and ultimately gain the capacity to continue without assistance.

Efforts to involve civil society in policy development are a valuable component of the linkage of human development and democratic governance. The heightened political awareness of civil society is recognized by Azevedo-Harman (2012) in sub-Saharan Africa. The demands for transparency and representation have already increased substantially, and these demands are likely to further motivate legislatures to improve their own functioning activities as well as the promotion of cross-sectoral issues important to their constituents. Cheema and Maguire (2002, 13) posit that "Democratic governance is the best system to ensure citizen participation in decision making because it demands the participation of the citizens in selecting their leaders and holding them accountable." The Millennium Development Goals reveal civil society has invested as much interest in governance as reforms have focused on civil society. As Foresti and Wild (2014, 16) note, governance goes hand in hand with several issues: "increases in citizens' voice and demand, for example, may not be very meaningful without support to increase elements of the supply or the capacity of governments to deliver." Thus, while the main focus on poverty is commendable, an additional spotlight on governance is merited. Cheema and Maguire (2002, 13) point out that, "Also critical to human development performance are characteristics in a society that are more difficult to quantify but are more revealing. These include access to services; participation in decision making; income disparities; equality of opportunities; level of employment; economic growth by community; health and education indicators; and human security." The relationship between CSOs and legislators has evolved greatly, contributing to favorable prospects for cross-sectoral work.

In summary (and this will be further developed in the next section), the literature notes an evolution in legislative support programming from more directly targeted legislative "strengthening" and "modernization" activities to the more integrated, cross-sectoral approach with USAID mission-identified developmental priorities and sectors. It notes that "hard" development goals such as health, education and agriculture often require supporting public policy initiatives, which, while usually developed by the executive, often require legislative input and approval. Despite this, while the state of the art of USAID legislative support programming

continues to evolve, and there is a strong rationale for a move towards more integrated programming, its long-term impact is not yet clear.

III. EVOLUTION OF LEGISLATIVE ASSISTANCE PROGRAMING: FROM STRENGTHENING TO MODERNIZATION TO ENGAGEMENT

Since the advent of democracy and governance programming, USAID has included support for legislative development as an important component. This programming has been based on the recognition that nascent democracies need to build legislatures strong enough to act not only as checks on executive power, usually in contexts in which the executive has been long dominant, but also as independent and influential actors in their own right, including representation and law-making functions. Particular elements have included servicing constituents; crafting, amending, debating and voting on legislation; and the development of perspectives and positions on a wide range of policy issues.

USAID has undertaken dozens of projects designed to support the various facets of legislative development. This approach has resulted in some successes but it has also generated questions about its effectiveness and sustainability. As USAID has gained more experience within this field, and budgetary constraints have increasingly become a reality, USAID's emphasis has tended, in general terms, to evolve from assistance focused on internal, technical aspects of the functioning of the legislature (strengthening) to the generation of support within legislatures for reform (modernization) and now to integrated programming with other USAID developmental goals and sectors (engagement).

Legislative Strengthening

According to USAID-generated data, the first wave of legislative support programming was initiated in the mid-1980s. This was oriented towards the provision of “nuts-and-bolts” basic-type assistance regarding legislative functioning, with the plausible expectation that providing legislatures with the tools and information regarding the legislative process would by itself result in stronger legislatures. Programming began in Central America, as the USG sought to support the advent of democratic institutions as that region emerged from years of crisis in the 1970s and 1980s. A regional legislative support program was initiated in 1985; at the same time a project specifically targeted for El Salvador was initiated. The mandate for the former was to provide “Training on developing and improving legislative procedures in Central American parliaments; technical assistance, training and study tours for MPs to the United States and other democratic countries”, while the latter's was to “Strengthen the Legislative Assembly's capacity to engage in more informative and analytical policy dialogue; enhance the operational effectiveness of the Legislative Assembly through the provision of technical assistance, training, equipment and study tours”.²

² Bridle-McMahon e-mail March 13, 2015.

Similar legislative strengthening programming blossomed in central and eastern Europe after the fall of the Berlin Wall and the dissolution of Soviet-style authoritarianism. The “*Gift of Democracy to Poland*” was authorized by Concurrent Resolution by the *Congress* in 1989, and it was followed by establishment of a Speaker's Task Force initially chaired by Representative Martin Frost of Texas which expanded technical assistance efforts to other central and eastern European legislatures. The latter received support from the Congressional Research Service. This assistance was focused primarily on the provision of durable goods such as computers, other hardware such as electronic voting tally machines, and information on legislative procedures and processes. Other Congressionally supported legislative support programming initiatives in the early years were directed through the National Endowment for Democracy.

As this assistance was precedential, and in many cases the legislatures being assisted were functioning in a democratic environment for the first time, there was a paucity of benchmarks by which its impact could be measured in any rigorous fashion. Few post-project evaluations appear to exist. What data are available present mixed results. For example, the impact of assistance through the Gift of Democracy program was judged, in at least one major study, to be “surprisingly modest”.³ Another perspective, however, articulated by a senior Polish parliamentary source, was that the project provided “very significant help”.⁴

In the wake of movements in the late 1980s and early 1990s towards democracy in Latin America, Asia and Eastern Europe and Africa, the administration of George H.W. Bush increased overall funding for democracy assistance, and USAID significantly increased its work with legislatures. As a result USAID began to learn from experience in what, after all, was a new area of activity. One lesson that became apparent was that while technical assistance in the form of legislative strengthening could be helpful to nascent legislatures, legislatures needed to be open to assistance and it should be put in the context of a broader strategy articulated and embraced by the legislative leadership itself. In the absence of this, assistance risked being ephemeral and non-sustainable. It was not sufficient to do information and hardware “drops” in nascent legislatures; such efforts could be wasted if there was not a receptive environment and a sustained commitment to improvement on the part of the recipient legislature. In one critique of a legislative strengthening programming, for example, Carothers noted:

The training sessions for legislative staff do not deal with the facts that the trainees are beholden to powerful political bosses and are not given much of a role. Shiny new computers sit unused on legislators’ desks or disappear. New parliamentary committees are formed at the urging of outside advisers but end up as fiefdoms of the senior legislators who are the root cause of the parliament’s poor performance.⁵

In addition, recognition increased that the level of turn-over of members of parliaments through competitive elections contributed to the sustainability problem. It presented clear

³ John R. Hibbing and Samuel Patterson, “The U.S. Congress’ Modest Influence on the Legislatures of Central and Eastern Europe”, in Power, Timothy and Rae, Nicole, “Exporting Congress? The Influence of the U.S. Congress on the World’s Legislatures”, (University of Pittsburgh Press, Pittsburgh, 2006), p. 13.

⁴ Janine R. Wedel, “Collision and Collusion: The Case of Western Aid to Eastern Europe”, (Palgrave, New York, 2001), p. 80.

⁵ Thomas Carothers, “Aiding Democracy Abroad”, p.182

evidence that dealing with legislatures could carry with it different dynamics than with working with executive branches or civil society.

Legislative Modernization

The approach towards legislative strengthening began to involve largely as a result of these factors. By the late 1990s and into the early 2000s more legislative projects began to focus on or at least include an emphasis on the concept of legislative “modernization”. This refers to projects designed to identify and encourage the development of a core of support amongst influential legislators and staff who could serve as key interlocutors over time. Projects began to include specifically targeted assistance to modernization committees within legislatures, whether or not they had that actual nomenclature. Some illustrative examples included:

- Guatemala Congressional Modernization (1997). USAID’s provided technical assistance to the Guatemalan Congress as part of the second stage of its Master Plan for Legislative Modernization.
- Colombian Congress Strengthening Program (2002). This provided support for the creation of the Modernization Commission formed by representatives of the Congress in charge of implementing the Modernization Plan.
- Iraq and Jordan Legislative Support Projects (2005). These projects had a mandate to modernize legislative processes.

The theory behind the legislative modernization approach contained two main elements. First, the identification of influential supporters, or “champions” of modernization could help legitimize external efforts and provide a committed core of legislators and staffers to take ownership of initiatives to strengthen legislatures over an extended period of time. Second, the approach called for, when possible, the development of institutional and policy roadmaps designed to root modernization efforts within the legislature. Thus, the concepts of modernization committees and modernization plans gained currency. In substance, however, the heart of modernization efforts remained focused on legislative strengthening tactics and tools. A central component of modernization thus included significant technical assistance and staff training for capacity-building.

During the legislative strengthening and modernization phases the role of civil society became increasingly identified as an “outside-in” component of legislative support. The role of CSOs as articulators and advocates of various interests in society was increasingly noted, as was its function in exercising oversight over legislative activities, although their ability to influence legislative functioning has been uneven. As noted in the evaluation of a legislative support project in Morocco, “CSOs can contribute to the legislative process if provided the resources and training to lobby Parliament. While the Project opened the door to citizen participation in the legislative process, greater stimulation is still needed to cultivate these new linkages.”⁶

Various forms of aid to the legislature have also been described as “top down” versus “bottom up.” Carothers gives a succinct description, stating:

In the top-down conventional model, assistance goes directly to a parliament for training, equipment, information centers, materials, and so on. In the bottom-up

⁶ “End of Project Review and Assessment of the Parliamentary Support Project (PSP)”, 2004-2009

model, which is less common and generally more recent, assistance flows to organizations or groups (usually civic advocacy NGOs) within a country to enable them to carry out activities that aim either to change particular aspects of the functioning of parliament or to shape relations between parliamentarians and citizens.⁷

Positive results have been noted with regard to “bottom up” programming. It is suggested that legislatures that were previously unreceptive to aid from international donors may have a better chance at successful implementation through sources of nontraditional strengthening. Experience with the modernization approach has been mixed. Several evaluations suggest positive results from such programming. For example, the Ukrainian legislature, the *Verkhovna Rada*, was the subject of sustained USAID-funded programming in the early 2000’s. One assessment determined that this effort contributed to its functioning due to “the huge increase in staffing, the expansion in the number of Rada offices and buildings, the larger parliamentary budgets, and the greater utilization of computerization and information technologies.”⁸ A review of a project in Jordan highlighted similar activities to establish a legislative resource training center and a budget office.⁹ With the support of legislative leaderships these assistance efforts contributed to providing a foundation for strengthened legislatures.

There is also, however, evidence suggesting that the modernization approach may not be a panacea. As previously noted, legislative member turnover has complicated efforts to create sustainability. The level of members’ commitment to modernization is invariably impacted by political or other contextual considerations. Carothers suggests that “by far the biggest obstacle, however, is the paucity of interest in reform among the main power-holders in the legislatures of many transitional countries.”¹⁰ In some cases, a sense of entitlement or a lack of motivation has made legislators passive about providing sustained leadership in modernization efforts. In many projects it is clear that success was impacted to a significant extent by the level of support and cooperation provided by the legislative leadership, and often this proved ephemeral or otherwise absent.

This lack of buy-in is reflected in a number of project evaluations. One evaluation of a USAID project in Peru observed that, “The greatest challenge was the lack of concrete support and participation by the Congress, with a few exceptions, in OTI’s efforts to collaborate on a reform process.”¹¹ Similar results were noted in a USAID Nigerian project: “There was a lack of buy-in on the part of the political leadership of these beneficiary institutions/organizations. Where this occurred, there was a disconnect between the needs (as perceived by the implementing partners) and what the leadership of the beneficiary institution considered its wants.”¹² A 2013 evaluation of a USAID funded legislative modernization project in Liberia stated that “Legislators were uniformly candid in admitting that the Legislature’s commitment to modernization—and thus to the program—has been limited and that they have not fully benefitted from the program. Of the services developed, the Legislative Information Service

⁷ Thomas Carothers, “Assessing Democracy Assistance: The Case of Romania”, p. 63

⁸ “Evaluation of the Indiana University Parliamentary Development Program”, 2008, p. 12.

⁹ “Audit of USAID/Jordan’s Democracy and Governance Activities”, (2008).

¹⁰ Carothers, *op. cit.*, p. 183.

¹¹ “Final Evaluation of USAID’s Office of Transition Initiatives in Peru”, (2003), p. 16.

¹² “Evaluation of the Support for Electoral Processes, Political Party Development and Legislative Strengthening project in Nigeria”, (2003), p. 28.

(LIS) was well-used as a source of information, but was not used very often as a research service. The Legislative Budget Office (LBO) has not been consulted frequently and has not been as proactive about building a constituency at the Legislature.” An evaluation of legislative support programming in Iraq notes, “Those programs whose primary focus has been on institutions building—strengthening the capacities of the legislative and executive branches of the transitional governments, and assistance to the constitutional drafting process—have not achieved their long term results.”¹³ An Afghanistan legislative assistance evaluation report suggested that advancements varied depending on the “dedication of partners and changing priorities.”¹⁴

Thus although aspects of modernization in a number of projects may have endured, the extent to which this approach by itself has resulted in lasting contributions to legislative functioning remains an open question. Modernization requires finding champions—those who wanted to strengthen the legislature for solely the legislature’s sake. However, these ‘champions’ are limited in number as legislators’ paramount concern is often continuity in office. At the same time, in many legislatures there is often considerable turnover, which greatly complicates legislative modernization. Experience thus demonstrates that the implementation of projects whose primary focus is simply strengthening the legislature has proven questionable. Lack of buy-in from legislative leadership, along with the cost and challenges in terms of identifying credible indicators contributed to donor fatigue on these types of projects.

Legislative Engagement

In the wake of USAID’s experience with the approaches cited above, legislative support programming assistance has evolved in recent years to include more emphasis on integrated, cross-sectoral project design, projects with potential for meeting multiple developmental goals. This is due in part to the growth of initiatives such as Feed the Future, Power Africa and PEPFAR, and other poverty reduction, economic growth and DRM initiatives.¹⁵ Budgetary realities constraining the amount of funding available for legislative programming have also contributed to this evolution. The shifting of resources away from democracy and governance activities into other sectors has resulted, in some cases, in more innovative and integrated project designs reflecting heightened recognition that legislative buy-in can be a critical element in promoting development initiatives.¹⁶ Conversely, the absence of such involvement can stymie, retard or otherwise impede development initiatives.

Legislatures pass, amend and (less frequently) initiate legislation and budgets that shape government policy, development programs and social services. Legislative actions can also shape implementation and result in better or worse service outcomes. A paradox exists in that

¹³ Iraq Monitoring and Evaluation Performance Program: Final Report for Political Process Assistance and Review,(2005), p. 3.

¹⁴ Find Afghan Report, (2008, p. 4)

¹⁵ The role of legislatures on the revenue side of the budget – setting tax rates and other government income – has received relatively less attention in legislative support programming, but this may change with increased attention to domestic resource mobilization as a key to sustainable development.

¹⁶ Another result of the more constrained funding environment has been the subsuming, or “bundling”, of legislative support activities with other D/G programming emphasizing the diffusion of power away from highly centralized executive authority, such as municipal governance (e.g. Colombia) or broader decentralization efforts (e.g. Bolivia).

heightened legislative involvement can lead to delays and inefficiencies as legislators may review, alter, impede or otherwise slow things down and “gum up the works.” This may be true in some instances, but it is a reality that democracy involves a set of trade-offs between democratic principles such as transparency and inclusiveness and the operation of checks and balances, on the one hand, and short-term operational efficiency on the other. The bottom line is that without the former, the latter risks being ephemeral, as a range of stakeholders may not have had a say in the decision-making process and may thus not be supportive of the initiative or policy in question.

A key question has been how to most effectively operationalize the recognition of the need to integrate a legislative role in the development process. What are the most appropriate entry points? Is there a primary programmatic “vehicle” for programming to positively impact the legislature’s ability to contribute to economic and social development goals? While apparently not based on any formal USAID decision, the weight of evidence points towards particular emphasis on the articulation and promotion of policy decisions that can impact progress in other developmental sectors. There is recognition of a need to promote “an informed legislative community” (e.g., civil society, constituencies, research institutes) to both advocate for policies and to serve as an information resource for the legislatures, to help strengthen their engagement and input into policy development.

This in turn could result in legislators engaging in more pro-active dialogue with constituents and stakeholders on a variety of specific development issues, including additional and more regularized flow of information into the legislative process. The growing number of recent legislative engagement project designs thus reflect a determination that the most appropriate vehicle is that of influencing the policy debate, providing informed data and information, and shaping the culture of information flow for legislators to use and guide their decisions (*n.b.* these include not only the development and passage of legislation itself but also amendments, oversight, regulations, and other relevant actions).

This approach, in turn, can be divided into two main areas of focus. The first is the development of empirically driven research that can contribute and feed into policy debates. This can flow from research capacities within the legislature itself, civic and advocacy organizations, as well as non-partisan research and/or university-based bodies. Experience shows, however, that it is not sufficient to create the basis for sound policy decision making; the legislature must be aware of and empowered and willing to use it. Policies must also be effectively implemented, which usually requires the cooperation of the executive. Thus, the second focus area includes the processes and modalities by which this information can be fed into the legislative (and executive) branch(es), and how perspectives between these two branches can be mediated and synthesized, in the best of circumstances, to produce effective governmental policies and positive developmental outcomes.

Another related area in which legislative engagement can function concerns advocacy. The provision of technical assistance on advocacy efforts has long been an element of demand-side legislative support programming, in which the capacity of non-governmental stakeholders to articulate their needs with executive and legislative branches is enhanced. Unlike past activities, however, legislative engagement programming integrally links generic advocacy capacity building with specific issue areas. There are many actual or potential opportunities for this. Issues such

as education, health care, gender issues, and poverty reduction are often cited as key themes around which supporters mobilize to advocate for critical policies and reforms.

Legislative engagement work has the potential to generate results in the specific sectors in which the programs are carried out. To cite one illustrative example, a report on USAID's approach to addressing disability issues noted the significant effects of linking reform to policy issues, stating, "These reports [on impact of efforts to meet the Action Plan objectives] are closely read by the disability community and have influenced congressional interest and legislation." The programs have taken place throughout Africa, Asia, the Middle East, and Latin America and have seen impressive results, such as the combining of efforts with the Armenian Legislative Strengthening Program and new legislation to assist people with disabilities in countries such as Bosnia-Herzegovina and Georgia.¹⁷

Another example of the legislative engagement approach has been the CEPPS Natural Resource Management Strengthening Program in Niger. The evaluation of this project noted the "free reign [over natural resources] that successive authoritarian governments and foreign mining companies enjoyed for most of the country's history creates a problem that is only likely to be solved through working both directly for this issue, while dually addressing the governance issues involved."¹⁸ This led the implementing organizations to develop policy objectives focused on legislative strengthening through capacity building and collaboration with civil society, as well as the key goal of addressing natural resource management, respectively. Thus, efforts channeled at reforming legislative practices had a specific policy end goal of improved oversight of the mining sector.

The project evaluation also noted what appears to be a significantly more positive perception of the project among stakeholders than that found in many traditional legislative strengthening efforts. It stated "NDI received almost universal plaudits from Nigerian interlocutors for its activities...IFES was also appreciated and received praise for its work in raising citizen awareness and increasing knowledge on laws and regulations pertaining to extractive industries as well as facilitating dialogue between actors touched by or members of the extractive industries."¹⁹

Carothers provides an insightful articulation of what has come to, in part, underlie the legislative engagement approach:

The point is not that weak, troubled legislatures can never change. It is, rather, that treating legislatures as self-contained entities that can be fixed by repairing internal mechanisms is unlikely to get very far. Rather than seeing the task as legislative assistance per se, it is more useful to think in terms of helping a society develop the capacity to enact laws that incorporate citizens' interests and reflect sophisticated knowledge of the policy landscape. Ultimately, helping bolster this capacity will mean working with many people and groups outside the legislature, including political

¹⁷ "The Fourth Report on the Implementation of USAID Disability Policy" (2005), p. 25.

¹⁸ "CEPPS National Democratic Institute/and IFES Natural Resource Management Strengthening Program in Niger Evaluation" (2013), p. V.

¹⁹ CEPPS National Democratic Institute/IFES Natural Resource Management Strengthening Program in Niger Evaluation (2013), p. 23.

parties, citizens groups, the media, officials from the executive branch, jurists, and others.²⁰

The emerging conclusion thus suggests that legislative strengthening targets should be married to policy issues in order to provide a sense of relevance and impact. In order to be successful, there must be focus on policy issues that generate interest from legislatures. Thus, legislative engagement seeks to strategically involve and partner with members of parliament.

IV. THE CASE OF INDONESIA

Introduction²¹

This country case study is a key piece of this report. It and the companion Vietnam desk study are designed to provide examples of the trend towards legislative engagement programming. The experiences from these case studies help to identify issues related to the overall utility of such an approach and to effectively design and implement related programming.

The case study is divided into several main parts. It begins with background and country context, describing the evolution of Indonesia's democratic transition and assessing the current state of its democratic consolidation. It includes consideration of the overall relationship between the legislature and the executive, as well as the strength of non-governmental actors in influencing policy.

The second section examines the legislature, especially the more powerful lower house, the *Dewan Perwakilan Rakyat* (People's Representative Council - DPR). We pay particular attention to the impact of the legislature in promoting economic and social policy objectives. The discussion also includes a discussion of the structure and functioning of the legislature, the role of political parties in legislative actions, and a discussion of some of the factors and constraints affecting the legislature's ability to play an active role in policy formulation.

The third section outlines previous USAID legislative support projects. These were mostly legislative strengthening in nature: they sought to provide the tools with which the legislature could achieve its functions of representation, legislation, and oversight. The section outlines specific programmatic activities and reflects on the extent to which these projects achieved their goals. The section also considers the extent to which the evolving strategy on the part of USAID to strengthen the legislature shaped these projects.

The fourth section examines the current USAID Project, ProRep. This project is designed to support the ability of civil society organizations, in addition to university and independent think tanks, to positively engage with the executive branch and the legislature. Ultimately this engagement is expected to improve the quality of public policy discourse and legislative actions designed to promote development.

The final sections offer observations, analysis, and concluding thoughts and recommendations on how USAID's work in this area could be structured and focused.

²⁰ Carothers, "Aiding Democracy Abroad", op cit., p. 182.

²¹ The author gratefully acknowledges the assistance of Lydia Munyi Baynham in the preparation of this section of the report.

The criteria used in selecting Indonesia for this case study were straightforward:

- There needed to have been a significant USAID investment over a sustained period of time.
- This must have included legislative programming.
- There must also been significant programming in two or more other areas of USAID's development focus (e.g., health, environment, economic development).
- Overall, there should be a relatively positive story to tell in developmental terms.

Given these criteria, we selected Indonesia as our case. Legislative strengthening programming began in the late 1990s, after the fall of the authoritarian Suharto regime and the advent of the period of democratic reform known as "*reformasi*." USAID has also been very active in other areas including education, health, and economic growth. Indonesia has experienced significant developmental gains over this period and is now the largest economy in South East Asia. Annual GDP has increased at an average of about 5.8% over the past decade.²² Between 1980 and 2012, Indonesia's HDI value increased from 0.422 to 0.629, an increase of 49% (UNDP, 2013).

Indonesia is one of six countries chosen by USAID's DRG Center as case studies for a research project on strengthening the integration of DRG activities with other USAID programming. The case study visit was undertaken in collaboration with a USAID-led team examining contextual, programmatic, and organizational commonalities and differences in order to offer recommendations for scaling up integrated programming.

While Indonesia is undertaking a wide-ranging policy of decentralization, there are a number of key policy issues that are the focus of action at the national level (this is also true in many other decentralizing countries). Some of the key issues include:

- determining the national budget;
- defining decentralized boundaries and the powers of different levels of governance;
- defining minimum standards in distributing block grants at various levels of government administration;
- setting the future of the national health insurance program, a centerpiece of President Jokowi's policy platform;
- consideration of a bureaucratic reform law; and
- mining and natural resource exploitation and management laws.

A research protocol (attached) was developed containing an illustrative list of questions underlying the conceptual approach to the case study. Questions were specifically targeted for various types of USAID stakeholders. These included other donors, implementing organizations, Indonesian stakeholders (including MPs, legislative staff, and engaged Civil Society Organizations (CSOs), and other Indonesian actors with knowledge of the programming (e.g. journalists and academics).

During the June 3-13 country visit, and in subsequent Skype calls, approximately 35 interviews plus sidebar conversations took place. A list of individual meetings is attached.

²² Ivan Kushnir, Gross Domestic Product (Gdp) in Indonesia." http://kushnirs.org/macroeconomics/gdp/gdp_indonesia.html

Background and Context

Indonesia is a diverse and expansive nation of over 250 million people spread over an archipelago of more than 10,000 islands. The Islamic faith majority is tempered by the influence of the preceding Hindu and Buddhist religions, which existed until the arrival of Moslem traders beginning in the 13th century. Dutch mercantilists began to take control of the main island of Java in the 16th century, and most of what is now Indonesia became a part of the Dutch empire until the Japanese conquest in World War II and subsequent independence in 1949.

The main figure in the struggle for independence, Sukarno, became President and adopted an activist foreign policy of neutrality between the West and Communist powers. Sukarno hosted the Bandung Conference in 1955, which witnessed the birth of the non-aligned movement. At home Sukarno increasingly sought to manage a fractious alliance between the military, his own supporters, and the Communist party of Indonesia. Tensions erupted in 1965 when the military staged a de facto coup and bloodily suppressed the communists. Sukarno was subsequently eased out of power by army chief of staff General Suharto, whose autocratic rule lasted until the late 1990s, when the Asian economic crisis devastated Indonesia's growing economy and triggered a popular movement that unseated him.

Since 1998 the country has undertaken a democratization process known as *reformasi*, which has included the development of most checks and balances, the retreat of the military into the barracks (although it still wields behind-the-scenes influence), the growth of civil society, liberalization of the media, and significant decentralization. Democratic elections were held in 1998, 2004, 2009, and 2014. A moderately populist leader who rose from modest origins, Joko Widodo—known as Jokowi—was elected president in 2014. The country faces ongoing challenges, however, in dealing with corruption, managing economic growth, and consolidating its democratic institutions.

Indonesia has a deferential political culture characterized by patron-client relationships and an emphasis on the development of a collective perspective through “solidarity-making”²³ Woodward encapsulates this by stating that, “Deference towards and respect for authority are among the central values of Javanese and Indonesian political culture.”²⁴ The political environment also reflects deep cleavages, reflected in, for example, the anti-Communist pogrom of 1965 and anti-Chinese riots in 1990s. This stems from a political dynamic in which direct criticism and clashing ideological and policy perspectives are generally masked by apparent expressions of consensus and collegiality. For example, former president Susilo Bambang Yudhoyono (2004-2014) sought to create a broad-based coalition, what is termed a “maximal winning coalition.” Such coalitions often do not end up helping the formation of debate over policy alternatives, because they fail to provide alternative points of view for consideration.

Four main parties form the core of the contemporary political landscape. These include the *Indonesian Democratic Party of Struggle* (PDI-P), led by Megawati Sukarnoputri, the daughter of Sukarno, Indonesia's father of independence, and a former president in her own right. The PDI-P has a base of support in population-rich Java. The mantle of leadership is somewhat uneasily shared with President Jokowi, who rose to prominence largely independently of the PDI-P as a

²³ Kacung Marijan, “The Study of Political Culture in Indonesia,” *Masyarakat Kebudayaan dan Politik*, Th XII, No 2, April 1999, p. 62.

²⁴ Mark Woodward, *Java, Indonesia and Islam*, Springer Muslims in Global Societies Series, New York, 2011, p. 239.

furniture retailer and businessman and then as the popularly elected mayor of the city of Surakarta. In addition to Jokowi's election to the presidency, the PDI-P received the plurality of votes in the 2014 legislative elections, garnering almost 20 percent of the vote and seats in the DPR

Golkar is the party of former authoritarian president, Suharto. It continues to have a core of support in the bureaucracy, several entrenched interests, and the military. Geographically, its following is based in West Java and Sulawesi. It won 16 percent of the vote in 2014.

Gerindra served as the political base of the 2014 presidential candidate and former general Prabowo Subianto. The party reflects a yearning for the creation of an Indonesian "renaissance." Its core leaders "are a group of politicized retired officers whose careers rose under the New Order. Their main ideology is the sacredness of the unitary state and the 1945 constitution."²⁵ It nearly tripled its vote total and seats in the DPR between the 2009 and 2014 elections, making it the third largest party in Indonesia.

The Democratic Party is the party of former president Susilo Bambang Yudhoyono, generally known by his initials as SBY. He founded the party in 2004 and since then it has served as the vehicle for his election to the presidency. Its popularity has suffered as a result of several corruption scandals and SBY's constitutionally required departure from the presidency in 2014 after serving two terms. The party came in fourth in the 2014 legislative polls, with 10 percent of the vote.

Jokowi was elected in 2014 with much popular fanfare, arising from a support base eager to give an outsider a chance. The Jokowi governance policy platform is comprised of nine priorities. These include infrastructure development, legal justice sector improvements, education, and further consolidation of decentralization. Considerable resources are needed to achieve these objectives. The budget needs to be carefully managed through raising taxes, increasing income from natural resources, and/or foreign assistance. In the first year of its existence the government and legislature have taken action on some policy fronts, including cutting subsidies for fuel, and increasing funding for health and education.

Reformasi has, in general, resulted in the creation of a set of representative institutions that could lead to consolidation of the nascent democracy. The environment for civil society and think tanks is fairly good. The growth of the middle class results in more emphasis on advocacy. Indonesians overwhelmingly support democracy and the electoral process despite several high-profile corruption cases, declining trust in the House of Representatives, and open acknowledgement of the disproportionate and corrupting influence of money in politics.²⁶

²⁵Aboeprijadi Santoso, "Gerindra and 'Greater' Indonesia", *Inside Indonesia* 98: Oct-Dec 2009, <http://www.insideindonesia.org/gerindra-and-greater-indonesia>

²⁶ Indonesia is rated as Free by Freedom House's 2014 Freedom in the World Index and a "flawed democracy" (49th of 167 countries) in the Economist 2014 Democracy Index. The Polity IV 2014 Authority Trends dataset presents Indonesia as having moved from an autocracy to a democracy between 1998 and 2014.

Democratization Challenges

Public Attitudes toward Policy Formulation

There is a common perception that public policy is formed in a sort of “black box,” with decisions being made in a non-transparent and unaccountable fashion. This has been somewhat attenuated under the Jokowi administration due to many changes, such as CSOs appearing to have relatively greater access to the executive branch. Part of the challenge of policy formulation has been low expectations on the part of the population as to what to expect from the government. Three years ago a survey found that 75 percent of the people interviewed expressed satisfaction with government service delivery. The national ombudsman revealed that he was receiving only about 7,000 complaints a year; a very low figure for country with a population the size of Indonesia’s.

Since the election of Jokowi, however, this has begun to change. Trust in government (meaning the executive branch) appears to have increased somewhat. There are more stakeholders than before on various issues. This is translated into an essentially peaceful public discourse, although some very controversial issues remain under consideration. These include the question of alcohol limitations, the anticorruption challenge, and environmental issues. With increased interest and involvement in a wide array of topics, a central challenge has become the translation of public and CSO perspectives into specific public policy initiatives.

Decentralization

A core component of *reformasi* has been the decentralization of governance institutions. Significant powers have been devolved to the local entities, which are administered by directly elected officials. Decentralization has reduced the power of the central government, distanced the legacy of Suharto’s rule, and increased local participation in politics and the economy. It has also helped broaden and spread growth and in some ways has helped promote competition for economic development. However, the policy has not been an unmitigated success. It has been costly and created new opportunities for corruption. Corrupt local politicians, for example, have used their influence to block decisions and actions of national-level courts, regulations, and politicians, decisions that often are devoted to more constitutional, liberal applications of the law.²⁷

Anti-Corruption Efforts

Indonesia is ranked 107 out of 175 countries in Transparency International’s Corruption perceptions Index. It is also rated the 16th largest economy in the world.²⁸ These facts suggest considerable opportunities for corruption. The fight against corruption has been a hallmark of successive *reformasi* administrations, with mixed results. A Corruption Eradication Commission (KPK) was established in 2002. By 2009 it had investigated, prosecuted, and achieved a 100 percent conviction rate in 86 cases of bribery and graft related to government procurement

²⁷ Joshua Kurlantzick, "Indonesia: The Downside of Decentralization," *The Diplomat* (2012). (<http://thediplomat.com/2012/09/indonesia-the-downside-of-decentralization/>).

²⁸ Norimitsu Onishi, "Corruption Fighters Rouse Resistance in Indonesia," *The New York Times* 2009. http://www.theodora.com/wfbcurrent/indonesia/indonesia_economy.html

and budgets.²⁹ More recently, however, officials of the KPK have been accused of malfeasance, which they claim reflects attempts by corrupt interests to discredit the KPK's work. Another factor contributing to corruption in Indonesia is a significant problem of police impunity, as the police are widely seen as being part of the corrupted system.

Political Parties

The influence of money in politics is endemic in Indonesia. The Institute for Economic and Social Research at the University of Jakarta (LPEM) recently concluded a study indicating that would-be MPs and other political aspirants must contribute significant resources to their parties; i.e., they had to “pay to play.” This limits the policy-making capacity of parties and therefore the DPR. One important sector less reflected in this democratic evolution has been the internal functioning of political parties, as parties are suffering from internal splits. While candidate lists have to be approved by party head offices in order for parties to compete in upcoming local elections, the internal rifts complicated their ability to fulfill this legal requirement. Additional functional setbacks include the limited formal policy analysis capacity of parties.

Civil-Military Relations

The president has broken with the *reformasi* tradition of rotating the chief of the armed forces' position between the three armed services. In June, 2015, he nominated another army general to succeed the current army general as Chief of the Armed Forces. Some observers view this as a setback in the process of limiting the military's influence. This comes on the heels of other decisions Jokowi has made that involve the Indonesian military's development initiatives, potentially blurring the civil-military divide.

Media

There is a huge difference between the current period and the Suharto era, when journalists had to get licences and approval by the government to be able to publish. Now, it is free flow for all. Perhaps paradoxically, trust in media, with a couple of exceptions such as the Kompas and Tempo publications, has decreased. Sources suggest that this is due to the perception that the media are beholden to certain special interests, especially through ownership practices.

²⁹ Ibid.

Diminished Foreign Aid

Overall, the aid environment is shrinking in Indonesia. The country is achieving middle-income status and thus nearing “graduation” from the ranks of countries receiving foreign aid, although there are concerns about the consolidation of democracy. UNDP has halved its areas of activity. There is not much cross-sectoral activity of legislative programming and other projects. Financial support for environment, poverty reduction, democratic governance, and crisis prevention has decreased even from the traditional donors: Australia cut its budget by 40 percent, and the EU plans to pull out of Indonesia. UNDP, therefore, now has only two sectors left – Environment, and Democracy and Governance.

Empirically Based Public Policy Decision Making

To solve a problem it is first important to acknowledge that there is a problem. The new government, unlike previous administrations, has displayed a willingness to operate from a factually based point of departure rather than manipulating numbers to achieve ideal conclusions. However, Indonesia is still in the early days of dealing with this new approach. It is important to have a strong middle class to push the public policy agenda forward, and this is beginning to happen. Former president SBY initiated a movement in this direction when, for the first time in Indonesia’s political history, he placed considerable importance on information gathered from public opinion polling. He chose his vice presidential candidate in 2004 largely because he was judged to be most likely to garner support for the ticket. Other policy decisions were also based on polling, and the current Minister of Education has emphasized the need for research-based policy. In many of these cases, the new government is responding by reaching out for information from think tanks.

An interesting example regarding the limits of possible reform relates to the Jokowi administration’s approach to energy pricing. The administration felt that it could undertake important reforms in this area because the political elite supporting Jokowi was not heavily invested in the energy sector, figuratively or literally. Thus the “losers” as a result of the elimination of price subsidies were political opponents and others to which Jokowi is not beholden. By contrast, there have not been similar policy reforms in areas in which the PDI-P has significant interests, such as the tobacco sector.

The Legislature and Development

Overview

The current parliamentary structure dates from 2004, when constitutional revisions resulted in the adoption of an upper chamber, the *Dewan Perwakilan Daerah* (Regional Representative Council – DPD). This chamber, unlike the lower house, is based on equal representation from the provinces. The lower house, the DPR, is based on population. The upper house is designed to provide a regional perspective on national deliberations, but its powers are significantly weaker than those of the DPR, as it has only limited abilities to submit opinions and advice. The DPD can draft bills for consideration by the DPR, but it has no independent legislative authority.

While decentralization has been a core feature of *reformasi* Indonesia, the national legislature remains extremely important. The national budget must be approved by the DPR,

and it significantly impacts policy choice and implementation. Fiscal policy and other elements of national law constitutionally trump regional regulations. Constitutional reforms passed in 2004 strengthened the DPR's legislative powers and gave it a role in the appointment of a range of state officials, including members of the independent audit agency, the Supreme Court, constitutional court, and judicial commission, as well as Indonesian ambassadors.³⁰

At the same time, the DPR's powers are circumscribed compared to many other legislatures in emerging democracies. Cabinet ministers do not have to be approved by the DPR, and the presidential system does not include a Prime Minister or other executive branch officials accountable to the legislature. In a reaction against the previous era of authoritarian government, however, the president does not have the power to formally veto legislation passed by the legislature.

The structure of the lower house is multifaceted. It consists of 560 members elected for five-year terms. As in most legislatures, there are standing committees, totaling 11, with competence over various thematic issues. There are also special committees with members drawn from all the standing committees; one determines to which commission legislation is addressed, while another is the budget committee. There can also be select committees for ad hoc issues. The work of the DPR is supported by a Secretariat and expert staff both on personal staff and committees. There are additional party caucuses called *fraksi*, which also have expert staff. The *fraksi*, although not officially recognized in the DPR statutes, receive logistical and administrative support from the legislature.

The apportionment of committee chairmanships is determined by the parties' respective number of seats in the parliament and the negotiating and deal-making skills of their leaders. Thus the division of chairs usually works out as roughly proportional to party representation, but some parties (particularly *Golkar*) have proven themselves to be particularly adept at gaining more leadership positions than is strictly warranted by their number of seats.³¹

Elections to the lower house are determined by a proportional representation electoral system. As seats are allocated by population, the island of Java holds 60 percent of the seats. The DPR has a rather unique election system in that it has an "open list" proportional representation system. While parties present a slate of candidates for each electoral district, voters can specifically choose the individual candidates for whom they wish to vote. Voters can thus choose to vote for individual candidates on the party list. In the 2014 election, over two-thirds of voters chose to vote for individuals rather than simply voting for parties. This has the effect of increasing intra- as opposed to inter-party competition. Candidates on the party lists are generally aware of the number of party members from their list who will be elected. This has created an incentive for the various party candidates to seek to maximize their own share of the party vote, consequently increasing competition against their fellow party candidates.

The proportional representation electoral system, including a low threshold of two percent of the vote required for representation, has also resulted in a multiplicity of parties with representation in the DPR. Currently there are 10 recognized parliamentary groups (*fraksi*), of which four different parties each have over 10 percent of the vote and seats. The PDI-P party to which President Jokowi belongs presently has the plurality, but with only 19 percent of seats

³⁰ Stephen Sherlock, "Parliamentary Indicators: Indonesia," (World Bank Institute, 2007), p. 4.

³¹ Ibid. p. 19

cross-party support for each legislative initiative is required. There is some discussion of a possible electoral reform that would result in a German-style mixed electoral system, with the effect of reducing the total number of parties represented, but to date there has not been a serious push to adopt this.

In the wake of the 2014 presidential elections political life appeared to be becoming more bipolar, oriented around the Awesome Indonesia Coalition that backed Indonesian President Joko Widodo, and the opposing Red-White Coalition led by unsuccessful candidate Prabowo Subianto. Subsequent negotiations undercut the role of these coalitions, however, and the DPR speaker later claimed that there was no partisan divide in the parliament.³² The situation is complicated by the fact that at least two major parties, *Golkar* and the Islamic United Development Party (PPP), currently suffer from serious internal splits. This is largely the result of a lack of internal party democratic procedures and processes. The DPR has also been characterized by considerable turnover in each election cycle. After the 2009 elections about 70 percent of the deputies were new; the figure for the 2014 Parliament was about 50 percent. Finally, there is a 30 percent quota for women to be candidates on party lists, but this does not necessarily translate into women actually being elected.

The DPR's structure and functioning should not be viewed in isolation from other aspects of Indonesian political culture. In addition, the authoritarian practices of the Suharto regime continue to limit the influence of the DPR and to impede its functioning. Adiputri points out, for example, that concepts such as mutual assistance (*gotong royong*), family principle (*asas kekeluargaan*), the Sukarno-introduced political philosophy of *Pancasila*, and a tradition of deliberation (*musyawarah*) do not necessarily facilitate the efficient or democratic functioning of the legislature. Small cliques of leaders make many key decisions, and there are elaborate and time-consuming formal procedures that provide an appearance of broader input and consensus. In addition, rigid social stratification impedes the ability of DPR members to benefit from substantive contributions by their own staff members.³³

As a result, the extent to which the DPR and the larger political process reflect the needs, concerns, and priorities of citizens and groups in the policy-making process is debatable. Opportunities for interaction between citizens and DPR members are relatively limited. For the DPR to effectively and democratically represent the interests of the larger society, legislators must communicate with and be politically accountable to the public. Public credibility is essential. Moreover, robust, inclusive representation provides the political basis for legislative effectiveness in carrying out other functions, including the enacting of well-crafted legislation and the provision of effective oversight of the executive.

A 2008 governance assessment determined that the legislative branch scores reasonably well on key governance criteria, including authority, transparency, capacity, and accountability. It also determined that despite substantial improvements in preceding years, the DPR still

³² "Political Update: Pact Awesome Indonesia & Red-White Coalitions," *Indonesia-Investments* (2014). <http://www.indonesia-investments.com/news/todays-headlines/political-update-pact-awesome-indonesia-red-white-coalitions/item2625>

³³ Ratih D. Adiputri, "Parliamentary Reforms through Parliamentary Procedure: A Lesson Learnt from the Indonesian Parliament," (Paper Prepared for 12th Workshop of Parliamentary Scholars and Parliamentarians: University of Jyväskylä, Finland, 2015).

lacked sufficient professional staff and did not have control over its budget. At the time it was deemed not to have the capacity to oversee the public budget.³⁴

Decision making within the DPR is largely a function of collective leadership groups in charge of the DPR leadership and various commissions and *fraksi*. Decisions are not made by open votes but by so-called consensus (*mufakat*), where agreement is reached in private meetings amongst the leaders and subsequently communicated to ordinary members. The ordinary business of the DPR is reflected in a publicly stated reference to official rules, while real decision making occurs in quiet negotiations between different power brokers.³⁵

In terms of the broader policy-making framework, there are both annual and five-year legislative plans. The executive branch has introduced approximately 80 percent of legislation. Regardless of its origin, however, only a limited percentage of the proposed legislation in the annual plans is enacted each year. Before legislation reaches the floor it goes to committees where changes take place, allowing for some power to rewrite legislation. The DPR holds hearings and oversees and approves the budget. There is a complex formal procedure once legislation is docketed in the legislature by which every party caucus submits its comments on the draft legislation. These are then discussed and harmonized as much as possible. Part of the backlog problem is that each commission can only nominate two laws for inclusion in the annual legislative work plan (*ProLegNas*). According to the *ProLegNas* there should be approximately 50 bills passed, but typically only 10-15 become law. Current priorities include revising the criminal law (draft legislation includes 760 articles) and increasing food security.

A unique feature of the Indonesian policy-making process is that, in the absence of a presidential veto power, draft legislation must by law be approved by a joint legislative-executive branch committee before it is submitted to a final vote. These meetings are closed door, which can facilitate reaching agreements, but this also creates a lack of transparency that in turn can contribute to public concerns about the deals being cut (there is a risk of backdoor deals taking place, as in the case of tobacco legislation). The subsequent DPR plenary votes are largely formalistic. There are some examples to the contrary, such as a failed attempt in 2014 by then-President SBY to have local governors be voted in by local assemblies rather than by direct vote.

This process in theory transgresses the separation of powers concept, but in reality most observers view it as a means of ensuring buy-in, as well as a way to facilitate executive branch implementation and compliance with legislation once passed. This feature appears to be reflective of the more consensual nature of the Indonesian political culture.

With the advent of *reformasi* hopes were high – perhaps unrealistically so – that the legislature would be an active partner in formulating policy and checking the executive branch's power. Current perceptions of the legislature's effectiveness suggest that it has not met these expectations. This is due to a number of factors. The highly complicated legislative process results in a level of legislation passed that is much lower than anticipated. In addition, corruption has certainly sapped the legislature's legitimacy; concerns about corruption are widespread, as reflected in a current controversy regarding the anticorruption body. Relatively

³⁴ E. Liddle, E. Bjornlund, W. King, B., "Indonesia - Democracy and Governance Assessment," ed. Inc. Democracy International(USAID, 2008). p. 25.

³⁵ Sherlock, "Parliamentary Indicators: Indonesia." p. 6.

weak party structures, which tend to be based upon regional and personalist affiliations as opposed to common policy positions, increase the popular perception that MPs lack principles and engage in corrupt practices.

The DPR can move quickly on development-related issues when it needs to; an example has been local government legislation. By contrast, more controversial legislation, such as that related to the oil and gas industry (the object of considerable lobbying—both pro and con) has languished. Member-introduced legislation can pass through the legislative process more quickly compared to government-introduced legislation, although there is much more of the latter.

Apart from the nascent and loose Megawati/Jokwi-SBY/Probando coalitions, partisan lines are not deeply drawn within the DPR; as one ex-MP stated, “No one wants to be in opposition, because then they do not benefit from the distribution of resources.” The decision-making process is characterized by a more consensual atmosphere than is found in many legislatures around the world. The cohesiveness of the DPR depends on the particular issue under consideration. The so-called opposition is larger than those parties oriented towards the government. However, party alliances and distinctions between the blocs are extremely fluid. In fact, the term opposition is not used as much as the term “balancing parties,” which connotes a minimization of partisanship. This lack of clarity can serve to confuse the voter and decrease confidence in the robust functioning of the DPR. It is, however, reflective of a political culture in which open disagreements tend to be minimized and emphasis is placed on harmony and collective action. This has implications for public policy, as there is not a strong tradition of alternative policies being presented and considered.

Members of Parliament are somewhat responsive to public opinion. When public attention is focused on an issue, DPR members do tend to look at it more closely. CSOs play a role in channeling this attention. While MPs are elected on regional lists through proportional representation, there are only four or five MPs per region, so they do have a fairly close identification with a particular region or constituency. MPs are not adverse to taking actions that are favored by the public as long as this does not interfere with their “obligations” and political and financial debts that they may have incurred.

To expand the information base regarding certain policy issues, the DPR will at times solicit information from the outside. For example, the vice chair of the environmental commission asked to meet with two leading environmental CSOs to solicit their views on certain issues. The chair of that commission subsequently sent a message on Twitter saying that he agreed with the policy positions of the CSOs, thus demonstrating, in at least this case, an openness to interacting with outside influences through both social media and direct involvement with civil society.

Key Legislation

The DPR has affected economic and social development in a number of varying, substantive ways. It should be emphasized, however, that this influence is not as strong or broad-based as that of the executive branch. And there is a potential for parliamentary overreach in terms of legislation, such as the draft Organizations Law under consideration, which would target radical Muslim organizations.

Budgets

The legislature does amend the budget, sometimes significantly. There are many examples of changes to the recent budget that were made by the DPR. These included:

- allocations in subsidy amounts;
- an education endowment added to the education budget;
- support for state-owned enterprises reduced from 75 trillion rupiah to 65 trillion rupiah; and,
- increases in the Social Security system.

Another significant area of DPR impact on the budget process is that it has at times delayed approval of some parts of the proposed budget. This is especially likely if particular DPR Commissions do not agree to certain spending proposals. The DPR has begun to realize the power of this provision and, on a couple of occasions, has openly threatened not to pass particular parts of the budget bill so as to pressure the government to take some particular action.³⁶ Despite this, the DPR's scrutiny tends to focus more on detailed line items than overall budget policy and strategic priorities. To further complicate matters, the legislature is hampered by its lack of capacity in this area, reflecting its largely reactive, rather than proactive, history of involvement in the budget process.³⁷

The budget is one of the few pieces of legislation that is approved in the same year. Most years since *reformasi* have seen greater levels of substantive debate on the budget. As mandated in the Constitution, 20 percent is dedicated to education and 25 percent to transfers to local government. Other current percentages include 5 percent for health and 5 percent for national defense. A large subsidy for fuel has been eliminated as of 2015, with the savings transferred into the health and education sectors.³⁸

The government budget preparation process is extremely complicated and includes a number of diverse steps. The draft budget is introduced by the executive branch; the DPR does not prepare an alternate budget. The government first submits a preliminary "fiscal policy and budget priorities" document to Parliament. The Ministry of Finance and the Ministry of National Development Planning (*BAPPENAS*) have discussions with the Budget Committee and with the commission dealing with economic and financial affairs. The Ministry of Finance and the relevant committees in the DPR seek to reach an agreement on proposed ranges for the key economic assumptions and revenue forecasts. Individual spending ministries also have discussions with their respective sectoral commissions on their ministry-specific work plans and proposed expenditures. These parliamentary pre-budget discussions take approximately one month to conclude. Ministries then develop their own specific budgets, and the package is submitted to the DPR in August. The DPR only has from August to October to review and discuss the

³⁶ Ibid. p. 22.

³⁷ J. Hawkesworth Blondal, I. Hyun-Deok, C., "Budgeting in Indonesia," *OECD Journal on Budgeting* 2(2009).

³⁸ It is useful to note that public opinion polling, which DFAD has supported, indicated that the public would be willing to accept the end of fuel subsidies. This appears to feed into the government's decision to move ahead on this issue. It is a good example that public opinion can impact policymaking. There is much more that can be done in this arena; it is a promising avenue to include in a policy making approach.

budget, and once it is voted on in October it cannot be changed.³⁹ Therefore, timing is essential in understanding budget cycle.

Limited access to information presents a key challenge to fuller DPR engagement in the budget. This includes identification of assumptions upon which forecasting is based; these may include economic growth, inflation, oil price, currency rates, and quantity of natural energy extracted. It is of course important to know what the government's assumptions are and if they are realistic. The DPR does get information from other sources including academics and think tanks, but in the past this appears to have been limited and ad hoc in nature.

Budget staff indicated that they rely on information provided by the executive branch, to a significant extent, although at times they believe that the data are overly optimistic. In some cases the committees may develop their own assumptions, in which case there could be multiple assumptions including those of the executive branch, the Central Bank, and the Budget Committee. Staff members cited a recent example of the finance committee projecting growth rates of about 5.5 percent while the government growth rates were more optimistic, at 6 percent. The government has sought to keep the budget deficit well below the internationally accepted average of 3 percent of GDP, which may be a factor in encouraging the executive branch to have an optimistic view of expected revenues.

The budget committee's role in the process is to initiate dialogue with the government about the fiscal and macroeconomic policies and to negotiate with the commissions and ministries on the level and allocation of the budget. Sometimes public hearings are held, and MPs do go back to their constituencies to receive public input and feedback during some of the four one-month recesses during the year. In terms of the current power structure in the budget committee, *Golkar* and two other parties apparently have a plurality of the seats. The 98-member committee includes legislators from all ten recognized party groups, plus some additional members. It operates on a consensus method, whereas the full plenary votes at the end of the process on the budget.⁴⁰

While there are currently only six professional staff members on the budget committee, the size of the DPR staff, including that of the budget committee, is being increased. There is a need to have better communication and coordination with other committees on substantive issues in order to understand their priorities; too often the discourse has been solely focused on budget numbers. The staff expressed the wish to have an Indonesian version of the Congressional Budget Office. There apparently has been some discussion about this, but it is not clear whether the executive branch supports the idea of institutionalizing an alternative source of information in the legislature. It is evidently a question of "political will."

A recently created public accounts government audit committee, to which ProRep had provided technical support, was abolished last year. The justification for the abolition of this committee included the argument that its functions have been transferred to the relevant competent thematic committees that have particular expertise to engage in oversight on the specific topic. Another reason, however, may have been concerns that it might prove to be too

³⁹ For more detail on the budget process see Seknas Fitra, "Overview of Indonesian Budgetary Process", <http://seknasfitra.org/analisis/tentang-anggaran/?lang=en>.

⁴⁰ This would appear to be a very unwieldy structure and decision-making process.

active and become a thorn in the side of some vested interests, as has been the case with the anti-corruption commission.

An Indonesian survey conducted by the Open Budget Institute analyzes the extent of governmental transparency by country. In the case of Indonesia its 2012 report finds that, “Indonesia’s score is 62 out of 100, which is much higher than the average score of 43 for all the 100 countries surveyed. As the highest in the Southeast Asia region, Indonesia’s score indicates that the government provides the public with significant information on the national government’s budget and financial activities during the course of the budget year. This makes it possible for citizens to hold the government accountable for its management of the public’s money.”⁴¹ By way of contrast, Indonesia’s global standing in Transparency International’s broader Corruption Perceptions Index has remained unimpressive, increasing modestly from 118th to 107th in 2014.⁴²

⁴¹ "Open Budget Survey," ed. International Budget Partnership(2012). <http://internationalbudget.org/wp-content/uploads/OBI2012-IndonesiaCS-English.pdf>.

⁴² Transparency International 2014 Corruptions Perceptions Index, <http://www.transparency.org/cpi2014/results>

Examples of Legislation Impacting Economic and Social Development since Reformasi

When President Suharto left office in May, 1998, it marked the beginning of a new period in Indonesian history called Reformation (*Reformasi*). This marked the onset of a democratization process which continues to the current period. Since 1998 a number of laws have been passed with profound implications for Indonesia's economic and social development. These include laws on decentralization, the law on freedom of the press and the Human Rights law; all of which have contributed towards the country's socio-economic development and increased democracy.⁴³ While this legislation may have been affected in some instances by legislative perspectives and actions, in general these laws reflected the will of the executive branch. I. Decentralization under Law No. 22/1999 and Law No. 25/ 1999

I. Decentralization under Law No. 22/1999 and law No. 25/1999

Law No. 22 addresses administrative decentralization, while Law No. 25 deals with financial aspects of decentralized governance. They were both passed in 1999, and the first set of implementing regulations were later published in May, 2000. All public service delivery functions except defense, foreign affairs, monetary and trade policy, and legal systems were decentralized to subnational governments, and the role of delivering most public services, including education, health, and infrastructure, was transferred to the districts and cities, with provinces performing only a coordinator role⁴⁴.

Implementing the process of decentralization has proved challenging given that the laws did not have a good transition or implementation plan.⁴⁵ This led to mixed results following varying interpretation of the laws. In some cases, sub-national governments have used their newfound authority to implement conflicting rules and regulations. For further information and examples on this refer to the World Bank's Prem note No. 43 (Sept, 2000), footnote No 2.

⁴³ <http://www.indonesia-investments.com/culture/politics/reformation/item181>

⁴⁴ <http://www1.worldbank.org/publicsector/decentralization/June21seminar/Indonesiadecentralization.pdf>

⁴⁵ http://mpr.ub.uni-muenchen.de/18097/1/Decentralization_and_Good_Governance-The_Case_of_Indonesia.pdf

2. Indonesian Press Law No. 40 of 1999

Following issuance of Law No. 40 in 1999, Indonesia granted the press freedom to operate without fear or the former restrictions of the dictatorship. Article 4 of the 1999 Press Act states: “Freedom of the press is guaranteed as a basic right of the citizens ... Toward the national press, there shall be no censorship, banning or broadcasting prohibition.”⁴⁶

Whilst this was an important reform, its implementation has not been without difficulty. Prosecution of journalists and editors started again during Megawati’s presidency (2001-2004), given that she regularly and publicly took issue with the press. This carried on even under President Susilo Bambang Yudhoyono (SBY). In addition, newly introduced laws, such as the Pornography Law, the General Election Law, and the Electronic Information and Transaction Law, also contradicted parts of the 1999 Press Law. Given that decentralization led to a transfer of power from the central to local levels, local elites and other influential stakeholders have been able to influence some trials against journalists, resulting in unfair rulings.

3. Anti-corruption Commission Law No. 30 of 2002 and Money Laundering No. 15 of 2002

The KPK (*Komisi Pemberantasan Korupsi*) was formed under the Corruption Eradication Commission Law No. 30 of 2002. Parliament had made previous efforts towards eradicating corruption under Law No. 31 of 1999 on Eradicating Criminal Acts of Corruption (which was later amended through Law No. 20 of 2001). However these efforts had failed to deliver, as they had focused on repressive actions: pre-investigating, investigating, and prosecuting corrupt acts, which even though vital in corruption eradication had lacked significant preventive actions that are needed in the medium to long term. The KPK was designed to represent a new approach to combating the corruption epidemic in that it was expected to act as a trigger mechanism in empowering authorized institutions to become more effective. Moreover, KPK was created with a number of unique features. First, it is independent from the interests of the executive, legislative, judiciary, and any other political entities. Second, it is also audited by the Indonesian Supreme Audit Board. And finally, it has the authority to supervise and coordinate the Attorney General’s Office as well as the National Police in handling corruption cases.⁴⁷

The Indonesian Parliament also committed to combatting money laundering in the same year under Law No. 15 of 2002, which declared Money Laundering a crime. This law was later amended through Law No. 25 of 2003. Even though the country still has a long way to go in completely eradicating corruption, these efforts have paid off, as indicated by the country’s improving Corruption Perception Index (CPI) score shown in Table I below:

4. Environment Protection and Management Law No. 32/2009

This Law aims to create environmentally sustainable development through an environmental planning policy and the rational exploitation, development, maintenance, restoration, supervision and control of the environment. In addition, it encourages reduction of greenhouse gases in the country through reduced deforestation rates.

⁴⁶ http://herlambang-fh.web.unair.ac.id/artikel_detail-134894-Umum-Press%20Freedom,%20Law%20and%20Politics%20in%20Indonesia:%20A%20SocioLegal%20Study.html

⁴⁷ <http://ksap.dpr.go.id/files/seapac/page/Sucess.pdf>

Every business and/or activity expected to have substantial impact on the environment is subject to an environmental impact analysis (Amdal) in order to obtain a license to conduct such business or activity as discussed in detail in the Law.⁴⁸ The lack of implementing regulations for this law has impeded its ability to have its full intended impact.

5. Elimination of fuel subsidies and increased budget for infrastructure

President Jokowi's government implemented a fixed diesel subsidy of 1,000 rupiah (\$0.08) per liter that became effective on Jan. 1, 2015. The reform reduced the amount of funds allocated in the original 2015 state budget for fuel subsidy by 211 trillion rupiah, which in turn provided the government fiscal space for infrastructure development. The parliament approved the new 2015 budget in mid-February, 2015. In the lead-up to the fuel-subsidy reform, the government took steps to mitigate the impact of higher transport and food prices on vulnerable households. This included providing 15.5 million disadvantaged households with 200,000 rupiah per month in November and December as well as expanding publicly funded education and health care. Importantly, cash assistance was provided as electronic money, which is expected to help address Indonesia's low financial literacy.⁴⁹

Needs of the DPR Impacting its Ability to Promote Economic and Social Goals

Assessments of the DPR's effectiveness often include comparisons with other legislatures. Compared to a well-established and consolidated democracy's legislature it obviously will come up short. Judged by the pre-1998 Indonesian legislature, however, one finds an institution that has made significant strides in democratic functioning.

There is considerable ignorance on the part of DPR members regarding how to oversee the budget process. In addition, a well thought out approach is necessary in order to provide details of the budgeting process to members of the public in a way that they can understand and engage with or challenge. There is a need to empower the staff and parliamentarians to focus more broadly on budget issues. It is essential to focus more on the analysis of the facts of proposed budget levels. As one donor technical expert colorfully put it, "it is clear that DPR members try to fiddle with the budget...but it is important that this be informed fiddling."⁵⁰

A challenge affecting the functioning of the DPR is that Indonesian political parties face challenges in terms of effectively aggregating and articulating popular will. A leading scholar of Indonesian politics suggests that popular support for parties has diminished in recent years. This is caused in part, he suggests, by reduced clear-cut policy differences, and in increasing homogenization of politics as parties vie to access resources and power has reduced attention to principles and well-grounded policy positions.⁵¹ In addition, political parties are not well

⁴⁸ <http://theredddesk.org/countries/laws/law-no-322009-environmental-protection-and-management>

⁴⁹ <http://www.thejakartapost.com/news/2015/02/14/2015-state-budget-approved.html>

⁵⁰ The need for understanding the impact/cost and benefit implications of draft legislation appears to be an important area for legislative cross-sectoral work. This has been a key element, for example, of the USAID Bosnia legislative engagement project.

⁵¹ Stephen Sherlock, "Concept Note for Indonesian Political Parties Discussion Network", Centre for Democratic Institutions, 2012, http://archives.cap.anu.edu.au/cdi_anu_edu_au/IND/2011-12/D/2012_03_IND_FA_PPDN_GEN/2012_04_IND_PPDN_CN.pdf

institutionalized. MPs tend to be under the control of their political parties, which exercise considerable discipline given their autocratic nature. This has been noted not only from an observational perspective, but also through empirical findings in surveys of party leaders and officials. The Indonesian think tank CSIS surveyed over 2000 officials regarding the level of party institutionalization. They asked about such issues as the frequency of party branch meetings, information about their headquarters, the presence of people engaged in full-time party activities, and the extent to which they have formalized bottom up chains of transmission of information. The results indicated that parties had generally low levels of institutionalization and that party dynamics were mostly top-down in nature.

There is a legislative research office within the DPR, but its effectiveness is widely acknowledged to be extremely limited. Its staff is not answerable to the legislature, as they are employed by LIPI, the Indonesian Institute of Sciences, a quasi-government organisation. Every draft law must be accompanied by an “academic paper” (*Naskah Akademik*) that is supposed to provide context and supplemental information about the law. MPs often do not refer to them, and their relevance and utility for legislators is widely questioned. They tend to approach the proposed legislative topic in an abstract and theoretical fashion; a commonly expressed view has been that these papers should be more practical and problem-solving in orientation. They often lack, for example, analysis of the fiscal implications of proposed legislation or costs necessary to ensure their proper implementation or execution. Researchers are evaluated upon the number of academic-type publications they produce. However, there does not appear to be an ethos of collaboration with and for members of Parliament. Most legislators do not actively solicit information from this office, either because they are not aware of it, because they do not feel the work is relevant, or because they do not have faith in the information coming from this office. The library in the DPR is not widely used, and MPs use their own *fraksi* staff to do the research.

In recent years donors have limited their direct assistance to the DPR. USAID’s 2014-2018 strategy (discussed below) does not include a specific focus on the DPR. Australia, a major donor, has moved away from directly funding the Indonesian legislature because of a perception that their assistance was not resulting in the desired impact. Rather, these donors have adjusted their assistance; they are now emphasizing the build-up of civil society advocacy and the capacity of think tanks to contribute to the policy-making process.

The Australian aid agency, in the Department of Foreign Affairs and Trade (DFAT), for example, is undertaking a “knowledge sector” project. This is focused on supporting public policy development of think tanks and CSOs, particularly targeted towards the executive. Contracting is generally a complicated process for the executive branch if it wants to obtain valuable outside opinions and information; this project is designed to help address that problem. At the same time, some think tanks are starting to become more entrepreneurial about generating income outside of the traditional donor sector. For example, Transparency International has begun a separate corporate social responsibility wing. Another anticorruption NGO has a collection box at the airport, which apparently generates several thousand dollars a month. It is possible for research organizations that engage in public opinion polling to include space on the questionnaires for companies and others who wish to have questions posed to the public.

It can be difficult and even risky working with a legislature such as the DPR. The UNDP ran into problems with its previous legislative strengthening project. It had been going well until the press noticed, towards the end of the project, that the UNDP logo was in the hallway of the parliamentary building. This apparently inflamed some nationalist sensitivities, and the project was terminated. Some observers believed that the project was collateral damage and a diversionary tactic by the DPR's leadership to deflect attention away from other problems.

A recurring issue involves the implementation of legislation. Knowledge about laws and the actual or potential impact of laws is limited, which contributes to an uneven track record of translating laws on paper into reality. Members of Parliament vary considerably in terms of their capacity to address complex issues of governance. Many of them are beholden to particular political interests that got them elected. There is also some gridlock in the parliament because of the number of parties represented and the rough parity between government and other parties. This is true even though it is difficult to clearly delineate partisan and ideological differences. This contributes to limited output in terms of legislation enacted. MPs do not get much technical expertise on substantive issues from their parties, although the bigger ones do have some experts on staff. Perhaps ironically, some observers argue that the DPR actually spends too much time on hearings rather than legislating. In this view, hearings distract the executive branch from engaging in good reforms.

In many ways it is easier to seek to influence executive branch policy making. This is due to several factors. Most legislation comes from the executive branch. Furthermore, the politics of the DPR can be very complicated and difficult to manage, which can limit the productivity of advocacy efforts.

The diverse nature of the DPR's representation makes generalizations about its public outreach difficult. Some individual members are active on social media, but this takes place very much on an individual basis. It is probably fair to say, however, that the DPR as a whole does not have an effective public relations strategy. Relating back to the potential for influencing policy making within different sectors, the executive branch is much better at communicating to the public than the DPR.

The DPR is criticized due to its lack of production, in addition to the perception that its members are beholden to special interests. However, the gridlock is also due to two factors exogenous to the DPR itself. It reflects a political environment in which political parties are personalist rather than ideologically oriented and one in which the corrosive effects of money are very evident.⁵²

Financing for parties generally comes from two sources: from the oligarchs who are in charge of the party, or from potential contenders seeking to secure places as candidates on the party lists. The term in Indonesian for the latter process is "nutrient," as in feeding the coffers of the party. These entities tend to be in debt financially and politically, which can seriously color perspectives and limit interest in policy initiatives that are at variance with the interests of

⁵² LPEM has conducted research on the costs associated with campaigning, and concluded that the average cost per candidate in the 2014 election quadrupled over that of the 2009 poll (<http://www.antaraneews.com/en/news/93268/legislative-candidate-spends-rpl-18-billion-for-campaigning-survey>).

those to whom they are in debt. In addition, the proportional representation electoral system encourages balkanization and a multiplicity of parties in the DPR.

V. PREVIOUS USAID LEGISLATIVE PROJECTS

The USAID legislative-oriented projects that took place prior to the current PROREP project included:

- Legislative Strengthening Support Project (LSSP). This project lasted from 1997-2002 and was implemented by the Center for Institutional Reform and the Informal Sector (IRIS) of the University of Maryland.
- Consortium on Elections and Political processes (CEPPS). NDI, IRI, and IFES were all involved in this multi-faceted project from 2005-2010, during which NDI focused principally on the role of political parties in the legislative context.
- The Democratic Reform Support Program (DRSP) (2005-2010).

USAID programming has continuously included a direct or indirect focus on the legislature since *reformasi* began in 1998. These projects have had an impact on the four legislatures that have been elected since then, although the magnitude of this impact is debatable. The USAID projects most clearly identified with legislative strengthening have reflected a range of emphases and priorities, including infrastructure support, MP and staff training, constituency relations, demand side civil society advocacy support, political party legislative functioning, and policy community support. In roughly sequential term of projects, the initial LSSP project focused on generating the information from think tanks and civil society that could be useful to the DPR. It also included a small amount of capacity building. The NDI project focused on political parties, including an element on political party interactions within the DPR. DRSP later focused on civil society and legislative strengthening.⁵³

Taken as a whole, there does not appear to have been a clear, sustained, and long-term strategic approach to working with the legislature. In reality, this would have been difficult to achieve given changing personnel at the USAID mission, varying USAID strategic imperatives both in Indonesia and, more generally, the realities of functioning in the Indonesian context. The projects have taken place, for example, against the backdrop of a weak party structure, high turnover in MPs, and at times a lack of support from the DPR leadership. It is due to this continuing at best ambivalent attitude amongst the DPR leadership that these projects did not primarily reflect the USAID modernization approach that emerged in the late 1990s and early 2000s.

Legislative Strengthening Support Project (LSSP)

The LSSP emphasized improving the legislative processes and capacity building through support and research staff in the national legislature as well as supporting the capacity of the Institute of Economic and Social Research of the University of Indonesia to deliver fact-based policy analysis that could be factored into legislative branch deliberations.

⁵³ Chemonics implemented a Civil Society Support and Strengthening Project (CSSP) from 1999 to 2004. This project focused on the development of civil society advocacy activities at the local level. It did identify several areas for national advocacy efforts but did not specifically have a program component addressing the national-level legislature (Chemonics, Indonesia CSSP Final Report, 2004).

An evaluation of this project was undertaken in 2002.⁵⁴ It concluded that some results were subpar, as “planning and implementation flaws have contributed to disappointing outcomes.” With regard to legislative strengthening, the evaluation determined that IRIS was unable to achieve many of its goals because of a lack of infrastructure and civil society involvement as well as inefficient use of preexisting networks of influence. The evaluation notes, “The IRIS project in Parliament has failed to produce self-sustaining institutional advances.” IRIS’s work with the university-based - Institute for Economic and Social Research, University of Jakarta (LPEM) think tank came closest to achieving its aims. Interviews with personnel involved in the project suggested that legislative staff (some of whom continue to work at the legislature) had benefitted from training from this project. For example, IRIS funded direct DPR capacity-building activities in which LPEM staff would write short issue briefs for the DPR secretariat and suggest areas in which DPR members and staff could solicit information from the executive branch.

CEPPS/NDI: Indonesia: Improving Legislative Capacity and Consolidating Democratic Gains (2007)

IRI focused on the challenges of political decentralization. Its programming was conducted at the provincial and local levels and focused on improving legislation drafting, coalition-building, and the representational role of sub-national elected officials in the parliaments. IFES worked with the electoral authorities.

NDI conducted wide-ranging programs to strengthen political parties, elected bodies and civil society organizations. It especially emphasized strengthening legislative bodies, including bodies at the national level, to enable them to effectively play their roles as independent and influential branches of government. The project provided assistance to *fraksi*, legislative commissions, and the DPR’s leadership to support the legislature’s capacity

A key focus of the NDI program was increasing women’s political participation. NDI also partnered with the Women’s Political Caucus of Indonesia (KPPI) to increase women’s leadership within political parties and elected bodies. The 2009 DPR election resulted in an increase of women’s representation in the national legislature of seven percent—the biggest increase in Indonesian history.

Subsequent to those elections NDI worked with *fraksi* in the legislature as they generated and reviewed new legislation, conducted government oversight, and reached out to constituents. NDI conducted focus groups with *fraksi* and the Women’s Parliamentary Caucus of Indonesia to demonstrate how qualitative research could be used in policy development. In addition, NDI brought in experts from around the world to share advice and comparative examples. The Institute also generated information, mentoring, and training to party representatives and parliamentary staff at the national and local levels.

The Indonesian Parliamentary Center, which was set up with NDI assistance, continues to function. The IPC is working at both the national and subnational levels in 30 regional assemblies. It was established in 2005 through the good offices of NDI. It started out by setting up a youth parliament simulating legislative activities. IPC also created an internship program

⁵⁴ Roger Paget, "Evaluation of the University Collaboration and Parliamentary Assistency Activity," in *IRIS in Indonesia*, (USAID/Indonesia, 2002).

whereby young Indonesians could actually work for DPR members. This has proven to be extremely useful: at least five of those interns now work as legislative staff and a few others have been elected to regional parliaments. IPC's methods of activity are centered on discussions with expert staff. They also create policy briefs to summarize key issues for time-pressed legislators. A third aspect of IPC's programming has been the engagement of CSOs that have particular substantive expertise. In this case the IPC acts as a convener; an example has been engagement in the "Publish What You Pay" initiative. Subsequent inquiries by the IPC indicated that those MPs that had received training through the NDI project tended to be more open-minded to reforms.⁵⁵

An interview with a former Indonesian legislative expert associated with the project suggests that it continues to make an impact. While a significant percentage of legislators who had been trained were no longer in Parliament, many had other positions of importance and had provided input based on information gained from that project to subsequently elected members of Parliament.

Democratic Reform Support Program (DRSP)

The Research Triangle Institute (RTI) implemented this project to assist Indonesia's democratic development by fostering open institutions, citizen participation, and increased transparency. The project focused on strengthening the parliamentary processes and institutions of legislative councils, as well as the Constitutional Court, elections, and media. The project included collaboration with local implementing agencies and civil society organizations to strengthen key democratic institutions and policies, as well as the quality and quantity of public participation in the legislative process. Support consisted of formal intensive trainings and workshops on issues such as coalition building, stakeholder analysis, development and implementation of advocacy strategies, and communications/media strategies, in addition to ongoing mentoring by DRSP staff and consultants.

DRSP engaged civil society leaders throughout the program to determine the demand for direct assistance on the CSO legal framework. This resulted in a CSO partnership that advocated for and directly helped design the framework for civil society functioning in Indonesia's nascent democracy.

DRSP helped improve its partners' advocacy and strategic approaches which contributed to the passage of a Freedom of Information law in 2008, and it subsequently worked with the Ministry of Communications and Information on its implementation. As part of the focus on the package of key election laws known as *Paket Politik*, and as a subset of the national decentralization policy assistance, DRSP supported the development of a legal framework for democratic regional and local-level elections.

DRSP provided direct assistance to the DPR, including helping individual members and staff as well as the functional commissions and boards. DRSP increased their recipients' capacity in

⁵⁵ It is not clear whether this was a result of the training, or whether those that participated in the training were more likely to be open-minded.

legal drafting, legislative management, budgeting and personnel, and organizational management. DRSP also provided some technical assistance to the upper chamber, the DPD.⁵⁶

One DRSP study noted that owing to a lack of experience of the legislature in working with citizens, advocacy remained a nascent feature of the Indonesian political landscape. “NGO capacity to aggregate citizens’ interests and articulate their preferences to policy makers is weakly developed in Indonesia: the social and cultural gap between NGOs and common people remains wide,” while “the legal and administrative framework have constrained NGO efforts to expand democratic space and to engage with the state.”⁵⁷

Despite these difficulties, DRSP contributed to progress in promoting freedom of information and the involvement of civil society in policy formulation. It provided, in effect, a basis for the conceptualization of the ProRep project.

VI. CURRENT USAID PROJECT: PROGRAM REPRESENTASI (PROREP)

Origins

The current (2011-2016) USAID-funded ProRep project reflects the evolution of USAID programming towards the concept of legislative “engagement, in which support for the legislature is integrally tied to the achievement of other development goals. It thus supports the development of civil society and think tank “policy communities” to inform and advocate with the national legislature and the executive branch for health, education, and environmental policy reforms. It is innovative in that it is integrative; it utilizes a democracy and governance institutional approach to engage policy makers in specific sector policy reforms.

As noted, the previous DGSP project influenced the design of the ProRep project. Perceptions, however, remained that the legislature lacked influence in the articulation and adoption of key policy development issues. In addition, some of the imperatives underpinning project design included concerns about the broader health of Indonesia’s democracy and the possibility that it could deteriorate. The Chinese model of authoritarian governance loomed as an attraction. Corruption and dissatisfaction with the functioning of the legislature were viewed as potential contributors.

The ProRep program components included a) strengthening the representational capacity of CSOs; b) building the policy research and analytic capacity of research organizations, universities, and think tanks; and c) supporting more effective, responsive, and transparent legislative processes. While the idea of connecting parliament, think tanks, and civil society was in the initial project design (along with constituency service), it emerged as the principal thrust partway through the project’s life.

The project RFP was issued in October, 2009, but the award to Chemonics was not actually made until March, 2011. This was in part because USAID wanted to ensure that the

⁵⁶ "Democratic Reform Support Program (DRSP): Completion Report," ed. Research Triangle Institute International (RTI)(USAID/Indonesia, 2010).

⁵⁷ H. Brinkerhoff Antlöv, D. W. Rapp, E., "Civil Society Capacity Building for Democratic Reform: Experience and Lessons from Indonesia,"(International Society for Third-Sector Research, John's Hopkins University, 2010).

implementing organisation had strong technical capacity in all three project components: legislative strengthening, policy research, and advocacy. The project cost totals about \$20 million, and one third of the budget was set aside for grants.

Implementation

The project faced challenges early on, as the speaker of the DPR was not particularly receptive to donor assistance. He was under considerable political pressure not to appear beholden to donors, and it was under his tenure that the UNDP legislative project was terminated.⁵⁸ In addition, the abolished public accounts committee had received technical assistance from ProRep.

The first half of the project focused considerable attention on promoting the development of a CSO community that could function in a policy advocacy capacity. Through a grants process, a number of CSOs were eventually identified. The project underwent a mid-course transition due to several factors. New USAID mission leadership advocated subordinating legislature-specific activities to broader cross-governmental policy approaches. The 2014-2018 mission country development cooperation strategy included a general emphasis on strengthening of democratic institutions as well as foci on augmenting essential human services for disadvantaged sectors of the population and an increase in emphasis on science, technology, and innovation.

As a result, the specific legislative strengthening and constituent outreach elements were eliminated from ProRep. The focus was subsequently placed fully on the policy “cluster” or “community” concept with civil society organizations and think tanks. This approach was buttressed by a midterm evaluation in 2013, which provided an overall positive assessment of the ProRep project to date, emphasizing the importance of the project leveraging “synergy among reform-oriented legislators, elite think tanks, and national advocacy CSOs that are prepared to work on national policy and ultimately may influence the behavior and practice of a newly democratic national legislature that is still maturing as an institution.”⁵⁹

This approach eventually led to engagement with other USAID developmental priorities. Initially, other policy sectors were somewhat skeptical about the utility of the ProRep approach and the fact that this initiative was being spearheaded by the Democracy and Governance sector rather than by their own technical experts. A positive synergy appeared to evolve, however, as the other sectors recognized that they could benefit from ProRep’s relationships with policy makers and its understanding of the nuances and intricacies of the policy development process, especially in the legislature.

The creation of policy communities flowed from a recognition that policy in lawmaking often occurs within executive branch ministries with insufficient input from policy experts, civil society, and ordinary citizens. Policy clusters are composed of organizations with common interests, which can develop shared advocacy groups’ goals and visions. This approach took place during the elections and was given impetus by the election of the Jokowi government, which has espoused virtues of openness and participatory governance. The clusters must

⁵⁸ This raises the more general question of how or whether to engage legislatures when the leadership is hostile or otherwise opposed to donor assistance.

⁵⁹ P. Holloway Fn'Piere, R. Irfani, D., "Midterm Evaluation of the Program Representasi (Prorep) Project,"(USAID, 2013).

negotiate between themselves on priorities given the limited amount of legislation passed by the DPR each year.

ProRep used an iterative process of dialogue between civil society organizations to identify key issues for the policy clusters. Seven issues were initially identified. In consultation with USAID three issues were subsequently selected, all of which corresponded to USAID sector foci. The three themes selected were education, health, and the environment. ProRep has also provided technical support to CSOs and grants in order to engage in evidence-based policy advocacy. IPC engages with the expert staff in the relevant commissions and uses two-page policy briefs to present ideas and recommendations to the DPR members. IPC does not have the expertise to write the briefs, but other partners, such as Publish What You Pay (PWYP), carry out this function. Some of the IPC alumni from the internship program have become expert staff. The development of such long-standing relationships with the expert staff, who tend to remain, is useful given the high rate of turnover of legislators.

In this context there is also increased demand for policy relevant information from the DPR. Voters are expecting action from the DPR, and MPs feel under some pressure to produce results. In response there is some collaboration and cooperation between think tanks, a move that has been promoted by the ProRep project. One of the initiatives of this project has been the development of a Policy Research Network (PRN). The network is broad, and participating organizations complement each other in their areas of focus and interest. One important aspect of the initiative is the focus on how the network can educate the public. There is a need for immediate strategy, and the PRN has had to move ahead expeditiously on identifying and determining specific issues. The PRN provides a mix of advocacy and research. Some organizations are stronger on one side of the equation than on others, so they can achieve best results by acting complementarily to one another.

Technical assistance from ProRep has encouraged CSOs to undertake initial “situational mapping” of the stakeholders, which helps them to determine their advocacy strategy, e.g. whether to raise the issue in the public media or to first advocate directly with the DPR expert staff or with MPs. For example, one ProRep-supported CSO with an interest in mining has undertaken a project identifying DPR members whose backgrounds suggest that they are potential champions of reforms. They have subsequently enlisted former MPs with expertise on the topic to advocate with them to review or amend the national mining law.

ProRep’s MPs Constituency-Building Program

USAID’s ProRep project implemented a ‘Reach Out and Engage’ program called JABAT which supported parliamentarians in improving their interactions with the constituents from their electoral districts. The program, which ran between 2012– 2013, supported 18 MPs, 2 MPs from each party caucus. The MPs conducted between two to five recess visits to their constituencies, where they participated in stakeholder and community meetings, radio/TV talk-shows, seminars, trainings, field visits, workshops, and media gatherings aimed at improving their understanding of their constituents’ socio-economic needs.⁶⁰ Over 11,000 Indonesian citizens participated in the program. As a result, some areas experienced immediate socio-economic benefits. For example, in Central Java, following the locals’ request, the MP improved one of the main roads, which increased accessibility to and from the villages. In East Nusa Tenggara II, the MP helped them get

⁶⁰ <http://www.representasiefektif.org/newsroom-detail&id=49>

two additional ferry boats, which improved accessibility between two main land points, enabling more movement of goods and people.⁶¹ In addition, the program supported the publication and dissemination of a community handbook designed to educate constituents on the roles and functions of DPR members and how they can effectively communicate their concerns and issues to their representatives.

The various organisations involved in environmental policy had already informally met or worked together, making it easier to launch this policy cluster. The education cluster has a wide membership that has spent time seeking to identify common issues. The question of basic education is one concern, for which CSOs such as Article 33 are particularly interested in the issue of how it is to be financed. ProRep has provided members of this policy community with grant support, which has led to its focus on teacher deployment issues, the establishment of a parliamentary caucus, and civil society monitoring. The current education caucuses are just getting off the ground.

The sustainability of the policy cluster approach once the DRSP projects ends is an open question. The environment cluster is less a coalition than a network of coalitions. For the education cluster, a work plan until November, 2015, is in place, but it is questionable whether they will be able to carry on with these efforts post-ProRep funding. Coalition members are discussing how to sustain efforts through other funds or individually. There is varying achievement for each cluster; the environment cluster, for example, is more advanced than the health grouping.

Though distinct from the cluster approach, the Policy Research Network appears to be a promising approach. It links very strong, rigorous research organisations that lack expertise in disseminating information to policy makers with those organizations that have the opposite attributes. PRN members are planning to have a conference showcasing all their research work and to network and strengthen their collaborative advocacy efforts to mark the first year of Jokowi in power. The PPPI has a leadership role in the policy research network. One of the approaches of the network is sharing information about research methodology, such as how to develop policy briefs. The initial membership of the PRN is broad-based, as it includes the Center for Strategic and International Studies, the Institute for Research and Empowerment (IRE), the Women Research Institute, and the Institute of Economic and Social Analysis at the University of Jakarta (LPEM).

The PRN is seeking to reach consensus on issues of common interest; networks usually are based on common issues but the PRN's efforts are to raise the metabolism of the policy community more broadly. It also aims to increase focus on the budgetary impact of legislation and develop regulatory impact assessments. Participating CSOs that were interviewed opined that it is good to be part of the network and to learn how to produce multi-disciplinary research by synergising efforts from member organizations.

ProRep has also continued to provide technical support and advice to civil society organizations and think tanks on areas such as communications, effective advocacy, and specific

⁶¹ <http://www.representasiefektif.org/view-video-gallery-detail&id=3>

modalities of functioning, such as the development of letters of collaboration (i.e., memoranda of understanding) with government policy branch organizations.

It is not a simple matter to foster the establishment of issue-oriented caucuses in the DPR. For example, a prospective mining caucus did not develop, and the “Green Economy” caucus is no longer functioning. In addition, there is a challenge getting the policy communities to prioritize their work. The education cluster, for example, had initially sought to identify one common issue. They were not able to do this, however, and they ended up with a list of six issues. They recognize the need to reduce this to get the DPR’s attention, and they are looking to at least prioritize the six issues.

ProRep has had limited connections with other USAID projects. According to USAID staff there had been some connection with Kinerja, and they are possibly looking into working together at the local level. Other than that there are few connections. This is partly because there is no current project in the environment sector, and projects in the area of health are uncertain.

Some Illustrative Results

While this case study is not an evaluation of the ProRep project, it is fair to note some illustrative examples of impact by the policy community approach. These tend to be modest in nature and are more centered on the executive branch side, although this may end up impacting the legislature as relevant legislation is proposed and enacted. The project has not ended, and the nature of its substance suggests that its impact may be identifiable more in the medium-to-long term.⁶² However, in the opinion of USAID officials, ProRep has done good work. The policy research network is viewed as a useful initiative. Both the health and education communities worked well and provided some results; the environment cluster took the longest to agree upon its set of issue areas, but it is now bearing fruit. The ProRep cluster approach has resulted in some achievements. Examples include:

- ProRep education grantees and policy cluster members have developed comprehensive reform recommendations in six education issue areas. These recommendations were submitted to the national government and were the subject of a major conference sponsored by the Ministry of Education in February, 2015. Signifying its ownership of the content, the ministry held this conference in the ministry itself. The new minister of education has been a close ally of the education cluster community.
- Cluster members have testified at hearings on several education issues, including the question of teacher deployment management. Subsequent to policy cluster advocacy on the issue, the government made the decision to provide more teachers in rural areas. Similarly, in the environment area the cluster was requested to provide a blueprint for the organization of the newly rearranged ministry of environment and forestry. Its recommendations have been largely adopted.
- The upcoming SOROT environmental project includes a governance component. As a reflection of the success of the ProRep project, the environment sector has put money into ProRep to serve as a bridging mechanism until this new project begins sometime

⁶² It would be useful if USAID had evaluation capacity to assess *ex post facto* these types of projects’ impact, not simply at the end of the life of the project.

next year. This decision is based partly on the fact that ProRep was the natural vehicle for this, but it also reflects confidence in the ProRep project.

- Reflecting the perceived utility of the policy cluster initiative, USAID has recently made funds available for a fourth cluster; that of anti-corruption. The project will be working with accountability NGOs. This reflects the reality that corruption has the potential to undermine Indonesia's democratic experiment, and it takes place against the backdrop of the challenges and threats the anticorruption commission is facing as well as the current reconstituting of its leadership.
- The Ministry and Deputy of Education have already requested a CSO member of the ProRep environmental policy cluster, Article 33, to conduct some research. A DPR member was identified as a champion within DPR who was interested in Article 33's research and recommendations on the BSM of forestry revenues with the local communities and willing to exercise leadership on the relevant issues.
- LPEM was approached by the secretariat to provide training on Econometrics in 2010, and it had previously helped the secretariat build a simple excel budget example. LPEM has also provided advice to the executive, e.g., the impact of reducing the fuel subsidy, which the government has used to support its strategy. Commission staff often invite LPEM to present on topics being discussed in the DPR, especially on economic implications.
- The ProRep environmental policy community, particularly ICEL, was called upon by the new ministry to provide advice on how to structure the ministry. About three quarters of their recommendations were accepted.
- The vice chair of the DPR Environment Commission invited a ProRep-affiliated CSO to meet following its successful online petition against wildlife trafficking. After the meeting the Chair took to Twitter to declare his commitment to addressing this issue.
- ProRep has enabled CSOs to influence the legislature's priorities when deciding which bills or laws should be shortlisted on the annual calendar of legislative action (the *Prolegnas*).

ProRep appears to be having some impact largely due to its ability to weld together a multi-stakeholder approach, in addition to the relationships it has built up in the CSO sector and legislative and executive branches. It has some access to the DPR. However, a U.S. based development expert familiar with the project suggested that the current organizations in the ProRep network could do a better job of providing quality policy options. He also expressed the belief that while the project's emphasis on issue-based advocacy is appropriate, there should also be emphasis on non-partisan and empirically based presentations of the potential impact of proposed legislation.

USAID Perspectives

A challenge has been building a constituency within the other sectoral offices for ProRep. The COTR had to do excessive lobbying and to thoroughly explain to other sector offices that ProRep sector work is responsive to the needs of all the mission sectors. It takes times to generate a consensus on identifying and prioritising the issues to pursue. Some offices felt that they could be doing some of the ProRep activities themselves. Over time, however, confidence was built. Emphasis was placed on providing comprehensive explanations and including other sectors in the information flow of the project.

An operational challenge faced by ProRep was that the original USAID design of the project made the last two years optional, at USAID's choice, which meant that it was harder to plan adequate sub-grant periods. The implementing partner, Chemonics, had to plan to finish at the end of year four without knowing if it would have to close down or be able to carry on for a fifth year, which is in fact what occurred. This resulted in uncertainty and limited the ability of the policy clusters to accomplish their goals.

Including a grants mechanism as a key component of the project has been successful in ensuring that the specific reform agenda is driven to a considerable extent by the grantees themselves. In addition, from an operational point of view the project would have needed considerably more staff had the grants element not been included.

The future poses major questions marks. The USAID DG funding amount has been cut from \$35 to \$6 million annually, and even that figure could be subject to further reductions. This raises fundamental issues about the future of democracy and governance programming in the country.

Kinerja – A SISTER PROJECT TO PROREP

Kinerja (Performance in Indonesian) focuses on improving service delivery at the local level. It is housed in the governance sector. It has been functioning since 2010 and has recently been extended to 2017. It has a tripartite approach, working with local government, regional parliaments, and civil society. It focuses on education, health, and business licensing. The project takes both a supply and demand approach, with a focus on strengthening the capacity of local government to deliver services and integrating demands represented by local elected bodies and civil society organizations. The latter two both act in an oversight capacity, providing feedback and ideas on how service delivery could be improved. The project includes the development of multi-sector fora, which include local government, legislators, and civil society. These serve as bodies in which communication can occur between these different stakeholders and implementers. In a sense they seem to be partly analogous to the policy cluster concept that ProRep utilizes in its project.

The demand function includes creating awareness about what citizens can and should expect from the government in terms of service delivery. Working with local legislatures presents a challenge for several reasons. There is considerable turnover; for example in Papua (where they focus their work with the local legislature), the last elections saw a 70% turnover in members of Parliament. Politics are extremely transactional in nature. Most local legislatures are dominated by local elites who have varying levels of capacity, social awareness, and understanding of legislative processes. There is a real need to strengthen the legislature's ability to oversee the budget process. These challenges mirror the situation ProRep has encountered with the DRP, although the local legislatures have even less access to information than do national MPs.

Some indicators that are used to determine success in the project include amendments to budget presentations, maternal health statistics, teacher functioning, and time it takes to receive business licenses. An innovative mechanism that the project uses to determine how well services are delivered is a complaint survey. This is administered to recipients of services such as students or those receiving healthcare. It was not clear if the complaint survey is administered as a baseline or subsequent to the receipt of services. It is presented to the local

legislature for their follow-up and action. Training is also provided to civil society organizations to undertake advocacy efforts over the legislature and the local government, both in light of findings from the complaint survey and other needs of the citizens. The extent to which Kinerja interacted directly with specific USAID-funded projects is minimal. There has been interaction with the AID sector personnel but apparently less so with the implementing organizations on the ground.

Some results of the project to date include shorter times for business licensing, the redistribution of teachers to rural areas, and improved maternal health statistics. The project was audited in 2013. While it was judged to be meeting some of its goals, the recommendation was made that it advance the engagement of local district governments in service delivery, improve its monitoring and evaluation, and provide additional technical support.

VII. ANALYSIS AND CONCLUSIONS

This section identifies specific elements of the Indonesia case study of particular import and which may also have broader implications.

Diminished Donor Appetite for Legislative Modernization

There is considerable fatigue among donors regarding traditional legislative strengthening in Indonesia. This has led to a sense that the modernization approach has not worked very well there. This in turn has resulted in a significant drop-off in these efforts. The issue of corruption is widely seen as central to the problem. In addition, political parties are at the same time too strong and too weak. Parties have dominant leadership structures that are fairly authoritarian, but they lack the internal capacity for policy review and consideration of options. The DPR is viewed by some as being dysfunctional in that it lacks accountability, does not undertake the representation function very well, and at times issues laws that are contradictory.

Trajectory of USAID Indonesia Legislative-Oriented Programming

The 1998-2003 IRIS project included both a think tank and legislative strengthening aspect. It was then followed by the NDI and IRI projects that focused on political party activity in the legislature. These were followed up by the RTI DRSP project that had a broader focus but still included some traditional legislative strengthening. The current program project, which had an element of traditional legislative strengthening in the first half of its LOP, now utilizes the civil society think tank policy approach. While this may suggest that USAID's legislative programming has circled back to its original starting point, the current project has a much more sophisticated design and focus. USAID legislative programming since 1998 appears to have "done no harm" and in fact to have modestly contributed to the DPR's functioning.

Context

The lower house of the national legislature (DPR) is widely seen as exceptionally unproductive. However, the gridlock comes from factors exogenous to the DPR itself. It reflects a political environment in which political parties are personalist rather than programmatically oriented and in which the corrosive effects of money are very evident. In addition, the proportional

representation electoral system encourages balkanization and a multiplicity of parties in the DPR.

The fact that “no one wants to be in opposition” has direct implications for public policy formulation, as there is neither a robust tradition of alternative policies being presented and considered (and perhaps synthesized), nor a tradition of the relative merits/demerits of the policies being subject to debate. Other incentives against good policy making include the status of political party and campaign financing. The elected MPs tend to be in debt financially and politically, which tends to seriously color their perspectives and limit their interest in policy initiatives that are at variance with the interests of those to whom they are in debt.

Legislative Leadership Buy-In Challenges

As noted previously, the ProRep project had problems early on, as the speaker of the DPR was not interested in pursuing donor assistance. This is somewhat resonant of the early days of the USAID-funded Kenya legislative program and also was a problem with the DRSP Indonesia project. This in turn raises the more general question of how or whether to engage legislatures when the leadership is hostile or otherwise opposed to donor assistance.

Mid-Course Correction

The thrust of the ProRep project changed with the 2014-2018 country strategy document, a document stating that assistance to the DPR would not be a focal point, and with the arrival of the current mission director. This has resulted in the somewhat strange situation in which the current project is officially deemed not to have a significant legislative focus, even though in reality the DPR is a key indirect target and beneficiary of the intervention.

Development of Policy Community Concept

ProRep is widely seen as being successful in that it has mobilized the advocacy and think tank elements of civil society into a series of three “policy communities” oriented around the themes of health, education, and environment. The choice of the three policy communities, mirroring that of the USAID mission sector offices, could imply that USAID was driving selection of the thematic topics; but at least in this particular context the civil society organizations definitely seem to have ownership of the issues. These policy communities have had modest but positive impacts on the legislative and policy implementation processes to date. It is representative of what can be called a “legislative engagement policy” approach (LEP) as opposed to the traditional modernization approach focused on improving the legislature’s internal functioning without a specific policy reference.

As an example, consider the case of bio-fuel policy and palm oil. Who are the tycoons? Who has interests and holds power? This in turn is related to politics and political parties, and the parliament. Working from the analysis, future programming could begin with a modest related strategy in the DPR. There should be, for example, an effective legislative caucus for the environment, perhaps focused on issues by region.

Other Sector Perspectives on D/G Legislative Engagement Programming

Other USAID entities in which ProRep is involved include the health, education, and environment sectors. Initially the health and education offices in USAID took an arms-length approach to ProRep, most likely because they had concerns about the governance project impinging on their turf. They became much more supportive, however, after they saw that the project was yielding benefits, and some awareness emerged that their programs could be aided by the inclusion of a policy-related element. This represented a similar dynamic to that of ProRep and other related projects, such as in Bosnia.

D/G Sector LEP Perspectives

There is not a unanimity of views on this subject, although funding and bureaucratic considerations suggest that LEP-type projects may well represent a growing trend in USAID programming. While lauding the ProRep project, a D/G officer cautioned against embracing a LEP approach without reservations. He suggested that, “It is possible to have too much integration.” This implies that a logical conclusion of the integration process is that other sectors could ask “why do we need to have the democracy governance sector since we’re now doing it ourselves.” In addition, the instrumental approach represented by LEP does not *ipso facto* address the intrinsic value of D/G work.

Needed DPR Structural Reforms

To an outsider, it would appear that the DPR could benefit from some management consulting advice to improve its functioning. The legislative process is slow and cumbersome. Committees are large and do not have subcommittees (the budget committee has 98 members from every political party group – an example of inclusive political culture). The low level of legislation passed (about 20 percent of its annual work plan) seems to be delegitimizing the DPR. At least 80 percent of legislation typically comes from the executive branch. It also suffers from low public esteem due to corruption. The DPR does not have an effective public relations strategy. Given the realities of the indirect and consensus-oriented Indonesian political culture, this may not happen anytime soon. It is also very important to boost the research capacity of the legislature, recruit more expert staff, revise the MP3 (legislation governing the functioning of the DPR), be more transparent, and advocate for a congressional budget office.

Continued Lack of Independent Information

Members of the DPR and DPR Budget Committee explicitly emphasized their weakness in relying to a large extent on government-provided information. This is a critical problem. A CBO would be extremely useful, but this has been resisted, apparently for political reasons. Important staff skills that are needed include expertise and accountability, and budget issues. The ProRep project and the Australian think tank project are helping to address this, but more still needs to be done.

CSO Coordination

It is important to note that the collaborative nature of the Indonesian political culture probably contributes to the significant amount of apparent coordination between CSOs, a factor that

ProRep has used to good advantage. It has sponsored the development of the Policy Reform Network. One of the things the network is doing is sharing information about research methodology, such as how to develop policy briefs.

Party Caucuses

Repeated references were made regarding the fact that party caucuses, or “*fraksi*,” play a strong role within the DPR, which slows down the legislative process. Owing to the PR system there are 10 such *fraksi*. Given the consensual ethos upon which the DPR’s functioning is predicated, widespread consultations have to occur before legislature moves ahead (prior to final passage, legislation even has to be approved in a conference committee with the executive branch). Until recently NDI had a well-regarded project that included working with the “*fraksi*.”

Kinerja Similarity to ProRep

The sister Kinerja project, which focused on local-level service delivery, had a similar dynamic to ProRep. An innovative part of Kinerja includes the development of multi-sector fora that include local government, legislators, and civil society. These serve as bodies in which communication can occur between these different stakeholders and implementers. This seems to be somewhat analogous to the policy cluster concept that ProRep utilizes in its project.

Limited Project Coordination

There does not seem to have been a significant amount of direct interaction between ProRep and projects such as Kinerja. It may be that the extent of interaction encompasses AID sector offices but not the implementing organizations on the ground. If that is the case, this raises the question of whether it would be useful to have interaction at that level.

Comparison with Other Contexts

The Indonesian visit overlapped with that of a team from the USAID Democracy Center office of dealing with project integration and cross-sectoral initiatives. In general, they did not see many institutional impediments at the mission level to this integration. They noted that there were some mechanisms to facilitate integration, such as the willingness to share staff. One of the team members had previously made case study visits to Ethiopia. He expressed the opinion that the environment was much more conducive to integration in Indonesia than Ethiopia. There was less integration between sectors in Ethiopia. A valid question is whether there is a connection between the fact that the Ethiopian political culture and context is much more polarized than that of Indonesia and what the atmosphere seemed like within the mission.

The impressions gained from the team’s visit reflected the view that other sectors need the DG sector to get good policy results. In addition, this suggests that cross-sectoral policy reform initiatives should perhaps be focused not solely on the legislature but oriented towards a more holistic approach targeting both the legislative and executive branches.

Viewing Legislatures: Collectively or Individually?

It is important to recognize that while the DPR is often discussed in an aggregate and collective sense, legislatures by definition are composed of many different interests and individuals, with varying skill levels, perspectives, orientations, and agendas. This needs to be taken into account when considering sector program strategies and individual project design.

Throughout these interviews, contrasting perspectives were raised regarding the dynamic within the DPR. Some have emphasized that the DPR is a collective entity in which partisan interests are subordinated (reflecting a cultural aversion to direct discord); others have suggested that it is in fact highly polarized and that this contributes to the dysfunctional dynamics. It is likely that both perspectives may be true to an extent.

This case study of USAID support for legislative development in Indonesia reflects both the challenges and opportunities that are presented by working this arena. USAID's work has reflected, to an extent the broader trends of legislative strengthening, modernization and engagement, although the modernization approach has been hamstrung by a lack of sustained support on the part of the leadership of the DPR. The latest approach, of integrating a multi-sectoral issue and policy-oriented focus, with elements of legislative strengthening, is a promising approach. Economic and social development objectives may be well-served by this, although given the recent adoption of this approach, the jury remains out.

VIII. DESK STUDY VIETNAM⁶³

Political and Economic Background

Vietnam is a single-party state dominated by the Communist Party of Vietnam (CPV). The legislature is subservient to the executive branch. Despite this seemingly closed political environment, which would not ordinarily be propitious for traditional legislative strengthening or modernization activities, USAID has determined that support for economic policy reform development and implementation can usefully include engaging with the legislature.

This perceived window of opportunity began to emerge in the wake of the *Doi Moi* economic reforms, which began to be implemented in the late 1980s. These reforms included changing laws on land ownership, agricultural initiatives and commercialization, in addition to reforms strengthening the role of market forces in pricing, de-collectivization, and greater integration into the international economy. The reforms have had an impact; one analysis states that, "It is generally agreed that Vietnam's macroeconomic performance following the reforms that began in 1989 has been impressive. Until 2009, there were some striking successes. Unlike pioneering East Asian reformers, Vietnam had a latecomer's advantage, which accelerated the catching-up process and enabled it to adopt foreign know-how and mobilize capital. International aid donors and investors have assisted."⁶⁴

In 2013 Vietnam implemented a new constitution. Given the continued monopoly of power within the hands of the CPV, this change is modest, but the constitution does provide for, in

⁶³ This desk study consisted of relevant documents review and interviews with implementing organization and USAID officials.

⁶⁴ <http://thediplomat.com/2013/11/vietnams-disappointing-new-constitution/>

theory at least, freedom of expression and other basic rights, an end to arbitrary arrests of critics and political trials, and checks on executive power. It does, therefore, provide some possible avenues for the gradual adoption of more open and pluralist forms of governance as occurred in Asian Tiger countries such as Taiwan and South Korea.

While the Constitution identifies the 500-member National Assembly (NA) as the “highest organ of state power,” in reality the legislature’s powers are severely constrained. It does not, for example, have the power to draft or introduce legislation. It does, however, have the authority to review legislation and undertake some oversight activities of the executive branch. Despite its subservience to the CPV the NA has in recent years featured more open debate and “has become more active in government affairs.”⁶⁵

USAID Programming

In the wake of the war in Vietnam, US-Vietnamese relations gradually improved. A 1995 USG report examined the political and economic relations environment of the two countries in an effort to determine whether further actions should be taken to normalize relations. While acknowledging that change generally comes slowly in Vietnam, developments including the *Doi Moi* policy and Vietnam’s gradual integration into the international stage were highlighted as positive steps which could facilitate closer ties between the two countries.⁶⁶ The US also viewed Vietnam as an important potential regional partner and possible counter to Chinese foreign policy goals in Southeast Asia. Formal diplomatic ties were established in 1995.

USAID has had a presence in-country since 2000. The U.S. government’s key goals were reflected in a 2009 USAID document; peace and security, governing justly and democratically, investing in the people, and economic growth. The document states that, “In order to support these efforts, USG technical assistance targeted Vietnam’s judicial, legislative, and education systems, which will serve as a foundation for sustained economic growth. In all areas of assistance, the USG stressed the need for responsive, transparent and accountable governance as essential elements of equitable development.”⁶⁷

In recent years USAID’s country development strategy has emphasized supporting Vietnam’s transition to a market economy and facilitating essential government reforms to make Vietnam a more competitive player in the global market. Vietnam has been moving from a hybrid legal framework based on Napoleonic Code and Russian law to a contemporary, rule-based, international best practice system. Programming has been designed to deepen regulatory reforms, improve the capacity and independence of Vietnam’s judicial and legislative bodies, and promote more effective public participation in the law and regulation-making processes. In support of this change, one area of focus has been on legislative strengthening and engagement.

An inception document from USAID’s most recent legislative-related project notes, “The transition from central planning to a market economy started in 1986 with the *Doi Moi* reforms and is much advanced, but is not yet complete. To be successful, Vietnam has to tackle core

⁶⁵ Chemonics, “Program Collaboration with the National Assembly: Proposed Approach for Governance for Inclusive Growth Project”, p. 4.

⁶⁶ “U.S.-Vietnam Relations: Issues and Implications”, 1995.

⁶⁷ “Vietnam U.S. Foreign Assistance Performance Publication: Fiscal Year 2009”, p. 1.

challenges, including modernizing, strengthening, and developing public institutions, including the NA.”⁶⁸

Two sets of USAID projects have informed the design of the current Governance for Inclusive Growth (GIG) project: the STAR (Support for Trade Acceleration) project and the Legislative Research Project (LRP).

STAR

From 2001-2010 a set of USAID-funded projects were undertaken, known collectively as STAR and individually as STAR I, STAR II and STAR +. STAR I began in late 2001 with DAI as the technical lead and continued for four years, followed immediately by STAR II which was implemented by DAI, and included a one-year extension (STAR +) ending in late 2010. STAR was based on the premise that economic growth was an appropriate subject for focus, as it was politically acceptable to the Vietnamese government, addressed clear needs, and could serve as a gateway to work in other sectors, including democracy and governance.

During this time much of the private sector benefitted as exports increased, new firms were created, and foreign direct investment increased. As befitting an initial country activity, STAR’s agenda was very broad and flexible, in order to react, as appropriate, to avenues of activity requested by the government. STAR I activities contributed to legal reforms; STAR II continued on this path while promoting the acceptance and diffusion of newly created legislation. In fiscal year 2011, the support for law implementation on economic integration emphasis of STAR + expanded its focus area of economic development by creating an initiative designed to facilitate the success of trade and investment agreements. Training and technical assistance was provided to governance, trade, and investment programs. Additional initiatives included the judicial branch, universities, and Vietnamese academies.

The STAR Project Final Evaluation Report determined that STAR had been an extremely successful project and that it had impacted legislation on economic development: “STAR’s assistance to the Government of Vietnam (GVN) on the Law on Laws helped the GVN change from a focus on individual commercial laws to a broader focus on the foundation of the legal system. Interview respondents noted that the Law on Laws was a singularly important GVN legislative accomplishment and one of the GVN’s most transformational legal reforms.”⁶⁹ The Evaluation reflected the extensive range of the projects included legal support, as “the Government of Vietnam carried out the major revision or drafting of 166 laws.” Aimed largely at codifying and implementing Vietnam’s economic reforms and international commitments in the economic sphere, these included a bilateral trade agreement (BTA) with the US and accession to the World Trade Organization (WTO).⁷⁰

Legislative Research Project

Although Vietnam remains a single-party state, USAID has sought to identify approaches through which it could support the development of the legislature as an actor in its own right.

⁶⁸Chemonics, “Program Collaboration with the National Assembly: Proposed Approach for Governance for Inclusive Growth Project”, p. 1.

⁶⁹USAID, “Performance Evaluation of the USAID/Vietnam Support for Trade Acceleration (STAR) Project Final Report”, 2011, p. 6.

⁷⁰ Ibid.

In the wake of a USAID Democracy and Governance Assessment in 2009, and in response to a request for assistance from Dr. Dinh Xuan Thao, the head of the Institute for Legislative Studies (ILS), a research and policy-support body for the National Assembly, the USAID Mission designed a multifaceted legislative support project, the Legislative Research Program (LRP).⁷¹ The LRP was an 18-month, \$2.2 million project. It was supposed to be longer, but delays and the end of life of the project's contracting mechanism shortened it.

The USAID mission, which previously had little entrée with the National Assembly, determined that this project could be a useful method of supporting the Assembly, which has had the potential to become a more active branch of government. LRP was designed to build the skills, capacity, and expertise of ILS staff while improving the institute's overall organization, administration, and management. It embodied USAID's approaches to legislative strengthening and modernization through four main components:

- Assist the ILS in creating a five-year strategic plan.
- Improve the quality, relevance, and timeliness of the information, research, and analytical skills provided by the ILS.
- Build the skills, capacity, and expertise of the staff of the ILS to provide high-quality legislative research and policy analysis.
- Improve the organization and management of the ILS.

The project succeeded in achieving its deliverables and strengthening the ILS. Institutional strengthening seminars and workshops addressed specific topics, including communication policy and strategy, budget analysis, conducting oversight hearings, and promptly handling member requests for assistance. Due in part to the project, the percentage of requests answered by ILS staffers increased by 14 percent, from 8 percent in 2011 to 95 percent in 2013. The project fit in with the USAID's emphasis on institutional development and has served, along with STAT, as a precursor for the GIG project.

The project also encountered challenges. It was never clear, especially given the opaque decision-making within the NA and government as a whole, how much authority the ILS had to undertake its activities. The project was not able to obtain a signed memorandum of understanding from the office of the Prime Minister, which limited its ability to function. Some key project indicators declined from 2012 to 2013. This may in part also have been to a fundamental challenge facing the project – that of the existence of another research unit within the NA which in effect served as a competitor to ILS.

Governance for Inclusive Growth (GIG) Project

The process of developing the USAID strategy for 2014-2018 resulted in a determination that a more coordinated and integrated agency approach was advisable, given both the challenges and constraints of operating a legislative strengthening project, and the effects of an economic downturn given the post-2008 global economic slump. In addition, the reality that many sectors of Vietnamese society had not benefitted from the previous years of economic expansion created a need for programming that could contribute not only to a reprise of growth, but also for that growth to occur in a broader, more inclusive fashion. USAID thus designed the GIG

⁷¹ The ILS undertakes research on theoretical and practical issues related to the organization and operation of the National Assembly and provides information, research, and analytical services to support the activities of the various National Assembly committees and members and staff of the National Assembly.

project to support a more comprehensive and holistic economic policy-making process and an improved implementation of laws. An integral component would be the legislative engagement approach. The project design thus built upon both GIG and the LRP and can be seen in a sense as fusing the two approaches – and in fact is overseen by a joint economic growth and governance office within the USAID mission in Hanoi.

A principle underpinning of the five-year project has been that it would be “working at the intersection of economic growth, governance, and inclusion.” The project contains three major components, which were designed to reflect this coordinated and cross-sectoral approach; a project document noted that “our activities simultaneously support policies for inclusive growth and strengthen underlying capacity and systems at each phase.”⁷² The components include:

- Improving legal and regulatory frameworks through a dynamic, inclusive policy-making process.
- Improving accountability of public institutions.
- Improving inclusion and equality for historically marginalized groups.

The intended trajectory for the project life has included a) problem identification by the government and CSOs; b) public consultation and stakeholder engagement; c) drafting, debate, and enactment of proposed reforms; d) implementation and communication; and e) oversight and evaluation. The project emphasizes increasing transparency and broader input into the formulation and implementation of reform policies. This has included a specific focus on technical support, including workshops among government staff and media coverage to engage a wider range of stakeholders than had previously occurred. Support has come in a variety of forms, including technical assistance, committee training, university programs, and the provision of legislative resources.

The project is largely focused on skills-building and creating opportunities for the NA to engage the public and oversee the work of the government. The project’s aim is to support the further development of a legal and regulatory environment to support a stronger market economy, the benefits of which are spread more widely. It has also included the provision of technical input to the NA and Ministry partners to develop legislation required to implement the new Constitution, including Law on Laws, Law on Administrative Decisions and Civil Code. The project has also focused on methods of implementing Resolution 19, a broadly based regulatory reform program introduced by the government in March 2015. It is designed to improve the business environment and streamline the time and cost of doing business.

Trade and Investment is also a primary area of focus. Participation in the Trans Pacific Partnership is a key substantive focal point, as are issues related to Free Trade Agreements, including at times sensitive issues such as environmental protection and labor rights, requirements of WTO membership, and governmental auditing processes. The project also seeks to provide data valuable for policy making and to support think tanks, academic institutions, research institutes, and professional associations through support for analysis of policy issues and the development of evidence-based options and recommendations. The project has also worked with the NA press office through a media dialogue and other specialized training. It has provided technical assistance to the NA Library and research offices

⁷² “Governance for Inclusive Growth (GIG) Project First Year Workplan”, p. 2.

and undertaken a mapping exercise of social feedback mechanisms and civil society coalitions. The project has developed software for the NA Library to respond to questions from MPs. It has also engaged with the legislature on oversight issues.

In 2014 a project document noted that the Vietnam National Assembly (NA) has been an integral part of the GIG program since its outset; asserting that, “The NA is probably the most important of the six GIG Program partners in developing a transparent legal and regulatory framework, overseeing the Government to enhance accountability of public institutions, and in ensuring inclusive growth.”⁷³ This is clearly an ambitious and aspirational perspective. Its emphasis on inclusiveness reflects a presumption that effective collaboration can be fostered in which public/private sector interactions are heightened to create a more inclusive policy-making process, with greater influence and oversight from previously marginalized actors.

The project is providing technical assistance related to implementation of the newly passed Law on Laws, which provides the framework for the development and adoption of legislation, and on legal drafting. It is also familiarizing various project stakeholders with the means to assess the likely impact of laws and other governmental regulations through training in Regulatory Impact Assessment methodologies.

In activities with the counterparts, and the NA in particular, the project has engaged non-state actors including CSOs, independent experts, the media, and think tanks through legislative forums and other consultative events. These events have included discussions on specific laws (e.g., the Civil Code and the Law on Local Governments), policy discussions, and skills trainings. While in general representatives of the government have shown an eagerness to engage non-government stakeholders, some actors have demonstrated a reluctance to engage CSOs, which has led to previous delays in implementation. Project staff have to be careful to not move faster on implementing programming than their Vietnamese counterparts.

In terms of a policy research strengthening component, GIG works with the NA Library and its former LRP partner, the Institute for Legislative Studies, both of which serve as key information resources for MPs and various NA agencies. In addition, GIG works with various government research bodies to enhance their ability to conduct research and analysis – one example is the Ministry of Finance’s National Institute for Finance. While the project anticipates future work with non-government bodies, to date its research strengthening support has been focused on the government and the parliament.

No independent evaluation of the project has yet been undertaken. Given the fact that it is only completing its second year of operation, it is too soon to draw any conclusions regarding the success of the GIG project. However, according to project implementers, the project has received buy-in and support for the project from the National Assembly leadership (n.b., this is in contrast to the LRP). The National Assembly is a formal counterpart of GIG and has approved the project. The Committee for External Affairs serves as the NA’s focal point for the project and coordinates project requests from various Committees and Departments. The NA leadership has expressed its appreciation to GIG for its support to NA. There are, however, areas of support which GIG avoids due to political sensitivities, including comments on votes of confidence and matters relating to elections (such as how qualified candidates are selected).

⁷³ “Program Collaboration with the National Assembly: Proposed Approach”, p.1.

The members of the NA are a combination of “full-time” members and “part-time” members, the latter being officials from Ministries and other bodies. This composition complicates efforts to improve government oversight, as the members themselves are often government officials. As with any parliament, there are differences of opinion. However, how these differences translate to public debate or disagreements over policy is less straightforward than in other countries. Project implementers suggest, however, that there is much more diversity in opinions and belief within the NA than the overall political context would suggest.

The project is accurately characterized as supporting the infrastructure for economic growth. This, in turn, requires a cross-sectoral policy-oriented focus, including the bolstering of legislative input and research capacities. A considerable portion of project activities also fit into the traditional definition of legislative strengthening. It is necessary to have the policy-making and implementation capacity in order to get the desired results. This in essence is what can be called a “legislative engagement plus” concept in which an emphasis on cross-sectoral and integrated policy formulation is buttressed by project activities that can increase the capacity of the legislature to deliver policy reform.

Although not specifically articulated as an objective, the project could contribute to the evolution of a more democratic governance system. The focus on economic growth gives cover. It does seem that in relative terms more emphasis to date has been placed on activities and processes internal to the legislature rather than in the more sensitive external and non-state stakeholder community. The project design, however, definitely reflects the legislative engagement approach and appears appropriate given the political context. Its integrated nature seems to be appreciated within the Mission, with other sectors recognizing the need to support the development of the public policy dialogue process through legislative engagement and executive branch outreach activities. The project’s mandate, for example, has recently been widened to include a “Combating Wildlife Trafficking” scope.

Comparative Analysis: Indonesia and Vietnam

A number of observations – including both identification of commonalities and differences – can be made based on the Indonesian field study and Vietnamese desk study. This, in turn, can inform thinking regarding the relationship between legislative support programming and broader development goals.

The history of USAID engagement in the legislative arena has been longer in Indonesia than in Vietnam. In the former country it began soon after the initiation of *reformasi* in the late 1990s. In the latter the STAR projects did not directly target the legislature; such engagement did not happen until the 2011 LRP was initiated.

Most legislative engagement projects, such as ProRep and GIG, appear to focus on support for policy formation and development. They often include emphasis on the provision of empirically sound data which can be used to promote informed policy debates, and in theory, at least, enhance the quality of decision making.

Comparison of the two projects demonstrates that legislative engagement projects can take place happen under different political contexts. Even in an officially single-party state, such as Vietnam, a desire for economic and other types of development can lead to acceptance by the authorities that some legislature-related programming should take place. This, in turn, can help

to further open up participation in the political process and contribute to an evolution toward more democratic governance.

In both cases there is a *sub rosa* aspect to the legislative aspects of the project. In Indonesia the mission is reluctant to characterize the project as legislative strengthening in nature, as the history of such projects in-country has been decidedly mixed. The closed political environment in Vietnam precludes highlighting the legislative strengthening outcome as a stand-alone component. In a way, however, this can be seen as a “Trojan horse” approach to legislative strengthening: in both cases the integrated, cross-sectoral approach provides “cover” for activities that contribute to legislative strengthening.

In both cases the legislature is not yet a functional counterweight to the executive. There is, as a result, a need for the more traditional approach as a sub-component of the cross-sectoral, integrated approach. The legislature to be functional in order to contribute to development objectives of the project and because of a need to provide incentives for MP buy-in.

While the ProRep project has some positive accomplishments to date, it is still too early to make a definitive assessment of the GIG project. It seems to have gained acceptance among its Vietnamese interlocutors and therefore may have a positive impact. Both projects do appear to be successful in the sense that they have had supplementary activities requested from other sectors (ENV in Indonesia and Combating Wildlife Trafficking in Vietnam). The ENV add-on comes with additional funding.

Both projects have sought to support the development of a non-partisan and neutral policy research capacity. In the ProRep project this is external to the legislature in the form of university-based, non-governmental research institutes. GIG’s approach targets both the legislature and organizations outside it. Given the differences in political context this is a more ambitious task in Vietnam than in Indonesia. Civil society organizations, for example, have a more central and integral role in the ProRep project, probably because the environment for the functioning of non-state actors is more open in Indonesia than in Vietnam.

In Indonesia the project is overseen by the USAID mission DG office; its USAID Vietnam counterpart is the joint economic development and governance office. There is greater specific focus of USAID programming on economic issues in Vietnam; in Indonesia the target areas of health, education and the environment obviously relate to economic development but are not generally considered to be part of USAID’s economic growth sector.

Both programs focus on the national legislature. In Vietnam there are no sub-national legislatures. ProRep included some focus on sub-national legislatures but only in a subsidiary fashion. In GIG there is stated emphasis on including marginalized groups but the main concern regarding civil society was increased participation/engagement.

IX. CONCLUSIONS AND OBSERVATIONS

Legislative strengthening activities are an increasing part of USAID’s legislative support approach. This trend is likely to grow and, although the jury is still out on this point, could yield positive results. Given this background, this document provides an opportunity for building bridges between advocates of legislative support within DRG and other sectors. This can help DRG realize the importance of reaching out to other sectors to identify areas of common interest. Conversely, there is a need to generate understanding and support in other sectors

for engaging with legislatures. The process by which funds are earmarked for thematic initiatives, for example, may need to undergo reforms to be flexible enough to permit legislative engagement activities.

The current emphasis towards integrated programming undoubtedly does not represent “the end of history” in terms of the state of the art of legislative support programming. This is especially true given the lack of a significant sample of evaluations and assessments regarding outcomes linked to legislative engagement programming. Nonetheless, if the programming can be designed properly, legislative engagement activities have the potential to represent a judicious and cost-effective use of limited resources. They can serve to improve policy dialogue, promote development goals, improve the functioning of the legislature, and create “buy-in” on the part of key legislative personnel. They can also result in more effective communication and dialogue between the legislature and the executive branch, as well as dialogue with other stakeholders and sectors of society.

Legislative engagement programming is not, however, a panacea. Results may not accrue quickly. Decision making on policy issues does not always reflect political considerations often trump informed policy choices. Legislatures can slow down the policy-making and implementation process.

LEP Plus

If legislative engagement with other sectors simply consists of facilitating the passage of specifically desired legislation without reference to the internal dynamics of the legislature, the approach is unlikely to be successful. A prospective way of dealing with this would be what could be considered a “legislative engagement plus” strategy. This would mean the main focus is on policy development processes, but it should be accompanied by some ability to undertake legislative strengthening activities. This is both for substantive and political reasons. Simply taking a purely sectoral (e.g., health, education, environment) approach may not be sufficient. The legislature needs to be empowered to do its work. The slow movement of the legislative process is an impediment to effective advocacy. There are often structural problems in terms of legislative functioning that can impede the efficacy of the policy-making process.

Moreover, members of legislatures want to see tangible benefits from programming for the legislature and themselves; they do not like simply being used as the means to an end of a desired policy output. Dealing with the legislature must involve building up trusting relationships and support for legislative capacity development.. Merely providing support for specific legislative initiatives from other sectors is not likely to be a productive approach unless there is some sort of legislative capacity-building element to the project, hence the LEP Plus concept.

Conditions Favoring Policy-Oriented Legislative Engagement Programming

To enhance the potential for success of a LEP project, there should be a convergence of several elements. *First*, USAID priorities should include issues that call for policy initiatives for reform. *Second*, civil society organizations should be interested in and focused on the same issues. *Third*, there should be some level of willingness on the part of at least some elements in the legislature, and also probably the executive branch, to receive input on these issues from civil society and the broader population as well. The reality is that these elements probably won't all

need to be present, especially in the same magnitude at the beginning, but a successful project may result in their coming together.

This type of approach can be effective in closed political environments. In others, especially ones in which civil society does not command a meaningful presence, the project may not work well. Civil society must have sufficient capacity to articulate and advocate policy interests.

Political-Economy Analysis

Prior to implementing an LEP policy, donors should first conduct a political economy analysis on the ground to determine the best strategy, since working on policy with CSOs or think tanks can only go as far as the legislature is willing to engage with them. Also, as the context changes (e.g., when there is a new minister), the strategy needs to be revised to suit the new change.

Executive Focus?

Most legislative initiatives emanate from the executive branch. It may well be that legislative engagement policy-oriented projects cannot be focused solely or specifically on legislative policy development but more holistically, on the policy formation process on the executive branch side as well as with the legislature. Note that a number of ProRep activities and accomplishments are not specifically legislature-oriented, as this is how the Bosnia project has also been organized. The extent to which cross-sectoral policy reform initiatives should be focused solely on the legislature or whether they should be oriented in a more holistic legislative and executive branch perspective.

Policy Community Participants: How Wide a Net to Cast?

ProRep is not the first example in which a policy community approach has been attempted, but it is precedential in that it includes close dialogue with the relevant ministries. The idea is that eventually this could be expanded to include parliamentary caucuses (or at least legislative staff) when they get established.

Emphasize Public Opinion Polling

For example, in the Indonesian case it is useful to note that public opinion polling, which DFAT has supported, indicated that the public would be willing to accept the end of fuel subsidies. This appears to have fed into the government's decision to move ahead on this issue. There is much more that can be done in this arena, and it is a promising avenue to include in a policy-making approach. There also needs to be room for non-partisan and empirically based presentations of the potential impact of legislation, rather than just policy options.

Monitoring and Evaluation

The importance of monitoring and evaluation for legislative engagement programming is significant, but it also poses considerable challenges. Often projects are not long enough to allow adequate analysis of project activities' impacts. This is especially true for many policies and other legislative actions that may not have immediate effects. It would be useful to identify mechanisms that could assess project impact at some point after the end of the life of the project.

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