International Conference: Effective capacity building programmes for parliamentarians

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EFFECTIVE CAPACITY BUILDING:
THE CAPACITY TO DO WHAT?

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I am delighted to be invited to address the conference. It addresses an important subject, one that is too often neglected in the scholarly study of legislatures.

I begin by addressing the premise of the conference: that is, that capacity building matters.   Why does it matter?   It matters because legislatures matter. Establishing that legislatures matter is necessary not only for justifying capacity building but also for recognising that capacity building may take different forms.

Legislatures matter because they are the essential link between the people and those who govern them. Legislatures do not govern, but they provide the means by which a political system can maintain the balance between effectiveness and consent, that is, between the needs of government to be able to raise resources necessary to carry out a programme of public policy and to maintain the consent of the people.

Legislatures are the essential link between governors and governed but the link can and does take different, and mostly multiple, forms.   Legislatures fulfil a core, indeed the defining, function of their existence, that is, to give assent to measures of public policy that are to be binding. However, they mostly go beyond that. Legislatures are multi-functional and functionally adaptable institutions, certainly within democracies, but even beyond democracies.   We have generally assumed that in non-

democratic regimes, legislatures are confined to fulfilling the sole function of giving assent to whatever is placed before them. However, even in non-democratic regimes, it is possible in some cases to identify the legislature as carrying out other functions; they may be limited, but they give the institution relevance beyond that purely of assent-giving. In other words, the legislature has consequences for the political system beyond that identified by Robert Packenham as manifest legitimation. In this respect, I commend the research of Liam Allmark, whose article on the subject will be appearing next year in *The Journal of Legislative Studies*. It is also notable that in some non-democratic nations, they are developing an interest in the concept of opposition, even – remarkably – North Korea.

If one accepts that legislatures are multi-functional and functionally adaptable, then this has two consequences for capacity building.

First, it establishes the relevance of the exercise. Legislatures, as Packenham identified, fulfil a range of functions – like Packenham, I define functions in terms of consequences – in their respective political systems. They encompass representational, decisional and recruitment functions. Legislatures may appear to have limited impact in terms of saying 'no' to government – the executive will normally get its way - but that is not to say anything particularly new. It is, though, to express a rather narrow perspective, even from the pluralist view of power. Legislatures may affect outcomes through debate or intra-party deliberations without exercising their coercive capacity to vote something down. But legislatures do much more than determine the outcome of legislative proposals.

The traditional pluralist focus tends not only to obscure study of the other functions fulfilled by legislatures but also to mask the fact that the functions encompass how the legislature stands in relation to the rest of the political system: that is, how it stands in relation to the executive and how it stands in relation to the people. Attention has tended to focus on the relationship between the legislature and the executive – and within that, the capacity of the legislature to say no to the executive – and not on the relationship of the legislature to the people.

Legislatures can and do fulfil significant functions in relation to the people, functions which underpin the maintenance of consent within the system. Hearing from and speaking to the people is an important task of a legislature in maintaining political stability. Legislatures may serve an important, if not crucial, expressive function, acting as a safety valve or as a conduit for the views of the people to the government. Legislatures may serve to mobilise or enhance popular support for a measure of public policy through their contact with the people.

Arguably, these functions, those that connect the legislature and the people, may be of growing, rather than diminishing, significance, particularly in polities in which there is diminishing trust in politicians and apathy is growing, with popular fears as to decisions being taken now on a global or supra-national level. Legislatures may be a fundamental means of enabling people to feel connected, however tenuously, to the decision-making process and of ensuring that their views are heard and that people know that, through members of the legislature, their views have been expressed and are on the record and heard by decision makers.

Second, it suggests that capacity building cannot be taken as a uniform exercise. As Packenham recognised, the consequences of a legislature in one system may not be the same as in another system. His adumbration of functions was not so much a straitjacket for the purposes of comparative analysis as a guide. The consequences vary not only from nation to nation but also over time. Legislatures do not exist in a vacuum: they adapt to their environments. Some consequences become more significant over time, while others have become less important than before. Legislatures, as I have said, are functionally adaptable institutions. If they have to adapt to meet the needs of a particular society, then so too does the process of capacity building. The needs of one legislature are not necessarily the same as another.

This leads me to the substance of my address. Members of legislatures need to have the capacity to carry out the tasks of their office – we want to enhance their capacity to do so – but what precisely are

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those tasks? It flows from what I have said that they differ from system to system. My key point in relation to capacity building is that capacity building programmes have to be tailor-made and cannot be offered as off-the-peg choices.

Given that they have to be tailored to individual needs, is there a framework we can construct to assist in developing capacity building programmes?

David Beetham, in the IPU publication, *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice,* published in 2006, identifies a number of basic objectives or values of a legislature and the procedures and institutional means for their realisation. The focus was at the institutional level. I want to focus on the members and to offer a framework for identifying what their core tasks are within their respective political systems.

For this purpose, I offer a four-box matrix, derived from two axes, the first distinguishing what members do collectively and what they do individually and the second distinguishing the orientation of the legislature to the executive and the orientation of the legislature to the people.

The first box of the four boxes is thus what members do collectively in relation to the executive. The content of this box has already been sketched effectively by Anthony King in his seminal 1976 article, on executive-legislative relations, in *Legislative Studies Quarterly.* As he noted, executive-legislative relationships take different forms and the emphasis differs from system to system. The oppositional mode is important in the United Kingdom, but in other systems there may be more of an emphasis on the inter-party, intra-party, cross-party and the non-party mode. Within the United Kingdom, members have had little training and few resources to assist in the development of the cross-party mode and the inter-party mode, even though the cross-party mode has become more significant with the development of select committee and the inter-party mode has acquired a new and unexpected significance with the formation of a coalition government. Members have had to adapt to both modes essentially using their own devices and not as a consequence of any training.

Another way of addressing the relationship is to focus on the different forms of opposition, as examined in the 2008 special issue of *The Journal of Legislative Studies* on 'Parliamentary Opposition in Old and New Democracies', edited by Ludger Helms. In that, I drew out the consequences of parliamentary opposition in a number of theoretical propositions, deriving from the different types of opposition, be it the Opposition, an opposition party, opposition parties, opposition within party or opposition from a party within a coalition. Also of relevance to my later comments, Morgenstern, Negri and Perez-Linan make the point that the existence of a strong government does not necessarily denote a weak opposition. It is possible to have a strong executive and a strong opposition.

The second box is what members do collectively in relation to citizens. This can comprise members as the whole or members grouped into different political bodies. The latter may be especially important in nations where there is little emphasis on a direct link between constituents and the individual member. Citizens may see their route into parliamentary deliberations through a party rather than through an individual member. The training and the resources may thus need to be concentrated on the offices of the party leadership rather than members individually.

The third box comprises the individual member in relation to the executive. To what extent is the individual parliamentarian able to act to raise issues with the executive and to question the executive? To what extent is the individual member able to exercise some capacity to challenge the actions of the executive, either as an individual member or as a member of a party group? It will vary from system to system as to what emphasis is given the role of the individual member relative to that given to party; in other words, the balance between the first and the third of my four categories will differ.

The fourth box comprises the individual member in relation to citizens. This is likely to be more pronounced in nations where the members of the legislature are returned from single-member districts or from constituencies with relatively few members. In such systems, citizens may expect members

to act on their behalf or be keen to make representations to them. We know in some systems that the demands made of members individually by electors are substantial and onerous. To what extent are members not only provided with institutional means for coping with such demands but to what extent are they trained in how to deal with the substance of the issues raised with them?

Sketching this matrix offers, first, a basic framework for identifying the needs of a legislature. It invites consideration of what the relationship is in each context, avoiding any one being neglected; even if one is not significant for a particular system – the emphasis being, say, on party rather than individual-member contact with citizens – it is important to know that. Second, it helps us consider the extent to which there is a need for balance between the different relationships and, indeed, the extent to which there may be the potential for conflict.

There is, for example, the question of balance between the tasks fulfilled in relation to the executive and those in relation to the citizen. Is there the potential for the demands of constituents to absorb so much of the time and resources of the members that they erode the capacity of the members to engage in their collective role of scrutinising the executive? This may raise the question as to what extent the needs of citizens can be met through the legislature and whether enhancing the capacity of the parliamentarian may not prove sufficient to the task.

There is also the potential for conflict, for example, between transparency and effectiveness. The more open a legislature is, the more it may limit its ability to constrain the actions of the executive. Should legislative committees meet in private, arguably enhancing the capacity for inter-party or executive-legislative bargaining, or should their deliberations be open, thus ensuring that citizens are aware of what is being done in their name but possibly limiting the willingness of parties, or the executive, to engage in bargaining in public?

Who decides?

This raises, to my mind, a fundamental issue as regards capacity building. That is, who decides? If one accepts that a capacity-building programme has to be tailor-made, who decides what are the tasks of a particular legislature? What members of a legislature view as their essential tasks, those that they need to have the effective capacity to fulfil, may not be identical to the views of those providing the means to enhance the work of the legislature. If the executive is the body that controls the resources, how free is the legislature to determine what is needed?

In short, to what extent should the determination of a capacity-building programme be bottom-up or top-down? To what extent are members, individually and collectively, able to determine their needs? It may be, of course, that they need some assistance in identifying what their needs are, which thus creates a fundamental conundrum as to who provides that assistance.

Political will

Identifying the tasks of a legislature is, then, a necessary condition for capacity building but it is not a sufficient condition for the realisation of the effective fulfilment of those functions. For that, political will is required – and it is required at two levels.

The first and obvious level is that of the individual member. Providing a member with the physical resources or the knowledge of how to fulfil a particular task will not necessarily ensure that the task is fulfilled. Members may be provided with offices and support staff, they may be trained in how to raise questions or engage in forensic questioning in committee, but that may count for nought if they lack the will to question and challenge the executive, especially if their party is in power. Providing resources does not mean that those resources will be utilised. A prerequisite for effective capacity building therefore is inducing a willingness on the part of members to fulfil the tasks expected of them, indeed to get them to recognise that it is they who want the tasks to be fulfilled and consequently seek assistance in enhancing their capacity to fulfil them.

I say prerequisite, but I recognise that there is the fundamental chicken-and-egg question. Which comes first, the generation of the political will or the resources? If you provide the resources, will this not affect the willingness of members to utilise them? But do you not need the political will in the first place to generate a demand for those resources?

The point about political will on the part of members is often neglected, not least in my experience in debates about strengthening legislatures. I am familiar with those who wish to reform a legislature coming up with intricate schemes for structural and procedural change without ever explaining how such changes are to be achieved. This is especially the case in those legislatures where the executive is dominant and is the body that reformers look to for the purpose of achieving change; change that is designed to subject that very same executive to more sustained challenge or questioning.

This leads to my second point about political will, namely that there needs to be some acceptance on the part of the executive that a strengthened legislature is not a fundamental challenge to its ability to govern, but rather an essential means of underpinning and enhancing its own legitimacy. A government benefits from a legislature that is able to question and challenge its policies and require it to justify its actions and respond to citizens' concerns. If a legislature is seen to be doing what citizens expect of it – which, as I say, may differ from system to system – then this is likely to help generate diffuse support for the legislature and for the political system.

I emphasise here diffuse support. The causal link tends to be the other way round on a more immediate basis: that is, evaluation of government performance shapes perceptions of the efficacy of the legislature, especially in parliamentary systems.

My point here is that enhancing capacity building may embrace an educative task in relation to members of the executive as much as members of the legislature.

Conclusion

Let me summarise my points by way of conclusion. I am not arguing that there are not common values to be applied in seeking to enhance the capacity of parliamentarians to fulfil their tasks. One expects a democratic legislature to be representative as well as transparent, accessible and accountable – the values adumbrated by David Beetham – but it is when one seeks to give effect to those values that engages the points I have raised. The form of representation may and does differ from system to system. The form of representation delivered in, say, Portugal, is very different to that delivered in the United Kingdom, especially in terms of the relationship of members to citizens, but no one would argue that neither has a representative parliament.

It is, in effect, how those values are translated in each system that determines the form of the legislature and the tasks, or consequences, of the members of the legislature. Once one has established those, then we have the basis for seeking to generate a capacity-building programme specific to the needs of the legislature. That, I suggest, is a crucial, but not necessarily a simple, task – hence the significance of this conference.